

§ 36C-2-203. Subject matter jurisdiction.

(a) The clerks of superior court of this State have original jurisdiction over all proceedings concerning the internal affairs of trusts. Except as provided in subdivision (9) of this subsection, the clerk of superior court's jurisdiction is exclusive. Proceedings concerning the internal affairs of the trust are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

- (1) To appoint or remove a trustee, including the appointment and removal of a trustee pursuant to G.S. 36C-4-414(b) and the appointment of a special fiduciary pursuant to G.S. 36C-8B-9.
- (2) To approve the resignation of a trustee.
- (3) To review trustees' fees under Article 6 of Chapter 32 of the General Statutes and review and settle interim or final accounts.
- (4) To (i) convert an income trust to a total return unitrust, (ii) reconvert a total return unitrust to an income trust, or (iii) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust as provided in G.S. 37A-1-104.3.
- (5) To transfer a trust's principal place of administration.
- (6) To require a trustee to provide bond and determine the amount of the bond, excuse a requirement of bond, reduce the amount of bond, release the surety, or permit the substitution of another bond with the same or different sureties.
- (7) To make orders with respect to a trust for the care of animals as provided in G.S. 36C-4-408.
- (8) To make orders with respect to a noncharitable trust without an ascertainable beneficiary as provided in G.S. 36C-4-409.
- (9) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments, to create a trust, and to determine the existence or nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party may file a notice of transfer of a proceeding pursuant to this subdivision to the superior court division of the General Court of Justice as provided in G.S. 36C-2-205(g1). In the absence of a transfer to Superior Court, Article 26 of Chapter 1 of the General Statutes shall apply to a trust proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section shall be construed (i) to confer upon the clerk of superior court any authority to regulate or supervise the actions of a trustee except to the extent that the trustee's actions are inconsistent with the governing instrument or of State law; or (ii) to confer upon any party any additional right, remedy, or cause of action not otherwise conferred by law.

(c) Nothing in this section affects the right of a person to file an action in the superior court division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes.

(d) The clerk of superior court shall not, over the objection of a party, entertain proceedings under this section involving a trust having its principal place of administration in another state, except:

- (1) When all appropriate parties could not be bound by litigation in the courts of the state in which the trust had its principal place of administration; or
- (2) When the interests of justice otherwise would be seriously impaired.

The clerk of superior court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust has its principal place of administration, or the clerk of superior court may grant a continuance or enter any other appropriate order.

(e) Any party to a proceeding before the clerk of superior court may appeal from the decision of the clerk to a superior court judge as provided for estate matters in G.S. 1-301.3.

(f) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, proceedings concerning the internal affairs of trusts shall not include, and, therefore, the clerk of superior court shall not have jurisdiction under subsection (a) of this section of any of the following:

- (1) Actions to reform, terminate, or modify a trust as provided by G.S. 36C-4-410 through G.S. 36C-4-416. Actions to reform or modify a trust pursuant to G.S. 36C-4-412 through G.S. 36C-4-416 shall include the addition of trust terms to provide for the removal and replacement of the trustee by one or more beneficiaries or other persons.
- (2) Actions by or against creditors or debtors of a trust.
- (3) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (4) Actions to enforce a charitable trust under G.S. 36C-4-405.1.
- (5) Actions to amend or reform a charitable trust under G.S. 36C-4A-1.
- (6) Actions involving the exercise of the decanting power pursuant to Article 8B of this Chapter.
- (7) Actions to construe a formula contained in a trust subject to G.S. 36C-1-113.
- (8) Actions to establish the validity of a revocable trust before death pursuant to Article 4C of this Chapter. (1911, c. 39, s. 4; C.S. s. 4027; 1977, c. 502, s. 2; 1999-216, s. 8; 2001-413, s. 1; 2005-192, s. 2; 2007-106, ss. 6, 7; 2009-267, s. 1; 2009-318, s. 2; 2010-126, s. 3; 2017-121, ss. 2.2, 2.3; 2019-113, s. 5; 2021-53, s. 1.4.)