

HOUSE BILL 979

N2

01r0804

By: **Delegate Montgomery**

Introduced and read first time: February 12, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Relocation of Charitable Trust Administration Outside**
3 **of State – Requirements**

4 FOR the purpose of prohibiting, except in certain circumstances, a trustee of a certain
5 charitable trust from changing the location in which the trust administration
6 takes place from a location in this State to a location outside this State;
7 requiring a trustee that decides to change the location in which a certain
8 charitable trust is administered from a location in this State to a location
9 outside this State to take certain steps; requiring the Attorney General to
10 review a certain submission by a trustee and notify the trustee with a certain
11 period of time whether the submission is approved; authorizing in certain
12 circumstances a certain trustee to file an action seeking a certain court order in
13 the circuit court in which the charitable trust was created; authorizing a court
14 to exercise its equitable powers to effectuate the original purpose of a charitable
15 trust in certain circumstances; providing that, except as provided in this Act,
16 the location in which the administration of the charitable trust takes place may
17 only be changed to a location outside this State if certain standards are met;
18 authorizing the Attorney General of this State to bring an action to enforce the
19 provisions of this Act; providing that if a trustee of a charitable trust fails to
20 comply with the provisions of this Act a certain court may remove the trustee
21 and appoint a new trustee; authorizing certain costs of a proceeding to remove a
22 trustee to be assessed against a removed trustee; providing that this Act does
23 not affect a trustee's authority to sell real estate owned by a charitable trust;
24 providing for the application of this Act; defining certain terms; and generally
25 relating to charitable trusts.

26 BY adding to

27 Article – Estates and Trusts

28 Section 14–308

29 Annotated Code of Maryland

30 (2001 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Estates and Trusts**

4 **14-308.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “CHARITABLE TRUST” HAS THE MEANING STATED IN §
8 4947(A)(1) OF THE INTERNAL REVENUE CODE.

9 (3) “TRUST ADMINISTRATION” MEANS THE GRANT-MAKING
10 FUNCTION OF THE TRUST.

11 (B) SUBJECT TO SPECIFIC AUTHORITY CONTAINED IN AN INSTRUMENT
12 CREATING A CHARITABLE TRUST, A TRUSTEE OF THE CHARITABLE TRUST MAY
13 NOT CHANGE THE LOCATION IN WHICH THE TRUST ADMINISTRATION TAKES
14 PLACE FROM A LOCATION IN THIS STATE TO A LOCATION OUTSIDE THIS STATE,
15 EXCEPT AS PROVIDED IN THIS SECTION.

16 (C) IF A TRUSTEE DECIDES TO CHANGE THE LOCATION IN WHICH A
17 CHARITABLE TRUST IS ADMINISTERED FROM A LOCATION IN THIS STATE TO A
18 LOCATION OUTSIDE THIS STATE, THE TRUSTEE SHALL:

19 (1) IF THE SETTLOR IS LIVING AND NOT INCAPACITATED:

20 (I) CONSULT THE SETTLOR CONCERNING THE SELECTION
21 OF A NEW LOCATION FOR THE TRUST ADMINISTRATION; AND

22 (II) SUBMIT THE SELECTION TO THE ATTORNEY GENERAL
23 OF THE STATE; OR

24 (2) IF THE SETTLOR IS NOT LIVING OR IS INCAPACITATED:

25 (I) PROPOSE A NEW LOCATION FOR THE TRUST
26 ADMINISTRATION; AND

27 (II) SUBMIT THE PROPOSAL TO THE ATTORNEY GENERAL
28 OF THE STATE.

1 (D) **WITHIN 90 DAYS AFTER RECEIPT OF A SUBMISSION DESCRIBED IN**
2 **SUBSECTION (C) OF THIS SECTION, THE ATTORNEY GENERAL SHALL NOTIFY**
3 **THE TRUSTEE OF WHETHER THE PROPOSED CHANGE OF LOCATION OF THE**
4 **TRUST ADMINISTRATION MEETS THE REQUIREMENT OF SUBSECTION (F) OF**
5 **THIS SECTION AND IS APPROVED.**

6 (E) **(1) A TRUSTEE OF A CHARITABLE TRUST MAY FILE AN ACTION IN**
7 **THE CIRCUIT COURT IN WHICH THE CHARITABLE TRUST WAS CREATED SEEKING**
8 **A COURT ORDER AUTHORIZING THE TRUSTEE TO CHANGE THE LOCATION IN**
9 **WHICH THE CHARITABLE TRUST IS ADMINISTERED TO A LOCATION OUTSIDE**
10 **THIS STATE.**

11 **(2) THE COURT MAY EXERCISE ITS EQUITABLE POWERS TO**
12 **EFFECTUATE THE ORIGINAL PURPOSE OF THE CHARITABLE TRUST.**

13 (F) **THE LOCATION IN WHICH THE TRUST ADMINISTRATION OF A**
14 **CHARITABLE TRUST TAKES PLACE MAY BE CHANGED FROM A LOCATION IN THIS**
15 **STATE TO A LOCATION OUTSIDE THIS STATE ONLY IF:**

16 **(1) THE CHARITABLE PURPOSES OF THE TRUST CANNOT BE**
17 **ADEQUATELY FULFILLED UNLESS THE TRUST ADMINISTRATION IS CHANGED TO**
18 **A LOCATION OUTSIDE THIS STATE; AND**

19 **(2) (I) THE ATTORNEY GENERAL APPROVES THE CHANGE IN**
20 **ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; OR**

21 **(II) A CIRCUIT COURT AUTHORIZES THE RELOCATION.**

22 (G) **(1) THE ATTORNEY GENERAL OF THE STATE MAY BRING AN**
23 **ACTION TO ENFORCE THE PROVISIONS OF THIS SECTION.**

24 **(2) IF A TRUSTEE OF A CHARITABLE TRUST FAILS TO COMPLY**
25 **WITH THE PROVISIONS OF THIS SECTION, THE CIRCUIT COURT IN THE COUNTY**
26 **IN WHICH THE TRUST ADMINISTRATION WAS ORIGINALLY LOCATED MAY**
27 **REMOVE THE TRUSTEE AND APPOINT A NEW TRUSTEE.**

28 **(3) COSTS OF A PROCEEDING TO REMOVE A TRUSTEE, INCLUDING**
29 **REASONABLE ATTORNEY'S FEES, MAY BE ASSESSED AGAINST THE REMOVED**
30 **TRUSTEE.**

31 (H) **THIS SECTION DOES NOT AFFECT A TRUSTEE'S AUTHORITY TO SELL**
32 **REAL ESTATE OWNED BY A CHARITABLE TRUST.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That, except as otherwise
2 provided by a will, the terms of a trust, or this Act, the changes in law made by this
3 Act apply to:

4 (1) A trust existing or created on or after October 1, 2010;

5 (2) The estate of a decedent who dies before October 1, 2010, if the probate or
6 administration of the estate is pending on or after October 1, 2010; and

7 (3) The estate of a decedent who dies on or after October 1, 2010.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2010.