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To: Maryland Senate – Judicial Proceedings Committee

From: MSBA Estate & Trust Law Section

Date: January 23, 2025

Subject: **SB0158** – Estates and Trusts – Maryland Decanting Act – Notification and Document Transmittal

Position: **Support**

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 158 – Estates and Trusts – Maryland Decanting Act – Notification and Document Transmittal**. Senate Bill 158 seeks to specify proper methods of notice for a trustee to provide before a trust is decanted.

Description of Current Law:

Under the Maryland Trust Decanting Act (specifically, Md. Estates and Trusts Code Ann. §14-605), a trustee must give notice to certain individuals when a trustee is going to exercise his or her power to decant a trust.

Problem Addressed by this Legislation:

Md. Estates and Trusts Code Ann. §14-605 is based on the Uniform Decanting Act, which does not include a list of the methods of notice that a trustee must use to ensure proper notice to the individuals entitled to notice. Because Maryland’s Trust Decanting Act is not under the same subtitle as the Maryland Trust Act, which does include a list of the methods of notice, the Maryland Trust Decanting Act does not contain a list of proper methods of notice. The lack of a list of proper methods of notice has led to uncertainty among trustees as to whether the trustee has provided proper notice.

How this Legislation Solves the Problem:

This legislation provides a list of methods of notice that a trustee must use to ensure proper notice is given to the individuals entitled to notice of a decanting. The methods of notice are the same as the methods of notice under the Maryland Trust Act and include (i) personal service; certified mail or first-class mail, postage prepaid, return receipt requested; (ii) by courier delivery

service; or, (iii) with the consent of the person entitled to receive notice, (a) first-class mail; (b) facsimile transmission; or (c) e-mail.

For the reasons stated above, the Estates and Trust Law Section of the MSBA **supports** **Senate Bill 158 and urges a favorable committee report.**

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