

## WEST VIRGINIA CODE: §44D-6-604

### **§44D-6-604. Limitation on action contesting validity of revocable trust; distribution of trust property.**

(a) (1) An interested person may commence a judicial proceeding to contest the validity of a trust that was revocable at the grantor's death within the earlier of:

(A) Two years after the grantor's death; or

(B) Six months after the trustee has sent the interested person a copy of the trust instrument and a notice informing the interested person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(2) Notwithstanding subdivision (1) of this subsection:

(A) If the interested person is under the age of eighteen years or is a convict or mentally incapacitated person, the interested person has one year after he or she becomes of age or the disability ceases, to commence a judicial proceeding; and

(B) If the interested person resided out of the state at the time the interested person received the trust instrument and notice, the interested person has one year after receipt thereof to commence the judicial proceeding.

(b) Upon the death of the grantor of a trust that was revocable at the grantor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust instrument. The trustee is not subject to liability for doing so unless:

(1) The trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) A potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification.

(c) A beneficiary of a trust that was revocable at the grantor's death that is determined to have been invalid is liable to return any distribution received.