CHAPTER 59-14
REVOCABLE TRUSTS

59-14-01. (601) Capacity of settlor of revocable trust.

Repealed by S.L. 2017, ch. 416, § 11.

59-14-02. (602) Revocation or amendment of revocable trust.

1. Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before August 1, 2007.
2. If a revocable trust is created or funded by more than one settlor to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution; and upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.
3. The settlor may revoke or amend a revocable trust by substantial compliance with a method provided in the terms of the trust or, if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by a later will or codicil that expressly refers to the trust or any other method manifesting clear and convincing evidence of the settlor's intent.
4. Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.
5. A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power, exercised in writing and delivered to the trustee.
6. A conservator of the settlor or, if no conservator has been appointed, a guardian of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.
7. A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

59-14-03. (603) Settlor's powers - Powers of withdrawal.

1. While a trust is revocable, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.
2. During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

59-14-04. (604) Limitation on action contesting validity of revocable trust - Distribution of trust property.

Repealed by S.L. 2017, ch. 416, § 11.

59-14-05. Settlor's powers to direct.

While a trust is revocable, the trustee may follow a direction of the settlor which is contrary to the terms of the trust.