

SENATE BILL 381

N2

9lr2042
CF 9lr2648

By: **Senator West**

Introduced and read first time: January 31, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

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
24 (2017 Replacement Volume and 2018 Supplement)

25 BY adding to

26 Article – Estates and Trusts
27 Section 14.5–103(f)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 14.5–109 and 14.5–813
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

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

Article – Estates and Trusts

14.5–103.

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

(F) “DELIVERY ADDRESS” MEANS:

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

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

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

14.5–109.

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

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

(3) (i) This paragraph applies to:

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

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

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

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

29 **2. A TRUSTEE AUTHORIZED TO PROVIDE NOTICE BY AN**
30 **ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH MAY**
31 **CONTINUE TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNTIL THE PERSON**

1 ENTITLED TO RECEIVE NOTICE REVOKES AUTHORIZATION.

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

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

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

12 (2) By a person to himself or herself.

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

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

17 14.5–813.

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

21 (b) (1) A trustee:

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

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

31 (2) [Notwithstanding § 14.5–109 of this title, notice] NOTICE required
32 under this subsection shall be:

33 (i) To the extent the names and locations of the qualified

1 beneficiaries are known to the trustee:

2 1. By delivery of the notice to the qualified beneficiaries
3 personally; or

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

8 (ii) If the name, location, or both of a qualified beneficiary is not
9 known to the trustee, by publication in a newspaper of general circulation in the county
10 where the trust property is located once a week for 3 successive weeks.

11 (c) (1) On request by a qualified beneficiary, a trustee shall send to the
12 qualified beneficiary annually and at the termination of the trust a report of the trust
13 property, liabilities, receipts, and disbursements, including the source and amount of the
14 compensation of the trustee, a listing of the trust assets, and, if feasible, the respective
15 market values of the trust assets.

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

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

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

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

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

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

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