

§1207. Notice; exercise of decanting power

1. Notice period. For purposes of this section, a notice period begins on the day notice is given under subsection 3 and ends 59 days after the day notice is given.

[PL 2021, c. 235, §1 (NEW).]

2. Exercise without consent or approval. Except as otherwise provided in this Act, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

[PL 2021, c. 235, §1 (NEW).]

3. Notice. Except as otherwise provided in subsection 4 or 6, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to:

A. Each settlor of the first trust, if living or then in existence; [PL 2021, c. 235, §1 (NEW).]

B. Each qualified beneficiary of the first trust; [PL 2021, c. 235, §1 (NEW).]

C. Each holder of a presently exercisable power of appointment over any part or all of the first trust; [PL 2021, c. 235, §1 (NEW).]

D. Each person that currently has the right to remove or replace the authorized fiduciary; [PL 2021, c. 235, §1 (NEW).]

E. Each other fiduciary of the first trust; [PL 2021, c. 235, §1 (NEW).]

F. Each fiduciary of the 2nd trust; and [PL 2021, c. 235, §1 (NEW).]

G. The Attorney General, if section 1213, subsection 2 applies. [PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

4. Notice not required. An authorized fiduciary is not required to give notice under subsection 3 to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

[PL 2021, c. 235, §1 (NEW).]

5. Requirements of notice. A notice under subsection 3 must:

A. Specify the manner in which the authorized fiduciary intends to exercise the decanting power; [PL 2021, c. 235, §1 (NEW).]

B. Specify the proposed effective date for exercise of the decanting power; [PL 2021, c. 235, §1 (NEW).]

C. Include a copy of the first-trust instrument; and [PL 2021, c. 235, §1 (NEW).]

D. Include a copy of all 2nd-trust instruments. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

6. Waiver of notice period. The decanting power may be exercised before expiration of the notice period under subsection 1 if all persons entitled to receive notice waive the notice period in a signed record.

[PL 2021, c. 235, §1 (NEW).]

7. Right to file application. The receipt of notice, waiver of the notice period or expiration of the notice period does not affect the right of a person to file an application under section 1208 asserting that:

A. An attempted exercise of the decanting power is ineffective because the exercise did not comply with this Act or was an abuse of discretion or breach of fiduciary duty; or [PL 2021, c. 235, §1 (NEW).]

B. Section 1221 applies to the exercise of the decanting power. [PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

8. Failure to give notice; reasonable care. An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection 3 if the authorized fiduciary acted with reasonable care to comply with subsection 3.
[PL 2021, c. 235, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 235, §1 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.