

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 381

(Senator West)

Judicial Proceedings

Health and Government Operations

Trusts - Maryland Trust Act - Methods of Notice

This bill expands and clarifies the means of communication that may be employed to provide specified notice under the Maryland Trust Act (MTA). The bill also makes technical, conforming, and stylistic changes.

Fiscal Summary

State Effect: None. The bill's changes are procedural in nature and do not directly affect governmental finances.

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under the bill, "delivery address" means (1) the last known place of residence or place of business of a person; (2) a facsimile number provided by a person for the purpose of receiving notice; or (3) an email address provided by a person for the purpose of receiving notice.

Notice, Generally

The bill newly specifies that a permissible method of providing notice to a person or for sending a document to a person under MTA includes delivery to the person's delivery address.

Under current law, permissible methods of notice to a person or for sending a document to a person include first-class mail, personal delivery, or delivery to the last known place of residence or place of business of the person. These notice requirements apply to the proposed (1) termination of a trust; (2) modification of the administrative or dispositive terms of a trust; (3) combination of two or more trusts into a single trust; (4) division of a trust into two or more separate trusts; (5) resignation of a trustee or cotrustee; or (6) transfer of the principal place of administration of a trust.

Under current law, notice is generally not required (1) to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee or (2) by a person to himself or herself. Notice under MTA may be waived in writing, as specified. Notice of a judicial proceeding under MTA must be given as provided in the applicable rules of civil procedure.

Notice to a Person by a Trustee

The bill specifies that *a trustee* must provide notice to a person under MTA:

- by first-class mail, postage prepaid, return receipt requested;
- by courier delivery service, delivery service prepaid, delivery confirmation requested; or
- if a person entitled to receive notice under MTA agrees in writing to accept an alternative method of notice (1) by first-class mail, postage prepaid; (2) by facsimile transmission from a facsimile device that produces a confirmation page that specifies the date and time of a successful facsimile transmission; or (3) by email, acknowledgement requested.

Under current law, a trustee must provide notice to a person under MTA by personal service or by certified mail, postage prepaid, return receipt requested.

The bill specifies that a person may revoke the trustee's authorization to provide notice by an alternative method by providing notice to the trustee via personal service; certified mail or first-class mail, postage prepaid, return receipt requested; or by courier delivery service, delivery service prepaid, delivery confirmation requested. A trustee authorized to provide notice by an alternative method may continue to provide notice by an alternative method until the person entitled to receive notice revokes the authorization. If a trustee who provides notice by an alternative method knows or should know that the person *did not* receive notice, the trustee must provide notice to the person via personal service; certified mail or first-class mail, postage prepaid, return receipt requested; or by courier delivery service, delivery service prepaid, delivery confirmation requested.

Background: According to the Maryland State Bar Association, other states authorize the delivery of notice via alternative methods. For example, in Florida, permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, a properly directed facsimile or other electronic message, or posting on a secure electronic account or website.

Additional Information

Prior Introductions: None.

Cross File: HB 898 (Delegate Johnson, *et al.*) - Health and Government Operations.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Maryland State Bar Association; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2019
mm/kdm Third Reader - March 15, 2019
Revised - Amendment(s) - March 15, 2019

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