

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 382

(Senator West)

Judicial Proceedings

Health and Government Operations

Maryland Trust Act - Division or Consolidation of Trust

This bill specifies that if a trust instrument does not provide for the consolidation or division of a trust, a trustee may, without a court order (1) divide a trust into two or more separate trusts or (2) consolidate two or more trusts into a single trust. The bill prohibits a trustee from dividing a trust or consolidating trusts if a beneficiary objects in writing within 30 days after the trustee provides notice as required under specified provisions of the Maryland Trust Act (MTA).

Fiscal Summary

State Effect: The bill is not anticipated to affect State finances or operations.

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A trustee may divide a trust or consolidate trusts (1) on terms and conditions as the trustee considers appropriate; (2) if the division or consolidation grants beneficial interests to the beneficiaries that, in the aggregate, are substantially similar to the interests the beneficiaries had before the division or consolidation; and (3) if the trustee is satisfied that a division or consolidation will not defeat or materially impair the accomplishment of trust purposes or the interests of the beneficiaries.

Current Law:

Division or Consolidation of a Trust

Generally, on petition by a trustee, personal representative, beneficiary, or party in interest, after meeting specified notice requirements and for good cause shown, a court may (1) divide a trust into two or more separate trusts or (2) consolidate two or more trusts into a single trust. A court may divide a trust or consolidate trusts (1) on terms and conditions as the court considers appropriate and (2) if the court is satisfied that a division of a trust or consolidation of trusts will not defeat or materially impair the accomplishment of trust purposes or the interests of the beneficiaries.

A court may issue orders that the court considers necessary to protect the interests of a trustee, personal representative, beneficiary, or a party in interest.

The requirements and procedures in statute may not be construed to limit the right of a trustee or personal representative to divide a trust or consolidate trusts, without a court order, in accordance with the applicable provisions of the governing instrument.

Notice

Generally, under MTA, a trustee must provide notice to a person by personal service or by certified mail, postage prepaid, return receipt requested. The notice requirements apply to the proposed (1) termination of a trust; (2) modification of the administrative or dispositive terms of a trust; (3) combination of two or more trusts into a single trust; (4) division of a trust into two or more separate trusts; (5) resignation of a trustee or cotrustee; or (6) transfer of the principal place of administration of a trust.

Notice is generally not required to be provided (1) to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee or (2) by a person to himself or herself. Notice under MTA may be waived, as specified. Notice of a judicial proceeding under MTA must be given as provided in the applicable rules of civil procedure.

Additional Information

Prior Introductions: None.

Cross File: HB 932 (Delegate Johnson, *et al.*) - Health and Government Operations.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2019
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