Unofficial Copy N2 2004 Regular Session 4lr1595 CF 4lr1928

By: Senators Garagiola and Giannetti Introduced and read first time: January 23, 2004 Assigned to: Judicial Proceedings 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 9 Section 14-107 10 Annotated Code of Maryland (2001 Replacement Volume and 2003 Supplement) 11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 12

14 Article - Estates and Trusts

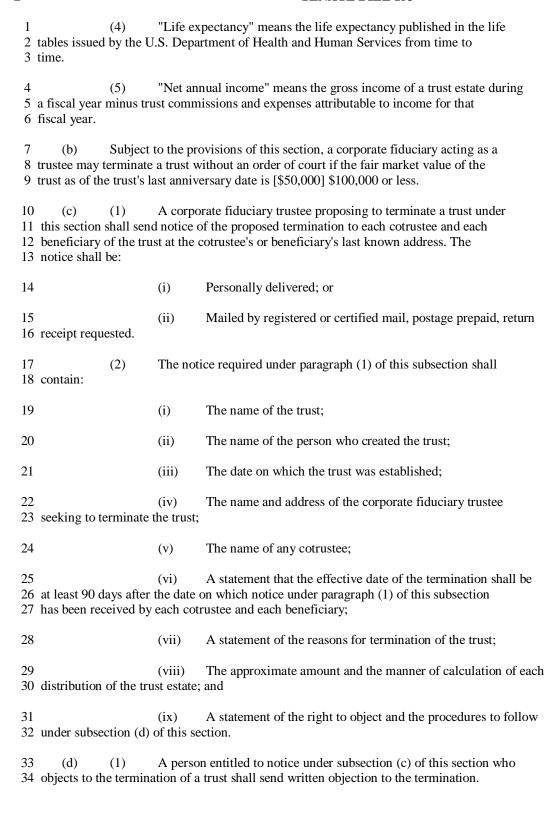
13 MARYLAND, That the Laws of Maryland read as follows:

15 14-107.

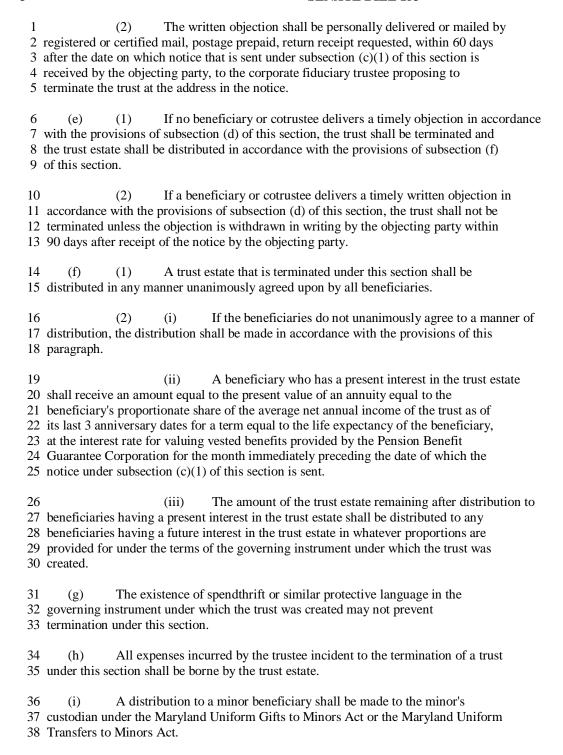
- 16 (a) (1) In this section the following words have the meanings indicated.
- 17 (2) (i) "Beneficiary" means an ascertainable person who has a present 18 or future interest in a trust estate.
- 19 (ii) "Beneficiary" includes:
- 20 1. If the beneficiary is a minor, the beneficiary's natural or
- 21 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
- 24 guardianship, conservatorship, or committee.
- 25 (3) "Corporate fiduciary" has the meaning stated in § 15-1A-01 of this

26 article.

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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
- 18 more beneficiaries that qualify for the charitable deduction under the Internal
- 19 Revenue Code.
- 20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 21 June 1, 2004.