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By: **Senator Stone**

Introduced and read first time: January 28, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Trusts - Commission Rates - Notice**

3 FOR the purpose of altering the requirements for notice of certain commission rates  
4 or revisions that a trustee sends to certain trust beneficiaries under certain  
5 circumstances; making stylistic changes; providing for the application of this  
6 Act; and generally relating to trustees and the requirements for a certain notice  
7 to trust beneficiaries.

8 BY repealing and reenacting, without amendments,  
9 Article - Estates and Trusts  
10 Section 14-103(b) and (c)  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Estates and Trusts  
15 Section 14-103(a) and (g)  
16 Annotated Code of Maryland  
17 (2001 Replacement Volume and 2004 Supplement)

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

20 **Article - Estates and Trusts**

21 14-103.

22 (a) (1) (I) A testamentary trustee and trustee of any other trust whose  
23 duties comprise the collection and distribution of income from property held under a  
24 trust agreement or the preservation and distribution of the property are entitled to  
25 commissions provided for in this section for their services in administering the trusts.

26 (II) The amount and source of payment of commissions are subject  
27 to the provisions of any valid agreement.

1 (III) Any court having jurisdiction over the administration of the  
2 trust may increase or diminish commissions for sufficient cause or may allow special  
3 commissions or compensation for services of an unusual nature.

4 (2) A schedule of increased rates of income commissions and corpus  
5 commissions may be charged by a trustee whose activities are subject to State or  
6 federal supervision or who is a member of the Maryland Bar and who has:

7 (i) Filed a schedule of the increased rates of commissions with an  
8 appropriate agency; and

9 (ii) Given notice of the scheduled rates or revisions to the  
10 ascertained beneficiaries of the affected trust.

11 (3) The notice required under paragraph (2) of this subsection shall be  
12 delivered to the beneficiaries personally or sent to the beneficiaries at their last  
13 known address by [registered or certified mail, postage prepaid, return receipt  
14 requested] FIRST-CLASS MAIL, POSTAGE PREPAID.

15 (b) Accounting from July 1, 1981, whether or not the trust was in existence at  
16 that time, income commissions are:

17 (1) 6 percent upon all income from real estate, ground rents, and  
18 mortgages collected in each year; and

19 (2) 6 1/2 percent upon the first \$10,000 of all other income collected in each  
20 year, 5 percent upon the next \$10,000, 4 percent upon the next \$10,000, and 3 percent  
21 upon any remainder.

22 Income commissions shall be paid from and chargeable against income. Income  
23 collected includes any portion of income payable to a trustee but withheld by the  
24 payor in compliance with any revenue law.

25 (c) Accounting from July 1, 1981, whether or not the trust was in existence at  
26 that time, commissions are payable at the end of each year upon the fair value of the  
27 corpus or principal held in trust at the end of each year as follows:

28 (1) Four tenths of one percent on the first \$250,000;

29 (2) One fourth of one percent on the next \$250,000;

30 (3) Three twentieths of one percent on the next \$500,000; and

31 (4) One tenth of one percent upon any excess. Corpus commissions shall  
32 be paid out of and chargeable against the corpus.

33 If a trust terminates, with respect to all or any part of the corpus held in trust in  
34 the course of any year, the commission for that year shall be reduced or prorated  
35 according to the part of the year elapsed and the amount of corpus as to which the  
36 trust terminates, and be chargeable, for such part of a year (and with respect to any

1 such part of the corpus) at such termination of the trust, upon the then value of the  
2 corpus.

3 (g) (1) Instead of the rates of income commissions and corpus commissions  
4 provided in subsections (b) and (c) of this section, a trustee may charge reasonable  
5 compensation calculated in accordance with a schedule of rates previously filed by the  
6 trustee with the appropriate agency as specified in paragraph (2) of this subsection, if  
7 the trustee is:

8 (i) A financial institution whose activities are subject to  
9 supervision by this State or the federal government or which is an instrumentality of  
10 the United States; or

11 (ii) A member of the Bar of this State.

12 (2) A trustee shall file a schedule of rates under this subsection as  
13 follows:

14 (i) For a savings and loan association, with the State Director of  
15 the Division of Savings and Loan Associations;

16 (ii) For all other trustees, including attorneys and State chartered  
17 and national banks, with the Commissioner of Financial Regulation; and

18 (iii) For a trustee administering an estate under the jurisdiction of a  
19 court, also with the trust clerk of the court.

20 (3) In a trust involving multiple trustees and more than one of the  
21 trustees may be entitled to file a schedule of increased rates, the controlling schedule  
22 will be the schedule filed by the trustee having custody of the assets and maintaining  
23 records of the trust.

24 (4) (I) Whenever a trustee files a schedule of increased rates under  
25 this subsection, the trustee shall give notice to the ascertained beneficiaries of each  
26 affected trust.

27 (II) The notice required under this paragraph shall be delivered to  
28 the beneficiaries personally or sent to the beneficiaries at their last known address by  
29 [registered or certified mail, postage prepaid, return receipt requested] FIRST-CLASS  
30 MAIL, POSTAGE PREPAID.

31 (III) Any beneficiary of a trust who objects to the schedule of rates to  
32 be charged to that trust, after notifying the trustee of the objection, may petition the  
33 appropriate circuit court to review the reasonableness of the rates to be charged.

34 (IV) The notice required by this paragraph shall include a clear  
35 statement of the rights and procedures available to beneficiaries under this  
36 subsection.

1                   (V)       If the court finds that the rates in the schedule are  
2 unreasonable for the current fiscal year of the particular trust, the trustee's  
3 commissions for that trust for that fiscal year shall be limited to the rates charged  
4 that trust during the previous fiscal year.

5                   (5)       If a trustee does not file a schedule of rates with the appropriate  
6 agency under paragraph (2)(i) or (ii) of this subsection and does not notify ascertained  
7 beneficiaries as provided in paragraph (4) of this subsection, the trustee is limited to  
8 charging the rates set forth in subsections (b) and (c) of this section.

9       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
10 construed to apply only prospectively and may not be applied or interpreted to have  
11 any effect on or application to any notice to a beneficiary of a trust affected by a  
12 schedule of increased rates filed by a trustee before the effective date of this Act.

13       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2005.