

HOUSE BILL 904

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0lr3104
CF SB 886

By: **Delegate Cardin**

Introduced and read first time: February 5, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Trust Act – Liability of Trustee – Report and Release by Interested**
3 **Party**

4 FOR the purpose of authorizing a trustee to send to certain interested parties in a certain
5 manner a certain report when the trust terminates or on the resignation or removal
6 of the trustee in accordance with certain provisions of law; providing that, if an
7 interested party does not submit an objection to the report within a certain period of
8 time, the interested party shall have released the trustee and been deemed to have
9 consented to and ratified the actions of the trustee; requiring the trustee, under
10 certain circumstances, to distribute the trust property to certain parties within a
11 certain period of time; specifying the procedures by which an objection to the report
12 may be addressed; providing for the prospective application of this Act; and generally
13 relating to the liability of trustees.

14 BY repealing and reenacting, with amendments,
15 Article – Estates and Trusts
16 Section 14.5–904 and 14.5–907
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2019 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Estates and Trusts**

22 14.5–904.

23 (a) **[A] EXCEPT AS OTHERWISE PROVIDED IN § 14.5–907 OF THIS SUBTITLE,**
24 A beneficiary may not bring a judicial action against a trustee for breach of trust more than
25 1 year after the date that the beneficiary or the representative of the beneficiary is sent a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



report that adequately discloses the existence of a potential claim for breach of trust and informs the beneficiary or the representative of the beneficiary of the time allowed for bringing a judicial action.

(b) A report adequately discloses the existence of a potential claim for breach of trust if the report provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into the existence of the claim.

(c) This section does not limit the time for bringing an action against a trustee for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries.

14.5–907.

(A) IN THIS SECTION, “INTERESTED PARTY” MEANS A BENEFICIARY, REPRESENTATIVE OF A BENEFICIARY, CO-TRUSTEE, SUCCESSOR TRUSTEE, OR ANY OTHER PERSON HAVING AN INTEREST IN OR AUTHORITY OVER A TRUST.

(B) A trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

(1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or

(2) At the time of the consent, release, or ratification, the beneficiary did not know of the rights of the beneficiary or of the material facts relating to the breach.

(C) WHEN A TRUST TERMINATES UNDER THE TERMS OF THE TRUST OR ON THE REMOVAL OR RESIGNATION OF A TRUSTEE IN ACCORDANCE WITH SUBTITLE 7 OF THIS TITLE, THE TRUSTEE MAY SEND TO EACH INTERESTED PARTY, BY FIRST-CLASS, CERTIFIED MAIL, A REPORT THAT:

(1) INFORMS THE INTERESTED PARTY THAT THE TRUST IS TERMINATING OR THAT THE TRUSTEE HAS RESIGNED OR HAS BEEN REMOVED;

(2) PROVIDES THE INTERESTED PARTY:

(I) AN ACCOUNTING OF THE TRUST, SUCH AS ACCOUNT STATEMENTS, FOR THE IMMEDIATELY PRECEDING 5 YEARS;

(II) AN ESTIMATE OF ANY TRUST PROPERTY OR INTERESTS REASONABLY ANTICIPATED BUT NOT YET RECEIVED OR DISBURSED; AND

(III) THE AMOUNT OF ANY FEES, INCLUDING TRUSTEE FEES,

1 REMAINING TO BE PAID; AND

2 (3) NOTIFIES THE INTERESTED PARTY THAT:

3 (I) THE INTERESTED PARTY MAY SUBMIT A WRITTEN
4 OBJECTION TO THE TRUSTEE REGARDING THE TRUSTEE'S ADMINISTRATION OF THE
5 TRUST WITHIN 90 DAYS AFTER THE TRUSTEE MAILED THE REPORT; AND

6 (II) IF THE INTERESTED PARTY DOES NOT SUBMIT A WRITTEN
7 OBJECTION TO THE TRUSTEE WITHIN 90 DAYS AFTER THE TRUSTEE MAILED THE
8 REPORT, THE INTERESTED PARTY SHALL BE DEEMED TO HAVE RELEASED THE
9 TRUSTEE AND CONSENTED TO AND RATIFIED ALL ACTIONS OF THE TRUSTEE.

10 (D) IF AN INTERESTED PARTY DOES NOT SUBMIT A WRITTEN OBJECTION TO
11 THE TRUSTEE WITHIN 90 DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE
12 INTERESTED PARTY SHALL BE DEEMED TO HAVE RELEASED THE TRUSTEE AND
13 CONSENTED TO AND RATIFIED ALL ACTIONS OF THE TRUSTEE.

14 (E) IF NO INTERESTED PARTY SUBMITS A WRITTEN OBJECTION TO THE
15 TRUSTEE WITHIN 90 DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE TRUSTEE
16 SHALL DISTRIBUTE THE TRUST PROPERTY TO THE APPROPRIATE SUCCESSORS IN
17 INTEREST WITHIN A REASONABLE PERIOD OF TIME.

18 (F) IF AN INTERESTED PARTY SUBMITS A WRITTEN OBJECTION TO THE
19 TRUSTEE WITHIN 90 DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE
20 OBJECTION MAY BE:

21 (1) SUBMITTED TO THE COURT, WITH NOTICE TO ALL INTERESTED
22 PARTIES, TO COMMENCE A PROCEEDING FOR RESOLUTION OF THE OBJECTION; OR

23 (2) RESOLVED BY THE AGREEMENT OF ALL INTERESTED PARTIES
24 AND THE TRUSTEE, IN ACCORDANCE WITH APPLICABLE LAWS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
26 apply only prospectively and may not be applied or interpreted to have any effect on or
27 application to any report mailed by a trustee to an interested party that, in part, notified
28 the interested party that the interested party may submit a written objection to the trustee
29 regarding the trustee's administration of the trust before the effective date of this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2020.