
By: **Delegate Finifter**
Introduced and read first time: February 9, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Protections to Revocable Trusts**

3 FOR the purpose of providing that certain claims against a decedent, asserted against
4 the probate estate or otherwise, must be made within a certain amount of time;
5 extending certain provisions and rules regarding wills and estates to apply to
6 certain revocable trusts; defining certain terms; providing for the delayed
7 effective date for certain provisions of this Act; and generally relating to
8 protections to revocable trusts.

9 BY repealing and reenacting, with amendments,
10 Article - Estates and Trusts
11 Section 8-103(a)
12 Annotated Code of Maryland
13 (1991 Replacement Volume and 2000 Supplement)

14 BY adding to
15 Article - Estates and Trusts
16 Section 14-102.1
17 Annotated Code of Maryland
18 (1991 Replacement Volume and 2000 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Estates and Trusts
21 Section 14-102.1
22 Annotated Code of Maryland
23 (1991 Replacement Volume and 2000 Supplement)
24 (As enacted by Section 1 of this Act)

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

1

Article - Estates and Trusts

2 8-103.

3 (a) Except as otherwise expressly provided by statute with respect to claims of
4 the United States and the State, all claims against [an estate of] a decedent, whether
5 due or to become due, absolute or contingent, liquidated or unliquidated, founded on
6 contract, tort, or other legal basis, are forever barred [against the estate, the personal
7 representative, and the heirs and legatees,] unless presented within the earlier of the
8 following dates:

9 (1) 6 months after the date of the decedent's death; or

10 (2) 2 months after the personal representative mails or otherwise
11 delivers to the creditor a copy of a notice in the form required by § 7-103 of this article
12 or other written notice, notifying the creditor that his claim will be barred unless he
13 presents the claim within 2 months from the mailing or other delivery of the notice.

14 14-102.1.

15 (A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "REVOCABLE INTER VIVOS TRUST" MEANS A TRUST THAT IS
18 REVOCABLE BY THE SETTLOR DURING THE SETTLOR'S LIFETIME.

19 (3) "TESTAMENTARY ASPECTS" MEANS THOSE PROVISIONS OF A TRUST
20 THAT DISPOSE OF THE TRUST PROPERTY ON OR AFTER THE DEATH OF THE SETTLOR
21 OTHER THAN TO THE SETTLOR'S ESTATE.

22 (B) IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE
23 PROVISIONS CONTAINED §§ 4-101, 4-103, 4-104, 4-105, 4-106, 4-107, 4-401, 4-403, 4-404,
24 4-405, 4-406, 4-409, 4-410, AND 4-413 OF THIS ARTICLE SHALL BE APPLICABLE TO THE
25 TESTAMENTARY ASPECTS OF A REVOCABLE INTER VIVOS TRUST. WHENEVER ANY OF
26 THOSE STATUTORY SECTIONS REFER TO A "WILL", "ESTATE", OR SIMILAR TERMS
27 RELEVANT PRIMARILY TO WILLS AND ESTATES OR THE TAKERS UNDER THEM, THE
28 TERMS SHALL BE MODIFIED TO MEAN "TRUST INSTRUMENT", "TRUST", OR SIMILAR
29 TERMS TO REFLECT THE APPLICATION OF THE PRINCIPLES OF THOSE SECTIONS TO
30 INTER VIVOS TRUSTS.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
32 read as follows:

33 14-102.1.

34 (a) (1) In this section, the following words have the meanings indicated.

35 (2) "Revocable inter vivos trust" means a trust that is revocable by the
36 settlor during the settlor's lifetime.

1 (3) "Testamentary aspects" means those provisions of a trust that
2 dispose of the trust property on or after the death of the settlor other than to the
3 settlor's estate.

4 (b) In the absence of express language to the contrary, the provisions
5 contained in §§ 4-101, 4-102, 4-103, 4-104, 4-105, 4-106, 4-107, 4-401, 4-403,
6 4-404, 4-405, 4-406, 4-409, 4-410, and 4-413 of this article shall be applicable to the
7 testamentary aspects of a revocable inter vivos trust. Whenever any of those statutory
8 sections refer to a "will", "estate", or similar terms relevant primarily to wills and
9 estates or the takers under them, the terms shall be modified to mean "trust
10 instrument", "trust", or similar terms to reflect the application of the principles of
11 those sections to inter vivos trusts.

12 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
13 shall take effect on June 1, 2002.

14 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
15 Section 3 of this Act, this Act shall take effect October 1, 2001