

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 153

(Senators Garagiola and Giannetti)

Judicial Proceedings

Judiciary

Trusts - Termination by Corporate Fiduciary

This bill increases from \$50,000 to \$100,000 the maximum amount of the fair market value of a trust that a corporate fiduciary acting as a trustee may terminate without a court order. The bill also repeals the registered mail option for sending notice of a proposal to terminate a trust and sending a written objection to any such proposal.

The bill is effective June 1, 2004.

The bill is to be construed to apply to all trusts existing on or after June 1, 2004, regardless of the effective date of the governing instrument under which the trust was created.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A small trust may be terminated if the corporate fiduciary trustee determines that the termination is in the best interest of the beneficiaries and the governing instrument does not expressly prohibit termination of the trust regardless of its size.

A corporate fiduciary trustee proposing to terminate a trust must send notice of the proposed termination to each cotrustee's and each trust beneficiary's last known address via personal delivery or registered or certified mail.

The notice must include, among other things, a statement of the reasons for terminating the trust and a statement of the right to object and the procedures for objecting to the termination.

If a cotrustee or beneficiary delivers a timely written objection, the trust may not be terminated. If no beneficiary or cotrustee objects, the trust will be terminated and the trust estate distributed in accordance with the unanimous agreement of the beneficiaries, or, if they do not agree, in accordance with a statutory formula.

References to "certified mail" may be interpreted to include "registered mail."

Background: The limit on the size of a trust that may be terminated has not been increased since the current law was originally enacted in 1991 (Chapter 170).

Additional Information

Prior Introductions: None.

Cross File: HB 617 (Delegates Vallario and Simmons) – Judiciary.

Information Source(s): Register of Wills, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2004
m/jr Revised - Senate Third Reader - March 25, 2004

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