

Chapter 260

(House Bill 474)

AN ACT concerning

Estates and Trusts – Breach of Trust Action – Limitation Period

FOR the purpose of establishing that the terms of a trust do not prevail over certain periods of limitation for bringing a judicial action; prohibiting a beneficiary from bringing a judicial action against a trustee for breach of trust more than a certain period of time after the date the beneficiary or the representative of the beneficiary is sent a certain report; providing that a certain report adequately discloses the existence of a potential claim for breach of trust for certain purposes; providing that this Act does not limit the time for bringing an action against a trustee for a breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; providing for the application of this Act; and generally relating to time limits for bringing certain actions.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 14.5–105

Annotated Code of Maryland

(2017 Replacement Volume)

BY adding to

Article – Estates and Trusts

Section 14.5–904

Annotated Code of Maryland

(2017 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Estates and Trusts

14.5–105.

The terms of a trust prevail over a provision of this title, except:

- (1) The requirements for creating a trust;
- (2) The duty of a trustee to act reasonably under the circumstances and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;

(3) The requirement that a trust and the terms of the trust be for the benefit of the beneficiaries of the trust and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;

(4) The prohibition under § 14.5–306 of this title against a person serving as a representative of a beneficiary of a trust when that person is serving as a trustee of the same trust;

(5) The power of the court to modify or terminate a trust under §§ 14.5–410, 14.5–411, 14.5–413, and 14.5–414 of this title;

(6) The rights of certain creditors and assignees to reach a trust as provided in Subtitle 5 of this title;

(7) The power of the court under § 14.5–702 of this title to require, dispense with, modify or terminate a bond;

(8) The subject matter jurisdiction and venue for commencing a proceeding as provided by the laws of this State;

(9) The power of the court under § 14.5–708(a) of this title to increase or decrease the commissions of a trustee;

(10) The duties to provide information, copies, and notices specified under § 14.5–813(a) and (c) of this title;

(11) The duty under § 14.5–813(a) and (b) of this title to:

(i) Notify qualified beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, the identity of the trustee, and their right to request trustee's reports and a copy of the trust; and

(ii) Respond to the request of a qualified beneficiary of an irrevocable trust for reports by the trustee and other information reasonably related to the administration of the trust;

(12) The effect of an exculpatory term under § 14.5–906 of this title;

(13) The rights under §§ 14.5–908 through 14.5–910 of this title of a person other than a trustee or beneficiary; [and]

(14) The power of the court to take an action and exercise jurisdiction as may be necessary in the interests of justice; AND

(15) PERIODS OF LIMITATION FOR BRINGING A JUDICIAL ACTION.

14.5-904.

(A) A BENEFICIARY MAY NOT BRING A JUDICIAL ACTION AGAINST A TRUSTEE FOR BREACH OF TRUST MORE THAN 1 YEAR AFTER THE DATE THAT THE BENEFICIARY OR THE REPRESENTATIVE OF THE BENEFICIARY IS SENT A REPORT THAT ADEQUATELY DISCLOSES THE EXISTENCE OF A POTENTIAL CLAIM FOR BREACH OF TRUST AND INFORMS THE BENEFICIARY OR THE REPRESENTATIVE OF THE BENEFICIARY OF THE TIME ALLOWED FOR BRINGING A JUDICIAL ACTION.

(B) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A POTENTIAL CLAIM FOR BREACH OF TRUST IF THE REPORT PROVIDES SUFFICIENT INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE KNOWS OF THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO THE EXISTENCE OF THE CLAIM.

(C) THIS SECTION DOES NOT LIMIT THE TIME FOR BRINGING AN ACTION AGAINST A TRUSTEE FOR BREACH OF TRUST COMMITTED IN BAD FAITH OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE TRUST OR THE INTERESTS OF THE BENEFICIARIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, April 24, 2018.