

**15 GCA ESTATES AND PROBATE
CH. 33 ADMINISTRATION OF TRUSTS**

**CHAPTER 33
ADMINISTRATION OF TRUSTS**

2014 NOTE: Unless otherwise indicated, this Title includes annotations drafted by the Law Revision Commission from the enactment of Title 15 GCA by P.L. 16-052 (Dec. 17, 1981). The Source notes have been updated to reflect subsequent changes to each provision. The Comments from the Law Revision Commission were retained in past print publications of the GCA, and are included herein, as originally published, for historical purposes.

Pursuant to the authority granted by 1 GCA § 1606, “Subchapter” designations altered to “Article” to adhere to the Compiler’s general codification scheme.

**ARTICLE 1
TESTAMENTARY TRUSTS**

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§ 3301. Continuing Jurisdiction Over Trusts.

When a trust created by a will continues after distribution, the Superior Court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction for the purpose of determining to whom the property shall pass and be delivered upon final or partial termination of the trust, to the extent that such determination is not concluded by the decree of distribution, of settling the accounts and passing upon the acts of the trustee, of authorizing the trustee to accept additions to the trust from sources other than the estate of the decedent, and for the other purposes hereinafter set forth. Any trustee appointed by will, or appointed to execute a trust created by will, may, from time to time pending the execution of his trust, or at the termination thereof, render for settlement his accounts and report his acts as such trustee, before the Superior Court. For that purpose, the trustee shall present to the Superior Court his accounts in detail, reporting his acts as trustee, and showing the condition of the trust estate. If the trustee dies or becomes incompetent, such account and report shall be presented by the trustee's personal representative or guardian. In the event the trustee dies or becomes incompetent, and there is no personal representative or guardian appointed for the trustee's estate, or in the event the trustee absconds, the Superior Court may compel the attorney for such deceased, incompetent, or absconding trustee to present such account and report to the extent that the attorney has information or records available for that purpose. The account and report of the attorney need not be verified. A reasonable fee shall be allowed to the attorney by the Superior Court for this service.

The trustee may also petition the Superior Court, from time to time, for instructions as to the administration of the trust, for authority to accept additions to the trust from any source or sources other than the estate of the decedent, and for the authority to exercise the powers authorized by Section 3305 of this Title. The Superior Court may hear any such petition and instruct or authorize the trustee by order rendered

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before or after any distribution to the trustee. When the trustee files any such petition before the distribution of the estate to him, he shall, in addition to any other notice required, cause notice of the hearing to be mailed to or personally served upon the personal representative and shall further cause notice of the hearing to be sent, by registered mail, to all persons, including heirs, legatees and devisees, at their last known addresses, to whom the Superior Court may order such notice given, or cause such notice to be personally served upon such persons, and the trustee shall, upon filing any such petition and before giving notice thereof, secure from the Superior Court an order designating the persons in addition to the personal representative and the beneficiaries to whom the Superior Court requires that notice be given, or an order that notice to the personal representative and the beneficiaries is the only notice that shall be required.

When it appears from the allegations of the petition that the trustee seeks instructions to exercise a power not conferred upon him, or seeks authority to exercise the powers authorized by Section 3305 of this Title, the petition shall set forth the particulars of and the necessity for the action sought to be taken.

The Clerk of the Superior Court shall set the hearing upon the account and report, or upon the petition for settlement or instructions, and notice thereof shall be given in the manner provided in Section 3401 of this Title. The trustee shall cause notice of the hearing to be sent by registered mail to, or personally served upon, the beneficiaries, including all persons in being who shall or may participate in the corpus or income of the trust, as provided in Section 3401 of this Title, whether they have requested special notice or given notice of appearance or not. In addition to the above notice, when the petition relates to the exercise of a power not conferred or seeks authority to exercise the powers authorized by Section 3305 of this Title, a copy of the petition shall be attached to and mailed with the copies of the notice which are mailed, or attached to and served with the copies of the notice which are personally served, and the Superior Court shall, at least ten (10) calendar days before such return day, appoint a suitable person who shall appear and act as guardian ad litem for any person or persons of a designated class, who are not ascertained, or who are not in being, and who may become beneficiaries or may so participate in the trust. None of the provisions of Section 373 of the Code of Civil Procedure shall apply to such appointment.

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SOURCE: California Probate Code, § 1120(a) (as amended).

COMMENT: See § 701 of Title 1 for further provision as to what constitutes "registered mail."

§ 3303. Additions to Testamentary Trust Subject to Jurisdiction of Court.

Whenever a trustee receives additions to a testamentary trust in accordance with a decree rendered pursuant to the provisions of Section 3301 of this Title, such additions shall be subject to the jurisdiction of the Superior Court in the same respects as property received by the trustee from the decedent's estate.

SOURCE: California Probate Code, § 1102.1.

§ 3305. Additional Powers of Trustee.

On petition of the trustee, made at any time, or on petition of the personal representative included in a petition for preliminary or final distribution, where after hearing it appears to be necessary or desirable in order to carry out the purposes of a testamentary trust that the trustee be given powers not expressly contained in the will or otherwise conferred by law, the Superior Court may in its discretion confer upon the trustee any or all of the following powers when it appears to the Superior Court that such powers are not inconsistent with the provisions or purposes of the trust; such powers conferred may be of a continuing nature or may be exercised only in specific instances, as the Superior Court may determine:

(a) To manage, control, sell, convey, divide, and to sell upon deferred payments.

(b) To lease for terms within or extending beyond the duration of the trust for any purpose.

(c) To retain property, including stock of the trustee, and invest or reinvest as provided by law from time to time existing, including investments in any common trust fund now or hereafter established by the trustee.

(d) To borrow; to place, replace, renew or extend any encumbrance upon trust property.

(e) To participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and

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liquidations in connection therewith, to deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee may deem advisable.

(f) To acquire or dispose of an asset, for cash or on credit, at public or private sale; and to exchange, partition, change the character of, or abandon a trust asset or any interest therein.

(g) To make ordinary or extraordinary repairs or alterations in buildings or other trust property, to demolish any improvements, to raze existing or erect new party walls or buildings.

(h) To subdivide, develop or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration.

(i) To grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset.

(j) To vote a security, in person or by general or limited proxy.

(k) To pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

(l) To sell or exercise stock subscription or conversion rights.

(m) To hold a security in the name of a nominee or other form without disclosure of the trust, so that title to the security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the security so held.

(n) To insure the assets of the trust against damage or loss, and the trustee against liability with respect to third persons.

(o) To advance money for the protection of the trust, and for all expenses, losses, and liabilities sustained in the administration of the trust or because of the holding or ownership of any trust assets, for which advances with any interest the trustee has a lien on the trust assets as against the beneficiary.

(p) To pay or contest any claim; to settle a claim by or against the trust by compromise, arbitration, or otherwise, and to release, in whole or in part, any claim belonging to the trust the extent that the

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claim is uncollectible; to institute, compromise and defend actions and proceedings.

(q) To pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the trust.

(r) To continue or participate in any business or other enterprise and to effect incorporation, dissolution, or other change in the form of organization of the business or enterprise.

(s) To exercise any other power or powers which to the Superior Court appear necessary or desirable.

Except as specifically provided in the will, the provisions of this Section apply to any will executed before or after the effective date of this Section and to any trust asset acquired by the trustee of the trust created by such will, before or after the effective date of this Section.

If any provisions of this Section or the application thereof to any person, property or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are severable.

SOURCE: California Probate Code, § 1120.2.

§ 3307. Request for Special Notice by Beneficiary Under Testamentary Trust.

When any beneficiary under a testamentary trust shall have made a request for special notice pursuant to the provisions of Section 3403 of this Title, a copy of the petition and a copy of the account and report provided for in Section 3301 of this Title shall be attached to the notice of hearing required to be mailed to or personally served upon such beneficiary by the trustee pursuant to the provisions of Section 3301 of this Title.

SOURCE: California Probate Code, § 1120.5.

§ 3309. Fair Market Value of Principal so Low as to Defeat or Impair Purposes of Testamentary Trust; Order for Change in Trustee, Modification of Terms or Termination of Trust.

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(a) If upon petition of the trustee or any beneficiary of a testamentary trust, the Superior Court shall at any time determine that the fair market value of the principal of the trust has become so low, in relation to the costs of administration thereof, that continuance of the trust pursuant to its existing terms will defeat or substantially impair the accomplishment of the purposes of the trust, the Superior Court may, in its discretion in a manner which conforms as nearly as possible to the intention of the trustor, order that the trustee be changed, that the terms of the trust be modified, or that the trust be terminated, in whole or in part.

(b) If the Superior Court orders the termination of a testamentary trust, in whole or in part, it shall direct that the principal and undisturbed income be distributed to the beneficiaries in a manner which conforms as nearly as possible to the intention of the trustor; and the Superior Court may make such other and further orders as it deems necessary or appropriate to protect the interests of the beneficiaries.

(c) Nothing contained in this Section shall limit any power of the Superior Court to permit modification or termination of any trust, as such power existed before the adoption of this Section.

(d) The existence of a spendthrift or similar protective provision in a testamentary trust shall not make this Section inapplicable to such trust.

SOURCE: California Probate Code, § 1120.6.

§ 3311. Accounting; Application and Order.

Upon the application of any beneficiary of a testamentary trust, or the guardian of a beneficiary, the Superior Court, in its discretion, may order the trustee, after citation, to render his account; and such application shall not be denied where no account has been rendered to the Superior Court within six (6) months.

SOURCE: Probate Code of Guam (1970), § 1121.

§ 3313. Compensation of Testamentary Trustee; Apportionment Among Trustees.

If the will contains provisions for a testamentary trustee's compensation, such trustee shall be entitled to be compensated in accordance therewith. Upon proper showing, the Superior Court may in

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the decree of distribution or thereafter fix or allow greater compensation than could be allowed under the provisions of the will

(a) where the duties of the trustee are substantially greater than those contemplated by the testator at the time of the execution of the will, or

(b) where the compensation in accordance with the provisions in the will would be inequitable or unreasonably low, or

(c) in other extraordinary circumstances calling for equitable relief.

If the will does not specify a trustee's compensation, the trustee shall be entitled to such compensation as may be reasonable under the circumstances and the Superior Court may, in the decree of distribution or thereafter, determine such reasonable compensation and, in its discretion, fix or allow a periodic compensation for the trustee or trustees, to continue as long as the Superior Court may deem proper. Unless the will provides or the trustees agree otherwise, if there are two or more trustees, the compensation shall be apportioned among the trustees according to the services rendered by them respectively. On settlement of each account the Superior Court shall allow the testamentary trustee his proper expenses and compensation for services as provided herein.

SOURCE: California Probate Code, § 1122 (as amended).

§ 3315. Conclusiveness of Decree.

A decree rendered under the provisions of this Article, when it becomes final, shall be conclusive upon all persons in interest, whether or not they are in being.

SOURCE: Probate Code of Guam (1970), § 1123.

§ 3317. Removal of Trustee or Co-trustee; Notice; Hearing.

The Superior Court shall have power to remove a trustee of a testamentary trust, whether or not any property has been distributed to such trustee, who has violated or is unfit to execute the trust or has acquired any interest or become charged with any duty adverse to the interest of any beneficiary in the subject of the trust. The Superior Court may remove one or all of the cotrustees of a testamentary trust and appoint new trustees where the Superior Court determines that hostility, ill feeling, or continued lack of cooperation among and between

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cotrustees has impaired the proper administration of the trust. The proceeding may be initiated by the Superior Court upon its own motion or by verified petition of a beneficiary of, or any other person interested in, the trust, including any person in being who shall or may participate in the corpus or income of the trust.

The Clerk of the Superior Court shall set the matter for hearing, and notice thereof shall be given in the manner provided in Section 3401 of this Title. The trustee whose removal is sought shall be personally served with a copy of the motion or petition and with notice of the time and place of the hearing thereon, at least ten (10) calendar days before the hearing, provided, that if such a trustee is not a resident of the territory of Guam, or has absconded or concealed himself from the territory of Guam, the Superior Court may fix the manner of giving notice to such trustee by mail, publication or otherwise, as the Superior Court may determine, and the Superior Court may proceed upon such notice as if such trustee had been personally served. In addition, the petitioner, or the Superior Court when acting upon its own motion, shall cause a copy of the petition or motion and of the notice of the hearing mailed to or personally served upon the personal representative, if any part of the estate remains to be distributed to the trustee, and to or upon each cotrustee and to or upon all the beneficiaries, including therein all persons in being who shall or may participate in the corpus or the income of the trust, as provided in Section 3401 of this Title whether any of the persons to whom notice is to be given have requested special notice or given notice of appearance.

SOURCE: California Probate Code, § 1123.5.

§ 3319. Custody of Assets Pending Hearing on Removal of Testamentary Trustee.

The Superior Court, whenever it appears from the verified petition of a beneficiary of a testamentary trust or other person interested in the trust, or from facts coming to its attention, that the assets of the trust or the interests of a beneficiary may suffer loss or injury during the time required for hearing and decision by the Superior Court under the provisions of Section 3317 of this Title and appellate review, if any, may compel the trustee whose removal is sought to surrender any assets of the trust in such trustee's possession or subject to such trustee's control to a custodian designated by the Superior Court or to a cotrustee and may

suspend the powers of the trustee whose removal is sought to such extent as the Superior Court deems necessary.

SOURCE: California Probate Code, § 1123.6.

§ 3321. Exclusive Jurisdiction and Procedure for Removal of Trustee.

The jurisdiction and procedure provided by Sections 3317 and 3319 of this Title shall be exclusive.

SOURCE: California Probate Code, § 1123.7.

§ 3323. Declination of Designated Trustee to Act; Time; Procedure.

Any person named or designated as a trustee in a will may, at any time before distribution of any of the estate to him, decline to act as such trustee, by a writing filed with the Clerk of the Superior Court. Within five (5) calendar days from the filing of such writing, such person shall mail to or personally serve upon the personal representative, or to or upon the personal representative's attorney, a copy of such writing.

SOURCE: California Probate Code, § 1124 (as amended).

§ 3325. Appointment to Fill Vacancy Occurring Before Distribution.

The Superior Court shall have power, at any time before final distribution, to appoint some fit and proper person to fill any vacancy in the office of trustee under the will, whether resulting from declination as provided for in Section 3323 of this Title, from removal, or otherwise, if such appointment is necessary to carry out the trust. Such appointment may be made by the Superior Court upon the written application of any person interested in the trust, filed in the probate proceedings, and shall be made only after notice to all parties interested in the trust, given as required by Section 1517 of this Title upon petition for the probate of a will.

SOURCE: California Probate Code, § 1125 (as amended).

§ 3327. Resignation After Distribution: Petition; Hearing and Notice; Acceptance; Continuing Liability on Bond.

Any person named or designated as trustee in a will, or any successor trustee, may, at any time after the distribution of any of the estate to him, file with the Clerk of the Superior Court a petition tendering his resignation as such trustee and setting forth the names and

mailing addresses of all living beneficiaries known to such resigning trustee. The Clerk of the Superior Court shall set the petition for hearing, and notice thereof shall be given in the manner provided in Section 3401 of this Title. The petitioner shall cause a similar notice to be mailed, postage prepaid, to the beneficiaries named in the petition, at least ten (10) calendar days before the hearing, addressed to them at their respective mailing addresses as set forth in the petition. The Superior Court shall accept such resignation, making any order which may be necessary for the preservation of the estate.

The liability of the said resigning trustee or of the sureties on his bond shall not in any manner be discharged, released, or affected by such resignation, but shall continue until the said trustee has delivered up all of the estate to the person whom the Superior Court shall appoint to receive the same.

SOURCE: California Probate Code, § 1125.1.

§ 3329. Filling Vacancy After Distribution.

If after distribution a trustee of a testamentary trust dies, resigns, fails or declines to act, cannot be identified, or is for any reason incapable of acting, or is removed or a vacancy in the trusteeship is otherwise created or exists, the Superior Court shall have the power to declare a vacancy and appoint a trustee to fill the vacancy, upon the petition of any person interested in the trust estate and notice given in the manner provided in Section 3401 of this Title. The petitioner shall cause notice of the hearing to be sent by registered mail to, or personally served upon, the beneficiaries and to any trustee, whether or not they have requested special notice or given notice of appearance.

SOURCE: California Probate Code, § 1126 (as amended).

COMMENT: See § 701 of Title 1 for further particulars as to what constitutes "registered mail."

§ 3331. Bond of Successor Trustee.

The person appointed under the provisions of Section 3325 or Section 3329 of this Title, before acting as trustee, shall give a bond such as is required by the applicable provisions of Chapter 20 of this Title of a person appointed personal representative.

SOURCE: California Probate Code, § 1127.

§ 3333. Vouchers; Withdrawal; Production; Destruction or Delivery to Trustee or Trustee's Attorney.

Any voucher which may have been filed in support of the account of a trustee of a testamentary trust may be withdrawn by leaving a certified copy on file, but must be produced on demand, unless permanently withdrawn with the permission of the Superior Court. Five (5) years from the date of settlement of the account in support of which a voucher was filed the Clerk of the Superior Court may destroy the voucher or deliver it to the trustee or to the trustee's attorney.

SOURCE: California Probate Code, § 1130.

§ 3335. Certificate; Action and Appointment as Trustee.

Upon application of the trustee or trustees of a trust created by will, the Clerk of the Superior Court shall issue a certificate that the trustee or trustees are duly appointed and acting trustee or trustees under the will.

SOURCE: California Probate Code, § 1130.1.

§ 3337. Combination of Assets and Administration of Testamentary Trusts as One Trust; Conditions.

When a trustee who has been appointed by will or appointed by the Superior Court to execute a trust created by will is appointed by another will or appointed by the Superior Court to execute a trust created by another will, and the provisions and terms of the decree establishing each trust are substantially identical, the Superior Court may upon the petition of the trustee and without notice order the trustee to combine the assets and administer them as a single trust, if the Superior Court determines that administration as a single trust will

- (a) be consistent with the intent of the trustor, and
- (b) facilitate administration of the trust without defeating or impairing the interests of the beneficiaries.

SOURCE: California Probate Code, § 1133.

§ 3339. Transfer of Testamentary Trust to Another Jurisdiction.

Where, under the provisions of Section 3301 of this Title, jurisdiction is retained by the Superior Court of any trust created by the will of a decedent, the Superior Court may order that the place of administration or assets of the trust be transferred to another jurisdiction,

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pursuant to the procedure provided by Article 2 (commencing with Section 3341) of this Chapter.

SOURCE: California Probate Code, § 1132.

**ARTICLE 2
TRANSFER TO ANOTHER JURISDICTION**

- § 3341. Application of Article.
- § 3343. Transfer of Place of Administration or Assets.
- § 3345. Petition for Transfer; Contents.
- § 3347. Notice and Hearing; Notice to Persons Named in Petition; Opposition.
- § 3349. Order; Requirements.
- § 3351. Manner of Transfer; Conditions; Discharge of Local Trustee.
- § 3353. Beneficiary Defined.

§ 3341. Application of Article.

This Article applies to a trust over which jurisdiction of the Superior Court continues after distribution, as provided in Section 3301 of this Title, and to any other trust to which the provisions of this Article are made applicable by statute or trust instrument. This Article shall not be construed to prevent the transfer of the place of administration of a trust or of trust assets to another jurisdiction in any case where judicial approval or a transfer was not required under law in effect immediately prior to the effective date of this Article. This Article shall not apply to any proceeding or action pending on the effective date of this Article.

SOURCE: California Probate Code, § 1139.

§ 3343. Transfer of Place of Administration or Assets.

An order may be made by the Superior Court for the transfer of the place of administration of a trust or the transfer of some or all of the assets of a trust to a State or another United States territory:

- (a) where, under the provisions of Section 3301 of this Title, jurisdiction is retained by the Superior Court over any trust created by the will of a non-resident decedent, which will has been probated in the State or United States territory of such decedent's residence

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and a duly appointed, qualified and acting domiciliary trustee has entered upon and is engaged in the administration of the same trust with respect to the assets situated in that State or United States territory; or

(b) where the trustee or beneficiary of a trust to which this Article applies desires to transfer the place of administration of a trust to a State or another United States territory, unless the trust instrument precludes the transfer of the place of administration to any jurisdiction outside the territory of Guam.

SOURCE: California Probate Code, § 1139.1.

§ 3345. Petition for Transfer; Contents.

A petition for the order authorizing a transfer referred to in Section 3343 of this Title may be filed with the Clerk of the Superior Court by the trustee or by a beneficiary of a trust. The petition shall be verified and shall state:

- (a) The names, ages and places of residence of
 - (1) the trustee administering the trust in the territory of Guam,
 - (2) the trustee, including any domiciliary trustee, in the other jurisdiction to whom administration of the trust or such assets will be transferred, and
 - (3) all persons who are interested in the trust as beneficiaries, so far as known to petitioner;
- (b) Whether the trustee in the other jurisdiction has agreed to accept the trust. If so, the acceptance or a true copy thereof shall be attached as an exhibit to the petition, or otherwise filed with the Clerk of the Superior Court;
- (c) A statement of the character, condition, location and value of the property comprising the assets sought to be transferred;
- (d) A general statement of the qualifications of the trustee who will administer the trust in the other jurisdiction; the amount of bond, if any; the nature and value of the assets of any trust of the decedent or trustor under his administration in the other jurisdiction; and the name of the court, if any, having jurisdiction of such trustee

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or of such trustee's accounts or in which a proceeding may be had, with respect to administration of the trust or the trustee's accounts;

(e) Whether there is any pending civil action in the territory of Guam against the trustee administering the trust in the territory of Guam; and

(f) A statement of the reasons for the transfer.

SOURCE: California Probate Code, § 1139.2.

§ 3347. Notice and Hearing; Notice to Persons Named in Petition; Opposition.

Upon the filing of the petition referred to in Section 3345 of this Title, the Clerk of the Superior Court shall set the same for hearing, and notice of such hearing shall be given as provided in Section 3401 of this Title, at least thirty (30) calendar days before the time set for the hearing. The petitioner, at least thirty (30) calendar days prior to the time so set for hearing, shall cause to be sent, by registered mail, to each of the persons named in the petition, at their respective mailing addresses therein stated, a copy of such notice, or the petitioner shall cause a copy of such notice to be personally served upon each of the persons named in the petition. Any person interested in the trust, either as a trustee, beneficiary, or otherwise, may appear and file written grounds of opposition thereto.

SOURCE: California Probate Code, § 1139.3.

§ 3349. Order; Requirements.

The Superior Court may, in its discretion, grant the petition referred to in Section 3345 of this Title and order the trustee to transfer the trust assets or to change the place of administration to the other jurisdiction if, after the hearing, it appears to the Superior Court:

(a) That the transfer of the trust assets to a trustee in a State or another United States territory, or that the transfer of the place of administration of the trust to a State or another United States territory, would facilitate the economical and convenient administration of the trust and promote the best interests of the trust and those interested therein;

(b) That the substantial rights of residents of the territory of Guam will not be materially affected thereby;

(c) That the transfer will not violate the terms of the trust; and

(d) That any new trustee, to whom the trust assets are to be transferred, is qualified and able to administer the trust or such assets upon the same trusts.

SOURCE: California Probate Code, § 1139.4.

§ 3351. Manner of Transfer; Conditions; Discharge of Local Trustee.

If a transfer is ordered, the Superior Court may direct the manner of transfer and impose such terms and conditions as may be just, including but not by limitation, a requirement for the substitution of a successor trustee in any pending litigation in the territory of Guam. The delivery in accordance with the order of the Superior Court is a full discharge of the trustee in the territory of Guam in relation to all property embraced in the order.

SOURCE: California Probate Code, § 1139.5.

§ 3353. Beneficiary Defined.

For the purposes of this Article, beneficiary means all persons in being who shall or may participate in the corpus or income of the trust.

SOURCE: California Probate Code, § 1139.7.

ARTICLE C
TRANSFER FROM ANOTHER JURISDICTION

- § 3355. Application and Construction of Article.
- § 3357. Order Accepting Transfer of Trust.
- § 3359. Petition; Who May File.
- § 3361. Petition; Verification; Contents.
- § 3363. Setting Petition for Hearing; Notice; Opposition.
- § 3365. Grant of Petition; Issuance of Order; Requirements.
- § 3367. Conditional Order Appointing Trustee; Transfer of Assets or Place of Administration.
- § 3369. Administration of Trust in Guam; Law Governing.
- § 3371. Beneficiary Defined.

§ 3355. Application and Construction of Article.

This Article applies to any written voluntary express trust or portion thereof, whether created by will or otherwise, administered in another jurisdiction outside of the territory of Guam. This Article shall not be construed to prevent transfer of place of administration of a trust or of trust assets to the territory of Guam from another jurisdiction in any case where judicial approval of the transfer was not required under the law in effect immediately prior to the effective date of this Article.

SOURCE: California Probate Code, § 1139.10.

§ 3357. Order Accepting Transfer of Trust.

Subject to the limitations and requirements of this Article, an order may be made by the Superior Court accepting the transfer of the place of administration of a trust from another jurisdiction to the territory of Guam, or the transfer of some or all of the assets of a trust in another jurisdiction to a trustee in the territory of Guam.

SOURCE: California Probate Code, § 1139.11.

§ 3359. Petition; Who May File.

A petition for the order accepting a transfer referred to in Section 3357 of this Title, may be filed with the Clerk of the Superior Court by the trustee or by a beneficiary of the trust.

SOURCE: California Probate Code, § 1139.12.

§ 3361. Petition; Verification; Contents.

The petition referred to in Section 3359 of this Title shall be verified and shall set forth:

(a) The names, ages and mailing addresses of:

(1) The trustee administering the trust in the other jurisdiction;

(2) The proposed trustee to whom administration of the trust or such trust assets will be transferred; and

(3) All persons who are interested in the trust as beneficiaries as far as known to the petitioner.

(b) Whether the trust has been subject to supervision over administration in another jurisdiction outside of the territory of Guam. If so, whether a petition or appropriate request for transfer of

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place of administration of the trust or such trust assets to the territory of Guam has been filed, if necessary, with the proper court in the other jurisdiction and the status of such petition or request.

(c) Whether the trustee proposed to administer the trust in the territory of Guam has agreed to accept the trust in the territory of Guam. If so, the acceptance shall be attached as an exhibit to the petition or otherwise filed with the Superior Court.

(d) A general statement of the qualifications of the trustee proposed to administer the trust in the territory of Guam and the amount of fiduciary bond to be requested, if any.

(e) A copy of the trust instrument or a statement of the terms of the trust instrument in effect at the time the petition is filed, including all amendments thereto.

(f) A statement of the character, condition, location, and value of the property comprising the assets sought to be transferred.

(g) A statement of the reasons for the transfer.

SOURCE: California Probate Code, § 1139.14.

§ 3363. Setting Petition for Hearing; Notice; Opposition.

Upon the filing of the petition referred to in Section 3359 of this Title, the Clerk of the Superior Court shall set the petition for hearing, and notice of the hearing shall be given in the manner provided in Section 3401 of this Title, at least thirty (30) calendar days prior to the time set for the hearing. The petitioner, at least thirty (30) calendar days prior to the time set for the hearing, shall cause to be sent, by registered mail, to each of the persons named in the petition, at their respective mailing addresses therein stated, or to be served personally upon each such person, a copy of the notice of hearing. Any person interested in the trust, either as trustee, beneficiary, or otherwise, may appear and file written grounds in opposition to the petition.

SOURCE: California Probate Code, § 1139.15.

COMMENT: See § 701 of Title 1 for further particulars as to what constitutes “registered mail.”

§ 3365. Grant of Petition; Issuance of Order; Requirements.

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The Superior Court may, in its discretion, grant the petition referred to in Section 3359 of this Title and issue an order accepting transfer of place of administration of the trust or trust assets to the territory of Guam, appoint a trustee to administer the trust in the territory of Guam, and require the trustee to post appropriate bond, if necessary, if after hearing it appears to the Superior Court that:

(a) The transfer of the trust assets to a trustee in the territory of Guam, or the transfer of the place of administration to the territory of Guam, will facilitate the economical and convenient administration of the trust and promote the best interests of the trust and those interested therein;

(b) The transfer will not violate the terms of the trust;

(c) The trustee appointed by the Superior Court to administer the trust in the territory of Guam, to whom the trust assets are to be transferred, is qualified, willing, and able to administer the trust or trust assets upon the same trusts; and

(d) The proper court in the other jurisdiction has approved the transfer if such approval is necessary under the law of the other jurisdiction.

SOURCE: California Probate Code, § 1139.16.

§ 3367. Conditional Order Appointing Trustee; Transfer of Assets or Place of Administration.

When appropriate to facilitate transfer of the trust assets or the place of administration of a trust to the territory of Guam, the Superior Court may issue a conditional order appointing a trustee to administer the trust in the territory of Guam and indicating that the transfer to the territory of Guam will be accepted if the transfer is approved by the proper court of the other jurisdiction.

SOURCE: California Probate Code, § 1139.17.

§ 3369. Administration of Trust in Guam; Law Governing.

Any trust transferred to the territory of Guam pursuant to the provisions of this Article shall be administered in the same manner as if the trust had been subject to supervision in the territory of Guam from the time of its creation.

SOURCE: California Probate Code, § 1139.18(b).

§ 3371. Beneficiary Defined.

For the purposes of this Article, “beneficiary” means all persons in being who shall or may participate in the corpus or income of the trust.

SOURCE: California Probate Code, § 1139.19.
