

§ 36C-4-409. Noncharitable trust without ascertainable beneficiary.

Except as otherwise provided in G.S. 36C-4-408 or by another statute, the following rules apply:

- (1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than 21 years. If the trust is still in existence after 21 years, the trust shall terminate. The unexpended trust property shall be transferred in the following order:
 - a. As directed in the trust instrument.
 - b. If the trust was created in a preresiduary clause in the settlor's will or in a codicil to the settlor's will, under the residuary clause in the settlor's will.
 - c. If no taker is produced by the application of sub-subdivisions a. or b. of this subdivision, to the settlor, if then living, otherwise to the settlor's heirs as determined under Chapter 29 of the General Statutes as of the date of the settlor's death.
- (2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.
- (3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent that the court determines that the value of the trust property exceeds the amount required for the intended use. The property not required for the intended use shall be distributed under subdivision (1) of this section.
- (4) Notwithstanding subdivisions (1) through (3) of this section, a trust, contract, or other arrangement to provide for the care of a cemetery lot, grave, crypt, niche, mausoleum, columbarium, grave marker, or monument is valid without regard to remoteness of vesting, duration of the arrangement, or lack of definite beneficiaries to enforce the trust, provided that the trust, contract, or other arrangement meets the requirements of G.S. 28A-19-10, Article 4 of Chapter 65 of the General Statutes, Article 9 of Chapter 65 of the General Statutes, or other applicable law. This section does not repeal or supersede G.S. 36C-4-413. (1995, c. 225, s. 1; 2005-192, s. 2; 2007-106, s. 15.)