

RCW 11.107.050 Decanting statute—Effects and consequences of an exercise of the decanting power. (1) A trustee or other person that reasonably relies on the validity of a distribution of part or all of the income and principal of a trust to another trust, or a modification of a trust, under this chapter or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

(2) A debt, liability, or other obligation enforceable against income and principal of a first trust is enforceable to the same extent against that income and principal when held by the second trust after exercise of the decanting power.

(3) For purposes of the law of this state other than this chapter and subject to this subsection, a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power. In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust and the intent of a settlor of the second trust, if different, may be considered. The intent of the trustee may also be considered.

(4) If the trustee intends to distribute all of the principal of a first trust to a second trust and the trustee makes a good faith effort to do so, the distribution of all of the principal of a first trust to a second trust includes subsequently discovered assets otherwise belonging to the first trust and principal paid to or acquired by the first trust after the distribution of the first trust's principal. If the trustee does not intend to distribute all of the principal of a first trust to a second trust, the distribution of part of the principal of a first trust to a second trust does not include subsequently discovered assets belonging to the first trust or principal paid to or acquired by the first trust after the distribution of principal from the first trust to the second trust, and those assets or that principal remain the assets or principal of the first trust.

(5) A reference under this title to a trust instrument or to terms of the trust includes the second trust, the second trust instrument, and the terms of the second trust.

(6) The title to all real estate and other property, both tangible and intangible, owned by the first trust remains vested in the second trust without reversion or impairment.

(7) An action or proceeding pending by or against the first trust may be continued by or against the second trust as if the decanting had not occurred.

(8) Except as otherwise provided by this chapter, all of the rights, privileges, immunities, powers, and purposes of the first trust remain vested in the second trust. [2017 c 29 § 5.]