

SENATE BILL 381

N2

9lr2042
CF HB 898

By: **Senator West**

Introduced and read first time: January 31, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Trusts – Maryland Trust Act – Methods of Notice**

3 FOR the purpose of authorizing a trustee to provide notice to a person under the Maryland
4 Trust Act by certain methods; requiring a trustee to receive authorization in writing
5 from a person entitled to receive notice before providing notice by certain alternative
6 methods; authorizing a person to revoke a trustee's authorization to provide notice
7 by an alternative method; authorizing a trustee to provide notice by an alternative
8 method until the trustee's authorization to provide notice by an alternative method
9 is revoked; requiring a trustee to provide notice to a person by a certain method if
10 the trustee knows or should know that the person did not receive notice; authorizing
11 a trustee to provide a person certain notice in a certain manner; making conforming
12 changes; making a technical correction; defining a certain term; and generally
13 relating to notice under the Maryland Trust Act.

14 BY renumbering

15 Article – Estates and Trusts
16 Section 14.5–103(f) through (bb), respectively
17 to be Section 14.5–103(g) through (cc), respectively
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2018 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Estates and Trusts
22 Section 14.5–103(a)
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2017 Replacement Volume and 2018 Supplement)

2 BY adding to

3 Article – Estates and Trusts

4 Section 14.5–103(f)

5 Annotated Code of Maryland

6 (2017 Replacement Volume and 2018 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Estates and Trusts

9 Section 14.5–109 and 14.5–813

10 Annotated Code of Maryland

11 (2017 Replacement Volume and 2018 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That Section(s) 14.5–103(f) through (bb), respectively, of Article – Estates and Trusts of the
14 Annotated Code of Maryland be renumbered to be Section(s) 14.5–103(g) through (cc),
15 respectively.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
17 as follows:

18 **Article – Estates and Trusts**

19 14.5–103.

20 (a) In this title the following words have the meanings indicated.

21 **(F) “DELIVERY ADDRESS” MEANS:**

22 **(1) THE LAST KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS**
23 **OF A PERSON;**

24 **(2) A FACSIMILE NUMBER PROVIDED BY A PERSON FOR THE PURPOSE**
25 **OF RECEIVING NOTICE; OR**

26 **(3) AN E-MAIL ADDRESS PROVIDED BY A PERSON FOR THE PURPOSE**
27 **OF RECEIVING NOTICE.**

28 14.5–109.

29 (a) (1) Notice to a person under this title or the sending of a document to a
30 person under this title shall be accomplished in a manner reasonably suitable under the
31 circumstances and likely to result in receipt of the notice or document.

1 (2) Permissible methods of notice to a person or for sending a document to
2 a person under this title include first-class mail, personal delivery, or delivery to the [last
3 known place of residence or place of business of the person] **PERSON'S DELIVERY**
4 **ADDRESS.**

5 (3) (i) This paragraph applies to:

- 6 1. The proposed termination of a trust;
- 7 2. The proposed modification of the administrative or
8 dispositive terms of a trust;
- 9 3. The proposed combination of two or more trusts into a
10 single trust;
- 11 4. The proposed division of a trust into two or more separate
12 trusts;
- 13 5. The proposed resignation of a trustee or cotrustee; ~~or~~
- 14 6. The proposed transfer of the principal place of
15 administration of a trust; **OR**

16 **7. THE NOTICE REQUIRED TO BE GIVEN TO A QUALIFIED**
17 **BENEFICIARY UNDER § 14.5-813 OF THIS TITLE.**

18 (ii) Notwithstanding paragraphs (1) and (2) of this subsection, a
19 trustee shall provide notice to a person under this title:

- 20 1. By personal service; [or]
- 21 2. By certified mail **OR FIRST-CLASS MAIL**, postage
22 prepaid, return receipt requested;
- 23 **3. BY COURIER DELIVERY SERVICE, DELIVERY SERVICE**
24 **PREPAID, DELIVERY CONFIRMATION REQUESTED; OR**
- 25 **4. IF A PERSON ENTITLED TO RECEIVE NOTICE UNDER**
26 **THIS TITLE AGREES, IN WRITING, TO ACCEPT AN ALTERNATIVE METHOD OF NOTICE:**
 - 27 **A. BY FIRST-CLASS MAIL, POSTAGE PREPAID; ~~OR~~**
 - 28 **B. BY FACSIMILE TRANSMISSION FROM A FACSIMILE**
29 **DEVICE THAT PRODUCES A CONFIRMATION PAGE THAT SPECIFIES THE DATE AND**
30 **TIME OF A SUCCESSFUL FACSIMILE TRANSMISSION; OR**

C. BY E-MAIL, ACKNOWLEDGMENT REQUESTED.

(III) 1. A PERSON MAY REVOKE THE TRUSTEE'S AUTHORIZATION TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH BY PROVIDING NOTICE TO THE TRUSTEE IN A METHOD SPECIFIED UNDER SUBPARAGRAPH (II)1 THROUGH 3 OF THIS PARAGRAPH.

2. A TRUSTEE AUTHORIZED TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH MAY CONTINUE TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNTIL THE PERSON ENTITLED TO RECEIVE NOTICE REVOKES AUTHORIZATION.

(IV) IF A TRUSTEE WHO PROVIDES NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH KNOWS OR SHOULD KNOW THAT THE PERSON DID NOT RECEIVE NOTICE, THE TRUSTEE SHALL PROVIDE NOTICE TO THE PERSON BY A METHOD SPECIFIED UNDER SUBPARAGRAPH (II)1 THROUGH 3 OF THIS PARAGRAPH.

(b) [Notice otherwise] **EXCEPT AS EXPRESSLY PROVIDED IN THIS TITLE, NOTICE** required under this title or a document [otherwise] required to be sent under this title need not be provided:

(1) To a person whose identity [or], location, **OR DELIVERY ADDRESS** is unknown to and not reasonably ascertainable by the trustee; or

(2) By a person to himself or herself.

(c) Notice under this title or the sending of a document under this title may be waived in writing by the person to be notified or sent the document.

(d) Notice of a judicial proceeding under this title shall be given as provided in the applicable rules of civil procedure.

14.5-813.

(a) Unless unreasonable under the circumstances, a trustee shall promptly respond to the request of a qualified beneficiary for information related to the administration of the trust, including a copy of the trust instrument.

(b) (1) A trustee:

(i) Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number; and

1 (ii) Within 90 days after the date the trustee acquires knowledge of
2 the creation of an irrevocable trust, or the date the trustee acquires knowledge that a
3 formerly revocable trust has become irrevocable, whether by the death of the settlor or
4 otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of
5 the settlor or settlors, of the right to request a copy of the trust instrument, and of the right
6 to a trustee's report as provided in subsection (c) of this section.

7 (2) [Notwithstanding § 14.5-109 of this title, notice] **NOTICE** required
8 under this subsection shall be:

9 (i) To the extent the names and locations **OR DELIVERY**
10 **ADDRESSES** of the qualified beneficiaries are known to the trustee:

11 1. By delivery of the notice to the qualified beneficiaries
12 personally; or

13 2. By sending the notice to the qualified beneficiaries at their
14 [last known address by certified mail, postage prepaid, return receipt requested]
15 **DELIVERY ADDRESS BY A METHOD OF NOTICE SPECIFIED IN § 14.5-109(A)(3)(II) OF**
16 **THIS TITLE**; and

17 (ii) If the name, location **OR DELIVERY ADDRESS**, or both of a
18 qualified beneficiary is not known to the trustee, by publication in a newspaper of general
19 circulation in the county where the trust property is located once a week for 3 successive
20 weeks.

21 (c) (1) On request by a qualified beneficiary, a trustee shall send to the
22 qualified beneficiary annually and at the termination of the trust a report of the trust
23 property, liabilities, receipts, and disbursements, including the source and amount of the
24 compensation of the trustee, a listing of the trust assets, and, if feasible, the respective
25 market values of the trust assets.

26 (2) On a vacancy in a trusteeship, unless a cotrustee remains in office, the
27 former trustee shall send a report to the qualified beneficiaries that request the report.

28 (3) A personal representative, a guardian, or an attorney-in-fact may send
29 the qualified beneficiaries a report on behalf of the former trustee.

30 (d) (1) A qualified beneficiary may waive the right to a trustee's report or other
31 information otherwise required to be furnished under this section.

32 (2) A qualified beneficiary, with respect to future reports and other
33 information, may withdraw a waiver previously given.

1 (3) If a trustee is a qualified beneficiary of the trust for which the trustee
2 is serving, the trustee is not required to provide himself or herself a trustee’s report or other
3 information required to be furnished under this section.

4 (e) Subsection (b) of this section does not apply to a trustee that accepts a
5 trusteeship before January 1, 2015, to an irrevocable trust created before January 1, 2015,
6 or to a revocable trust that becomes irrevocable before January 1, 2015.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.