Article - Estates and Trusts

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§14.5–708.

(a) (1) If the terms of a trust do not specify a trustee's compensation, the trustee is entitled to compensation that is reasonable under the circumstances.

(2) If the terms of a trust specify a trustee's compensation, the trustee is entitled to be compensated as specified in the terms, but the court may authorize more or less compensation if:

(i) The duties of the trustee are substantially different from those contemplated when the trust was first created; or

(ii) The compensation specified by the terms of the trust would be unreasonably low or high.

(3) If the trustee has rendered other services in connection with the administration of the trust, the trustee shall also be allowed reasonable compensation for the other services rendered in addition to reasonable compensation as trustee.

(b) In determining whether a trustee's compensation is reasonable, a court shall consider:

(1) The value and character of the trust property;

(2) The risk and responsibility of administering the trust property;

(3) The time spent on and the quality and character of the services provided by the trustee;

(4) The character and cost of services provided by others;

(5) The trustee's skill and experience;

(6) The results obtained by the trustee;

(7) The terms of the trust; and

(8) Any other factor the court considers relevant.

(c) (1) In determining what is a single trust for the application of the rates provided in this section, all property held undivided under the terms of the will or other instrument creating the trust shall be considered as a single trust.

(2) After shares have been set apart or divided in accordance with paragraph (1) of this subsection, to be held in separate trust, each separate trust set apart shall be considered as a single trust.

(d) (1) A trustee may charge compensation that is reasonable under the circumstances and calculated in accordance with a schedule of rates previously filed by the trustee with the appropriate agency as specified in paragraph (2) of this subsection, if the trustee is:

(i) A financial institution whose activities are subject to supervision by this State or the federal government or that is an instrumentality of the United States; or

(ii) A member of the Maryland Bar.

(2) A trustee shall file a schedule of rates under this subsection as follows:

(i) For a savings and loan association, with the State Director of the Division of Savings and Loan Associations;

(ii) For all other trustees, including attorneys and State chartered and national banks, with the Commissioner of Financial Regulation; and

(iii) For a trustee administering an estate under the jurisdiction of a court, in addition to the filing described in item (i) or (ii) of this paragraph, with the trust clerk of the court.

(3) In a trust involving multiple trustees in which more than one of the trustees may be entitled to file a schedule of rates, the controlling schedule will be the schedule filed by the trustee having custody of the assets and maintaining records of the trust.

(4) (i) On the filing by a trustee of a schedule of rates under this subsection, the trustee shall give notice to the qualified beneficiaries of each affected trust.

(ii) The notice required under this paragraph shall be delivered to the qualified beneficiaries personally or sent to the qualified beneficiaries at the last known address of the qualified beneficiaries by certified mail, postage prepaid, return receipt requested.

(iii) A qualified beneficiary of a trust that objects to the schedule of rates to be charged to that trust, after notifying the trustee of the objection, may petition the appropriate circuit court to review the reasonableness of the rates to be charged.

(iv) The notice required by this paragraph shall include a clear statement of the rights and procedures available to qualified beneficiaries under this subsection.

(v) If the court finds that the rates in the schedule are unreasonable for the current fiscal year of the particular trust, the commissions of the trustee for that trust for that fiscal year shall be limited to the rates charged that trust during the previous fiscal year.

(5) If a trustee does not file a schedule of rates with the appropriate agency under paragraph (2)(i) or (ii) of this subsection and does not notify qualified beneficiaries as provided in paragraph (4) of this subsection, the trustee is entitled to compensation as provided in subsection (a) of this section.

(e) An individual trustee that is not authorized to file a schedule of rates under this section is entitled to compensation as provided in subsection (a) of this section unless the trustee petitions the circuit court for the county where the trustee is located and obtains approval to file a schedule of rates after giving notice of the action to the qualified beneficiaries of the affected trusts.

(f) The legal and court costs incurred by the trustee in accordance with a court review under subsection (d)(4) or subsection (e) of this section shall be charged against fees of the trustee and may not be assumed by the trust or the beneficiaries.

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