

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 886

(Senator West)

Judicial Proceedings

Judiciary

Maryland Trust Act - Liability of Trustee - Report and Release by Interested Party

This bill authorizes a trustee to send each “interested party” a specified report (described below), by first-class, certified mail, return receipt requested, when a trust terminates in accordance with the terms of the trust or the Maryland Trust Act, or upon the removal or resignation of the trustee in accordance with the Maryland Trust Act, seeking the release of the trustee from liability for the administration of the trust. An interested party’s failure to submit a written objection within 120 days after the trustee mailed the report results in the interested party releasing the trustee and consenting to and ratifying all actions of the trustee. If there are no objections submitted within the 120-day period, the trustee must distribute the trust property to the appropriate persons within a reasonable period of time. If an interested party submits a timely written objection, the objection may either be (1) submitted to the court, with notice to all interested parties, to commence a proceeding for resolution of the objection or (2) resolved by the agreement of all interested parties and the trustee. The bill applies only prospectively and may not be applied or interpreted to have any effect on or application to a specified report mailed before the effective date of the bill.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines an “interested party” as a beneficiary, representative of a beneficiary, co-trustee, successor trustee, or any other person having an interest in or authority over a trust.

The authorized report to be sent from the trustee to the interested parties must:

- inform the interested party that the trust is terminating or that the trustee has resigned or has been removed;
- provide the interested party (1) an accounting of the trust, such as account statements, for the immediately preceding five years; (2) an estimate of any trust property or interests reasonably anticipated but not yet received or disbursed; and (3) the amount of any fees, including trustee fees, remaining to be paid; and
- notify the interested party that (1) the interested party may submit a written objection to the trustee regarding the trustee’s administration of the trust within 120 days after the trustee mailed the report; (2) if the interested party does not submit a written objection within 120 days after the trustee mailed the report, the interested party must be deemed to have released the trustee and consented to and ratified all actions of the trustee; and (3) the trustee is unaware of any undisclosed information that could give rise to a claim by an interested party.

Current Law: Under the Maryland Trust Act, a trustee may resign with the approval of the court. While considering the approval of a resignation of a trustee, the court is authorized to issue orders and impose conditions reasonably necessary for the protection of the trust property.

Upon the request of a settlor, a co-trustee, or a beneficiary to the court, or on the court’s own initiative, the court may remove a trustee if:

- the trustee has committed a serious breach of trust;
- lack of cooperation among co-trustees substantially impairs the administration of the trust;
- because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or
- there has been a substantial change of circumstances and removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interest of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable co-trustee or successor trustee is available.

Pending a final decision, the Maryland Trust Act authorizes the court to order appropriate relief under specified law as may be necessary to protect the trust property or the interests of the beneficiaries.

A trust may be terminated for various reasons, including pursuant to the terms of the trust and, under certain circumstances, by the court, when termination furthers or is not contrary to the purposes of the trust.

Under current law, a beneficiary cannot bring a judicial action against a trustee for breach of trust more than one 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 bring a judicial action.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 904 (Delegate Cardin) - Judiciary.

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

Fiscal Note History: First Reader - February 21, 2020
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