

PART 10
LIABILITY OF TRUSTEES AND RIGHTS
OF PERSONS DEALING WITH TRUSTEES

15-5-1005. Limitation of actions against trustee. (a) A BENEFICIARY MAY NOT COMMENCE A PROCEEDING AGAINST A TRUSTEE FOR BREACH OF TRUST MORE THAN ~~ONE~~ SIX MONTHS AFTER THE DATE THAT THE BENEFICIARY OR A ~~REPRESENTATIVE OF~~ PERSON WHO MAY REPRESENT AND BIND THE BENEFICIARY, AS PROVIDED IN PART 3 OF THIS ARTICLE, ~~WAS SENT~~ RECEIVED A REPORT THAT ADEQUATELY DISCLOSED THE EXISTENCE OF A POTENTIAL CLAIM FOR BREACH OF TRUST AND INFORMED THE BENEFICIARY OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING.

(b) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A POTENTIAL CLAIM FOR BREACH OF TRUST IF IT PROVIDES SUFFICIENT INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE KNOWS OR SHOULD HAVE KNOWN OF THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO ITS EXISTENCE.

(c) IF SUBSECTION (a) OF THIS SECTION DOES NOT APPLY, A JUDICIAL PROCEEDING BY A BENEFICIARY AGAINST A TRUSTEE FOR BREACH OF TRUST MUST BE COMMENCED WITHIN ~~FIVE~~ THREE YEARS AFTER THE FIRST TO OCCUR OF:

- (1) THE REMOVAL, OR RESIGNATION, ~~OR DEATH~~ OF THE TRUSTEE;
- (2) THE TERMINATION OF THE BENEFICIARY'S INTEREST IN THE TRUST; OR
- (3) THE TERMINATION OF THE TRUST.

(d) FOR PURPOSES OF SUBSECTION (a) OF THIS SECTION, A BENEFICIARY IS DEEMED TO HAVE ~~BEEN SENT~~ RECEIVED A REPORT IF:

(1) IN THE CASE OF A BENEFICIARY WHO IS AN ADULT AND ~~HAS HAVING CAPACITY,~~ IT IS ~~SENT TO~~ RECEIVED BY THE BENEFICIARY; OR

(2) IN THE CASE OF A BENEFICIARY WHO, UNDER PART 3 OF THIS ARTICLE, MAY BE REPRESENTED AND BOUND BY ANOTHER PERSON, IT IS ~~SENT TO~~ RECEIVED BY THE OTHER PERSON.

(e) THIS SECTION DOES NOT PRECLUDE AN ACTION TO RECOVER FOR FRAUD OR MISREPRESENTATION RELATED TO THE REPORT.

(f) IF A TRUSTEE DIES, THEN A DISTRIBUTE OR A BENEFICIARY MUST COMMENCE A JUDICIAL PROCEEDING FOR BREACH OF TRUST AGAINST THE TRUSTEE'S ESTATE WITHIN THE TIMEFRAMES SPECIFIED IN THE COLORADO PROBATE CODE FOR SUCH ACTIONS.

Additional Considerations

1. In the SRC meeting of 4/21/2016, a proposal was made to replace “report” with “final accounting.” The 2016 subcommittee opposes the proposed change.
2. _____