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Judicial Proceedings Committee

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Senate Judicial Proceedings Committee
The Honorable William C. Smith
2 East Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 886 – Maryland Trust Act – Liability of Trustee – Report and Release by Interested Party

Dear Chairman Smith and Members of the Committee:

This bill deals with the situation that arises when a Maryland Trust terminates under the terms of the trust or when a trustee under a Maryland Trust resigns or is removed.

Under current law, the beneficiaries under the trust are sent a report that provides sufficient information about the trust and its assets that the beneficiaries either knows of any potential claim against the trustee for breach of trust or has enough information so that the beneficiaries should have inquired into the existence of the claim. The beneficiaries then have up to a full year to file an action for breach of trust against the trustee.

There is no reason why the termination of a trust or the departure of a trustee should take a year. This bill will reduce the termination period to 120 days.

Under Senate Bill 886, as amended, when a trust terminates under its terms or when a trustee resigns or is removed, the trustee may send by first-class mail or by certified mail, return receipt requested to each beneficiary, representative of a beneficiary, co-trustee, successor trustee or any other person having an interest in or authority over a trust a report containing critical information about the trust. The report must contain an accounting of the trust for the preceding five years, an estimate of any trust property or interests not yet received or disbursed, and the amount of any fees, including trustee fees, remaining to be paid. The report must also contain a notification that, within 120 days, any recipient may submit a written objection to the trustee about the trustee's administration of the trust as well as a statement that the trustee is not aware of any undisclosed information that would give rise to a claim by an interested party.

If no recipient submits an objection within the 120 day period, the recipients are deemed to have consented to and ratified all actions of the trustee, and the trustee is required to distribute the trust property to the successors in interest within a reasonable period of time.

If an objection is filed, then either a court proceeding will follow or else the issue can be resolved by an agreement of all interested parties and the trustee.

Thus the effect of this bill will be to greatly expedite the closure of estates, while still giving all interested parties appropriate notice and an opportunity to precipitate a court proceeding in an appropriate circumstance.

This is a good bill. I urge a favorable report on Senate Bill 886.