

TRUSTEE IN WAR SERVICE (EXCERPT)
Act 195 of 1943

35.511 Trustee engaged in war service; suspension of powers, appointment of co-trustee or substitute trustee.

Sec. 1.

Whenever a trustee of an express trust is, or hereafter shall be engaged in war service, as herein defined, the circuit court in chancery may, upon the petition of such trustee, or any co-trustee, or upon petition of any person having a beneficial interest in the trust administered by such trustee, whether singly or jointly with others, or any person interested in the subject matter thereof by way of remainder, issue an order suspending the powers of such trustee while he is engaged in war service and until further order of said court.

(a) Where there are 2 or more trustees serving jointly, the trustee or trustees not engaged in war service may, after the issuance of said order, and until otherwise ordered by said court, exercise all powers which he or they might have exercised as surviving trustee or trustees under any instrument creating a trust, or by virtue of their office, in the same manner and to the same extent as if the trustee whose powers have been suspended as aforesaid had died: Provided, however, That no such powers may be exercised by one who is a beneficiary under a trust of which he is sole acting trustee, unless the instrument creating the trust so provides.

(b) Where there are 2 or more trustees, 1 or more of whom is or shall be engaged in war service, the court may, notwithstanding the provisions of subsection (a) of section 1 hereof, upon petition of any of such trustees, or any person beneficially interested in the trust administered by them, or any person having an interest in the subject matter thereof by way of remainder, appoint a co-trustee to serve in the place and stead of the trustee whose powers have been suspended as aforesaid. Such appointment may be made simultaneously with and by the terms of the order suspending such powers or at any time thereafter; and when such substitute trustee shall have been appointed and shall have lawfully entered upon the execution of his trust, all trustees not engaged in war service shall, until otherwise ordered by the court, serve with the same powers and with like effect as if the trustee whose powers have been suspended as aforesaid had died and a successor had been appointed in his place and stead.

(c) Where a sole trustee is or shall be engaged in war service, the court may, upon petition of such sole trustee, or any person beneficially interested in the trust administered by him, or any person having an interest in the subject matter thereof by way of remainder, appoint a substitute trustee or substitute trustees who shall have the sole authority, until otherwise ordered by said court, to exercise all powers previously possessed by the trustee whose powers have been suspended as herein provided.

History: 1943, Act 195, Imd. Eff. Apr. 17, 1943 ;-- CL 1948, 35.511