Unofficial Copy N2 2004 Regular Session 4lr1928 CF 4lr1595

By: Delegates Vallario and Simmons Introduced and read first time: February 4, 2004 Assigned to: Judiciary A BILL ENTITLED 1 AN ACT concerning 2 **Trusts - Termination by Corporate Fiduciary** 3 FOR the purpose of altering the maximum amount of the fair market value of a trust that a corporate fiduciary acting as a trustee may terminate without an order of 4 5 court; and generally relating to the authorization of a corporate fiduciary acting 6 as a trustee to terminate a trust without an order of court. 7 BY repealing and reenacting, with amendments, Article - Estates and Trusts 8 Section 14-107 9 10 Annotated Code of Maryland (2001 Replacement Volume and 2003 Supplement) 11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 12 13 MARYLAND, That the Laws of Maryland read as follows: 14 **Article - Estates and Trusts** 15 14-107. In this section the following words have the meanings indicated. 16 (a) (1) 17 (2) (i) "Beneficiary" means an ascertainable person who has a present 18 or future interest in a trust estate. 19 "Beneficiary" includes: (ii) If the beneficiary is a minor, the beneficiary's natural or 20 1. 21 legal guardian; or 22 2. If the beneficiary is a disabled person, as defined in § 23 13-101 of this article, any person acting on behalf of the beneficiary under a

"Corporate fiduciary" has the meaning stated in § 15-1A-01 of this

24 guardianship, conservatorship, or committee.

(3)

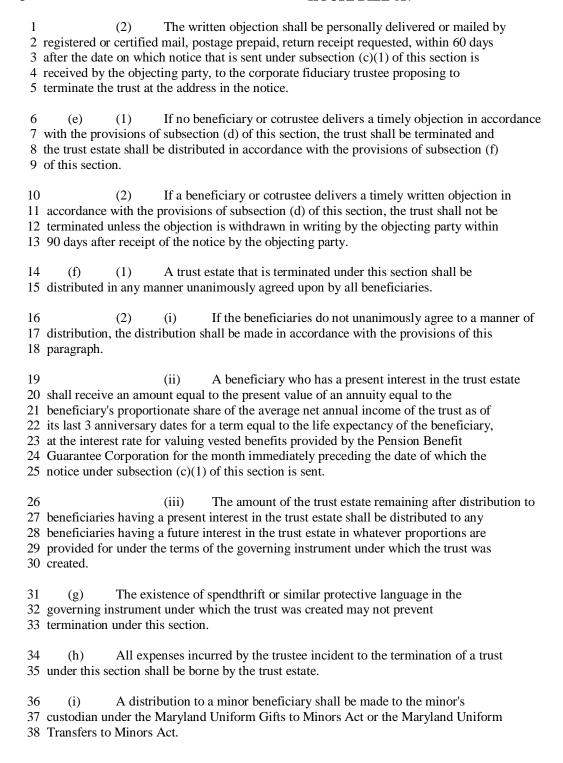
25

26 article.

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	(4) tables issued by the U time.		pectancy" means the life expectancy published in the life rtment of Health and Human Services from time to
	(5) a fiscal year minus tru fiscal year.		nual income" means the gross income of a trust estate during issions and expenses attributable to income for that
	(b) Subject to the provisions of this section, a corporate fiduciary acting as a trustee may terminate a trust without an order of court if the fair market value of the trust as of the trust's last anniversary date is [\$50,000] \$100,000 or less.		
12	(c) (1) A corporate fiduciary trustee proposing to terminate a trust under this section shall send notice of the proposed termination to each cotrustee and each beneficiary of the trust at the cotrustee's or beneficiary's last known address. The notice shall be:		
14		(i)	Personally delivered; or
15 16	receipt requested.	(ii)	Mailed by registered or certified mail, postage prepaid, return
17 18	(2) contain:	The notice required under paragraph (1) of this subsection shall	
19		(i)	The name of the trust;
20		(ii)	The name of the person who created the trust;
21		(iii)	The date on which the trust was established;
22 23	seeking to terminate	(iv) the trust;	The name and address of the corporate fiduciary trustee
24		(v)	The name of any cotrustee;
	(vi) A statement that the effective date of the termination shall be at least 90 days after the date on which notice under paragraph (1) of this subsection has been received by each cotrustee and each beneficiary;		
28		(vii)	A statement of the reasons for termination of the trust;
29 30	distribution of the tru	(viii) ist estate;	The approximate amount and the manner of calculation of each and
31 32	under subsection (d)	(ix) of this se	A statement of the right to object and the procedures to follow ction.
33 34	(d) (1) A person entitled to notice under subsection (c) of this section who objects to the termination of a trust shall send written objection to the termination.		

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- 1 (j) This section may not be construed to limit the right of any trustee to 2 terminate a trust in accordance with applicable provisions of the governing 3 instrument under which the trust was created. 4 (k) A trust may be terminated under this section if: 5 The trustee has determined that termination of the trust is in the 6 best interests of the beneficiaries; and 7 The governing instrument does not expressly prohibit termination of 8 the trust regardless of its size. 9 A trust may not be terminated under this section if: (1) 10 The provisions of the governing instrument make the trust eligible to 11 qualify for the marital deduction for United States estate tax or for United States gift 12 tax purposes under the Internal Revenue Code, unless all beneficiaries agree that all 13 of the trust estate shall be distributed to the spouse of the creator of the trust; or 14 The provisions of the governing instrument make the trust qualify, in 15 whole or in part, for a charitable deduction for United States estate tax, United States 16 gift tax, or United States income tax purposes under the Internal Revenue Code, 17 unless all beneficiaries agree that all of the trust estate shall be distributed to one or
- 20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 21 June 1, 2004.

18 more beneficiaries that qualify for the charitable deduction under the Internal