

**633F.13 Declination, resignation, incapacity, death, or removal of custodial trustee — designation of successor custodial trustee.**

1. Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under [section 633F.3](#) becomes the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to [section 633F.3](#). In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

2. A custodial trustee who has accepted the custodial trust property may resign by doing all of the following:

a. Delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's legal representative, if any.

b. Transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of, and delivering the records to, the successor custodial trustee identified under [subsection 3](#).

3. If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under [section 633F.2](#), [subsection 7](#), or [section 633F.3](#) becomes custodial trustee. If there is no effective provision for a successor, the beneficiary if not incapacitated, or the legal representative of an incapacitated beneficiary, may designate a successor custodial trustee. If the beneficiary is not incapacitated, but fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, or if the beneficiary is incapacitated and the beneficiary's legal representative fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, then the beneficiary's legal representative becomes successor custodial trustee. If the beneficiary does not have a legal representative or the legal representative fails to act, the resigning custodial trustee may designate a successor custodial trustee.

4. If a successor custodial trustee is not designated pursuant to [subsection 3](#), the transferor, the legal representative of the transferor or of the custodial trustee, a beneficiary's legal representative and if none, a member of the beneficiary's family, a person interested in the custodial trust property may petition the court to designate a successor custodial trustee.

5. A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

6. A substitute custodial trustee designated under [section 633F.3](#), the beneficiary, the beneficiary's legal representative and if none, a member of the beneficiary's family, a person interested in the custodial trust property, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or for other appropriate relief.

[2021 Acts, ch 8, §13](#)