

SB126 FAV.pdf

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 23, 2025

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 126: *Estates and Trusts – Resignation of a Trustee - Notice*

Dear Chairman Smith and Members of the Committee,

Under current Maryland Estates and Trusts Code Ann. §14.5-705, unless a trust agreement specifies the method by which a trustee can resign from serving as trustee, in every case, a court must approve the resignation of the trustee.

In nearly all trust agreements prepared in recent years, a provision is included in the trust instrument stating that the trustee can resign after due notice to the appropriate parties. However, many older trust agreements do not specifically state that a trustee can resign. In these cases, the trustee must petition the court to approve the resignation. Petitioning the court can result in increased trust administration costs, as well as a delay in the effective administration of the trust.

Senate Bill 126 adds to our law an additional method for resigning as trustee. A trustee will be able to resign with 30 days' notice to the qualified beneficiaries of the trust, the settlor of the trust (if living), all co-trustees of the trust, and any person that currently has a right to replace or appoint a successor to the resigning trustee.

This bill thus fixes a minor technical glitch that currently exists in our estates and trusts law.

I appreciate the Committee's consideration of Senate Bill 126 and will be happy to answer any questions the Committee may have.

SB 126 - MSBA Estates and Trusts Section - Estates

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To: Maryland Senate – Judicial Proceedings Committee
From: MSBA Estate & Trust Law Section
Date: January 23, 2025
Subject: **SB0126** – Estates and Trusts – Resignation of Trustee - Notice
Position: **Support**

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 126 – Estates and Trusts – Resignation of Trustee - Notice**. Senate Bill 126 seeks to provide an alternative to a court proceeding when a trustee wishes to resign from their fiduciary position under a trust.

Description of Current Law:

Under Md. Estates and Trusts Code Ann. §14.5-705, unless a trust agreement specifies the method by which a trustee can resign from serving as trustee, a court must approve the resignation of the trustee.

Problem Addressed by this Legislation:

Many older trust agreements do not specifically state that a trustee can resign from his or her role as trustee. Therefore, since the trust does not specify how the trustee can resign, the trustee must petition the court to approve his or her resignation. Petitioning the court can result in increased trust administration costs, as well as a delay in the effective administration of the trust.

How this Legislation Solves the Problem:

Where a trust does not specify how a trustee can resign, this legislation adds an additional method for resigning as trustee. A trustee will be able to resign with 30 days’ notice to the qualified beneficiaries of the trust, the settlor of the trust (if living), all co-trustees of the trust, and any person that currently has a right to replace or appoint a successor to the resigning trustee. Allowing resignation with notice allows the trust to conserve assets for the beneficiaries.

For the reasons stated above, the Estates and Trust Law Section of the MSBA **supports Senate Bill 126 and urges a favorable committee report.**

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