

§ 36C-7-704. Vacancy in trusteeship; appointment of successor.

- (a) A vacancy in a trusteeship occurs if:
- (1) A person designated as trustee rejects the trusteeship;
 - (2) A person designated as trustee cannot be identified or does not exist;
 - (3) A trustee resigns;
 - (4) A trustee is disqualified or removed;
 - (5) A trustee dies; or
 - (6) A general guardian, guardian of the estate, or guardian of the person is appointed for an individual serving as trustee.
- (b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.
- (c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:
- (1) By a person designated in the terms of the trust or appointed under the terms of the trust to act as successor trustee;
 - (2) By a person appointed by unanimous agreement of the qualified beneficiaries; or
 - (3) By a person appointed by the court.
- (d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:
- (1) By a person designated in the terms of the trust or appointed under the terms of the trust to act as successor trustee;
 - (2) By a person selected by majority agreement of the qualified beneficiaries, if the trust is a split-interest charitable trust;
 - (2a) By a person selected by majority agreement of the charitable organizations expressly designated to receive distributions under the terms of the trust; or
 - (3) By a person appointed by the court.
- (e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.
- (f) A successor trustee shall succeed to all the rights, powers, and privileges, and is subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee, unless a contrary intent appears from the governing instrument or unless the order appointing the successor trustee provides otherwise. A successor trustee shall be vested with the title to property of the former trustee. (1911, c. 39, s. 8; C.S., s. 4032; 1977, c. 502, s. 2; 2001-413, s. 1; 2003-261, s. 6; 2005-192, s. 2; 2007-106, s. 30; 2011-339, s. 3.)