

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 88

(Delegate Cardin)

Judiciary

Judicial Proceedings

Estates and Trusts - Maryland Trust Decanting Act - Notification and Document Transmittal

This bill establishes provisions governing the methods by which notice may be given, or documents may be sent, under the Maryland Trust Decanting Act.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Manner of Providing Notice or Sending a Document

The bill requires that notice to a person, or the sending of a document to a person, under the Maryland Trust Decanting Act, be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

Notice Provided by an Authorized Fiduciary

An authorized fiduciary must provide notice to a person under the Act:

- by personal service;
- by certified mail or first-class mail, postage prepaid, return receipt requested;

- by courier delivery service, delivery service prepaid, delivery confirmation requested; or
- if a person entitled to receive notice agrees in writing to accept an alternative form of notice, by (1) first-class mail, postage prepaid; (2) facsimile transmission from a facsimile device that produces a confirmation page that specifies the date and time of a successful transmission; or (3) e-mail, acknowledgement requested.

If an authorized fiduciary who provides notice by one of the above alternative methods knows or should know that the person entitled to receive notice did not actually receive notice, the authorized fiduciary must provide notice by one of the first three above-listed methods.

A person may revoke the authorized fiduciary's authorization to provide notice by one of the alternative methods by providing notice to the authorized fiduciary by personal service, certified or first-class mail (postage prepaid, return receipt requested), or courier delivery service (delivery service prepaid, delivery confirmation requested). An authorized fiduciary may continue to provide notice by an authorized alternative method until the person entitled to receive notice revokes the authorization.

Current Law: The Maryland Trust Decanting Act (Title 14, Subtitle 6 of the Estates and Trusts Article) – enacted in 2023 (Chapters [715](#) and [716](#)) – allows for an authorized fiduciary (a trustee or other fiduciary who has discretion to distribute property of a trust) to exercise the “decanting power,” defined as the power of an authorized fiduciary to distribute property from a (first) trust to one or more other (second) trusts or to modify the terms of the first trust. Under the Act, subject to certain exceptions, an authorized fiduciary must give notice of any intended exercise of the decanting power at least 60 days before the exercise of the power. The notice must be given to each qualified beneficiary of the first trust and other specified persons.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 158 (Senator West) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Attorney General (Consumer Protection Division); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2025
caw/sdk Third Reader - February 28, 2025

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