

633A.3110 Notice to creditors, heirs, and surviving spouse.

1. As used in this section, "heir" means only such person who would, in an intestate estate, be entitled to a share under section 633.219.

2. The trustee may give notice as described herein to creditors, heirs, and the surviving spouse of the settlor for the purpose of establishing their rights to contest the trust and to file claims against the trust assets.

a. No later than the end of the one-year period beginning with the settlor's date of death, the trustee may publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the settlor was a resident at the time of death. If the settlor was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633A.6102.

b. If notice is published pursuant to paragraph "a", the trustee shall also give notice by ordinary mail within one year of the settlor's death to the surviving spouse and the heirs of the decedent whose identities are reasonably ascertainable, at such person's last known address.

c. If notice is published pursuant to paragraph "a", the trustee shall also give notice to creditors of the settlor who are known or reasonably ascertainable within the period for filing claims specified in the published notice and who the trustee believes own or possess a claim, which will not or may not be paid or otherwise satisfied during the administration of the trust, by ordinary mail to each person at the person's last known address.

d. The notices described in this subsection shall, if given, include notification of the settlor's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of four months from the date of the second publication of the notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b", and that any claim against the trust assets will be forever barred unless proof of a creditor's claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of four months from the date of second publication of notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b", if required. A person who is not entitled to receive a mailed notice or who does not make a claim within the appropriate period is forever barred from asserting any claim against the trust or the trust assets.

3. If notice is published pursuant to subsection 2, paragraph "a", claims of creditors that are discovered or which become reasonably ascertainable after the end of the notice period are barred.

4. If notice is not published and given as provided in this section, the right to challenge the trust and file claims against the trust assets are limited as provided in sections 633A.3108 and 633A.3109.

5. The notice described in subsection 2 shall be substantially in the following form:

To all persons regarding, deceased, who died on or about(date). You are hereby notified that is the trustee of the Trust.

Any action to contest the validity of the trust must be brought in the District Court of ... County, Iowa, within the later to occur of four months from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent settlor and the spouse of the decedent settlor whose identities are reasonably ascertainable. Any suit not filed within this period shall be forever barred.

Notice is further given that any person or entity possessing a claim against the trust must mail proof of the claim to the trustee at the address listed below via certified mail, return receipt requested, by the later to occur of four months from the second publication of this notice or thirty days from the date of mailing this notice if required, or the claim shall be forever barred, unless paid or otherwise satisfied.

Dated this day of(month),(year)
 Trust

 Trustee
 Address:

Date of second publication
 day of(month),(year)

6. The proof of claim must be in writing stating the party’s name and address and describing the nature and amount of the claim, if ascertainable, and accompanied by an affidavit of the party or a representative of the party verifying the amount that is due, or when the amount will become due, that no payments have been made on the claim that are not credited, and that no offsets to the claim exist.

7. At any time after receipt by the trustee of a proof of claim, the trustee may give the party submitting the claim a written notice of disallowance of the claim. The notice shall be given by certified mail, return receipt requested, addressed to the party at the address stated in the claim, and to the attorney of record of the party submitting the claim. Such notice of disallowance shall advise the party submitting the claim that the claim has been disallowed and will be forever barred unless suit is filed against the trustee to enforce the claim within thirty days of the date of the mailing of the notice of disallowance. If suit is filed, the provisions in chapter 633 relating to actions to enforce a claim shall apply with the trust and trustee substituted for the estate and personal representative.

8. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the creditor fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor’s claim shall be forever barred.

9. The trustee shall give notice to the beneficiaries of the trust as required by section 633A.4213.

10. The trustee shall give notice to the surviving spouse of the right to elect to take an elective share of the trust as required by section 633.237 and the right to an allowance for the surviving spouse and any dependents of the settlor residing with the surviving spouse as required by section 633A.3114.

11. The trustee shall give notice to eligible children not residing with the surviving spouse of their right to an allowance as required by section 633A.3115.

99 Acts, ch 125, §34, 109

C2001, §633.3110

2005 Acts, ch 38, §54

CS2005, §633A.3110

2012 Acts, ch 1123, §21, 32; 2013 Acts, ch 90, §179

Referred to in §633A.3108, 633A.3109

[SP] 2012 amendment to this section applies to trusts of settlors dying on or after July 1, 2012; 2012 Acts, ch 1123, §32

[T] Section amended