

RCW 11.96A.070 Statutes of limitation. (1)(a) A beneficiary of an express trust may not commence a proceeding against a trustee for breach of trust more than three years after the date a report was delivered in the manner provided in RCW 11.96A.110 to the beneficiary or to a representative of the beneficiary if the report 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. A report that includes all of the items described in this subsection [(1)](b) that are relevant for the reporting period is presumed to have provided such sufficient information regarding the existence of potential claims for breach of trust for such period:

- (i) A statement of receipts and disbursements of principal and income that have occurred during the accounting period;
- (ii) A statement of the assets and liabilities of the trust and their values at the beginning and end of the period;
- (iii) The trustee's compensation for the period;
- (iv) The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the period;
- (v) Disclosure of any pledge, mortgage, option, or lease of trust property, or other agreement affecting trust property binding for a period of five years or more that was granted or entered into during the accounting period;
- (vi) Disclosure of all transactions during the period that are equivalent to one of the types of transactions described in RCW 11.98.078 or otherwise could have been affected by a conflict between the trustee's fiduciary and personal interests;
- (vii) A statement that the recipient of the account information may petition the superior court pursuant to chapter 11.106 RCW to obtain review of the statement and of acts of the trustee disclosed in the statement; and
- (viii) A statement that claims against the trustee for breach of trust may not be made after the expiration of three years from the date the trustee delivers the report in the manner provided in RCW 11.96A.110.

(c) If (a) of this subsection does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within three years after the first to occur of:

- (i) The removal, resignation, or death of the trustee;
 - (ii) The termination of the beneficiary's interest in the trust;
- or
- (iii) The termination of the trust.

(d) For purposes of this section, "express trust" does not include resulting trusts, constructive trusts, business trusts in which certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions, or profits, trusts created in deposits in any financial institution under *chapter 30.22 RCW, unless any such trust that is created in writing specifically incorporates this chapter in whole or in part.

(2) Except as provided in RCW 11.96A.250 with respect to special representatives, an action against a personal representative for

alleged breach of fiduciary duty by an heir, legatee, or other interested party must be brought before discharge of the personal representative.

(3) The legislature hereby confirms the long-standing public policy of promoting the prompt and efficient resolution of matters involving trusts and estates. To further implement this policy, the legislature adopts the following statutory provisions in order to:

(a) Encourage and facilitate the participation of qualified individuals as special representatives;

(b) Serve the public's interest in having a prompt and efficient resolution of matters involving trusts or estates; and

(c) Promote complete and final resolution of proceedings involving trusts and estates.

(i) Actions against a special representative must be brought before the earlier of:

(A) Three years from the discharge of the special representative as provided in RCW 11.96A.250; or

(B) The entry of an order by a court of competent jurisdiction under RCW 11.96A.240 approving the written agreement executed by all interested parties in accord with the provisions of RCW 11.96A.220.

(ii) If a legal action is commenced against the special representative after the expiration of the period during which claims may be brought against the special representative as provided in (c)(i) of this subsection, alleging property damage, property loss, or other civil liability caused by or resulting from an alleged act or omission of the special representative arising out of or by reason of the special representative's duties or actions as special representative, the special representative must be indemnified: (A) From the assets held in the trust or comprising the estate involved in the dispute; and (B) by the persons bringing the legal action, for all expenses, attorneys' fees, judgments, settlements, decrees, or amounts due and owing or paid in satisfaction of or incurred in the defense of the legal action. To the extent possible, indemnification must be made first by the persons bringing the legal action, second from that portion of the trust or estate that is held for the benefit of, or has been distributed or applied to, the persons bringing the legal action, and third from the other assets held in the trust or comprising the estate involved in the dispute.

(4) The tolling provisions of RCW 4.16.190 apply to this chapter except that the running of a statute of limitations under subsection (1) or (2) of this section, or any other applicable statute of limitations for any matter that is the subject of dispute under this chapter, is not tolled as to an individual who had a guardian ad litem, limited or general guardian of the estate, or a special representative to represent the person during the probate or dispute resolution proceeding. [2013 c 272 § 4; 2011 c 327 § 7; 1999 c 42 § 204.]

***Reviser's note:** Chapter 30.22 RCW was recodified as chapter 30A.22 RCW pursuant to 2014 c 37 § 4, effective January 5, 2015.

Application—2013 c 272: See note following RCW 11.98.002.

Application—Effective date—2011 c 327: See notes following RCW 11.103.020.