

389A.020 Limitation on power of fiduciary to sell or mortgage property -- Circuit clerk may alter.

In the event the power of a fiduciary to sell or mortgage any real estate is expressly limited by the will or trust instrument under which he is acting, such limitation may only be altered or amended by the Circuit Court of the county wherein the fiduciary was appointed, or if the fiduciary is acting under an agreement of trust without court supervision, the county in which the trust is or could be registered, in an action brought by the fiduciary in which all persons having a present or contingent interest in the property interest sought to be sold or mortgaged or its proceeds are made parties. Before adjudging that the fiduciary may deviate from the terms of the will or trust the court shall determine that there exist circumstances apparently unknown to the testator or settlor; that such circumstances would substantially impair the accomplishment of the purposes intended; and that deviation is in the best interests of all parties concerned.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 277, sec. 5, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 87, sec. 4, effective July 15, 1980.