

RCW 11.100.140 Notice and procedure for nonroutine transactions.

(1) A trustee shall not enter into a significant nonroutine transaction in the absence of a compelling circumstance without:

(a) Providing the written notice called for by subsection (4) of this section; and

(b) If the significant nonroutine transaction is of the type described in subsection (2)(a) of this section, obtaining an independent appraisal, or selling in an open-market transaction.

(2) A "significant nonroutine transaction" for the purpose of this section is defined as any of the following:

(a) Any sale, option, lease, or other agreement, binding for a period of ten years or more, dealing with any interest in real estate other than real estate purchased by the trustee or a vendor's interest in a real estate contract, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(b) The sale of any item or items of tangible personal property, including a sale of precious metals or investment gems other than precious metals or investment gems purchased by the trustee, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(c) The sale of shares of stock in a corporation whose stock is not traded on the open market, if the stock in question constitutes more than twenty-five percent of the corporation's outstanding shares; or

(d) The sale of shares of stock in any corporation where the stock to be sold constitutes a controlling interest, or would cause the trust to no longer own a controlling interest, in the corporation.

(3) A "compelling circumstance" for the purpose of this section is defined as a condition, fact, or event that the trustee believes necessitates action without compliance with this section in order to avoid immediate and significant detriment to the trust. If faced with a compelling circumstance, the trustee shall give the notice called for in subsection (4) of this section and may thereafter enter into the significant nonroutine transaction without waiting for the expiration of the twenty-day period.

(4) The written notice required by this section shall set forth such material facts as necessary to advise properly the recipient of the notice of the nature and terms of the intended transaction. This notice shall be given to the trustor, if living, to each person who is eighteen years or older and to whom income is presently payable or for whom income is presently being accumulated for distribution as income and for whom an address is known to the trustee, and to the attorney general if the trust is a charitable trust under RCW 11.110.020. The notice shall be mailed by United States certified mail, postage prepaid, return receipt requested, to the recipient's last-known address, or may be personally served, at least twenty days prior to the trustee entering into any binding agreements.

(5) The trustor, if living, or persons entitled to notice under this section may, by written instrument, waive any requirement imposed by this section.

(6) Except as required by this section for nonroutine transactions defined in subsection (2) of this section, a trustee shall not be required to notify beneficiaries of a trust of the trustee's intended action, to obtain an independent appraisal, or to sell in an open-market transaction.

(7) Any person dealing with a trustee may rely upon the trustee's written statement that the requirements of this section have been met for a particular transaction. If a trustee gives such a statement, the transaction shall be final unless the party relying on the statement has actual knowledge that the requirements of this section have not been met.

(8) The requirements of this section, and any similar requirements imposed by prior case law, shall not apply to personal representatives or to those trusts excluded from the definition of express trusts under RCW 11.98.009. [1985 c 30 s 78. Prior: 1984 c 149 s 114.]

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.