

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 754 (Delegates West and Lierman)
Health and Government Operations

Judicial Proceedings

Maryland Trust Act - Notice and Reporting Requirements - Exemptions

This bill alters the notice requirements under the Maryland Trust Act for documents other than specified trust documents, to exempt a notice by a person to himself or herself. The bill specifically exempts a trustee who is a qualified beneficiary of a trust for which the trustee is serving, from providing himself or herself an annual trustee's report or other information required to be furnished to qualified beneficiaries under the Act.

Fiscal Summary

State Effect: None. The change is procedural in nature and does not directly affect governmental finances.

Local Effect: None. The change is procedural in nature and does not directly affect governmental finances.

Small Business Effect: None.

Analysis

Current Law:

Trusts in General: Under the Act, certain notices and documents must be sent in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice include first-class mail, personal delivery, or delivery to the last known place of residence or place of business of the person. However, for the following documents, a trustee is required to provide notice by personal service or by certified mail, postage paid, return receipt requested:

- the proposed termination of a trust;
- the proposed modification of the administrative or dispositive terms of a trust;
- the proposed combination of two or more trusts into a single trust;
- the proposed division of a trust into two or more separate trusts;
- the proposed resignation of a trustee or cotrustee; or
- the proposed transfer of the principal place of administration of a trust.

Notices or documents otherwise required to be sent pursuant to the Act need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

Qualified Beneficiaries: A trustee has a general duty to promptly respond to requests for information related to the administration of a trust, including requests for a copy of the trust instrument from a qualified beneficiary, unless a response is unreasonable under the circumstances.

Within 60 days after accepting a trusteeship, a trustee must notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number. A trustee must also notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report within 90 days (1) after the date the trustee acquires knowledge of the creation of an irrevocable trust or (2) after the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise. To the extent the names and locations of the qualified beneficiaries are known to the trustee, notice must be delivered to the qualified beneficiaries personally or by sending the notice to the qualified beneficiaries at their last known address by certified mail, postage prepaid, return receipt requested. If the name and/or location of a qualified beneficiary is not known, the trustee must publicize the information in a newspaper of general circulation in the county where the trust property is located, once a week for three successive weeks.

On request by a qualified beneficiary, a trustee must send (1) annually, and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the compensation of the trustee, a listing of the trust assets, and, if feasible, the respective market values of the trust assets and (2) on

a vacancy in a trusteeship, unless a cotrustee remains in office, a report to the qualified beneficiaries that request the report. In addition, a personal representative, a guardian, or an attorney-in-fact may send the qualified beneficiaries a report on behalf of the former trustee. A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under the Act, but may withdraw the waiver with respect to future reports or other information.

Background: Chapter 585 of 2014 established the Maryland Trust Act. The Act also applies to express charitable or noncharitable trusts and trusts created in accordance with a statute (including the Maryland Discretionary Trust Act, unless otherwise specified by the statute), judgment, or decree that requires a trust to be administered in the manner of an express trust.

Additional Information

Prior Introductions: None.

Cross File: SB 792 (Senator Smith) - Judicial Proceedings.

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

Fiscal Note History: First Reader - February 21, 2017
mm/kdm Third Reader - March 14, 2017

Analysis by: Michelle Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510