

SENATE BILL 886

N2

0lr3071
CF HB 904

By: **Senator West**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2020

CHAPTER _____

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 the terms of the trust or certain provisions of law;
7 providing that, if an interested party does not submit an objection to the report
8 within a certain period of time, the interested party shall have released the trustee
9 and been deemed to have consented to and ratified the actions of the trustee;
10 requiring the trustee, under certain circumstances, to distribute the trust property
11 to certain parties within a certain period of time; specifying the procedures by which
12 an objection to the report may be addressed; providing for the prospective application
13 of this Act; and generally 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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 14.5–904.

2 (a) [A] EXCEPT AS OTHERWISE PROVIDED IN § 14.5–907 OF THIS SUBTITLE,
3 A beneficiary may not bring a judicial action against a trustee for breach of trust more than
4 1 year after the date that the beneficiary or the representative of the beneficiary is sent a
5 report that adequately discloses the existence of a potential claim for breach of trust and
6 informs the beneficiary or the representative of the beneficiary of the time allowed for
7 bringing a judicial action.

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

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

14 14.5–907.

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

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

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

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

25 (C) ~~WHEN A TRUST TERMINATES UNDER THE TERMS OF THE TRUST OR ON~~
26 ~~THE REMOVAL OR RESIGNATION OF A TRUSTEE IN ACCORDANCE WITH SUBTITLE 7~~
27 ~~OF THIS TITLE, THE TRUSTEE MAY SEND TO EACH INTERESTED PARTY, BY~~
28 ~~FIRST-CLASS, CERTIFIED MAIL, A REPORT THAT: (1) WHEN A TRUST TERMINATES~~
29 ~~IN ACCORDANCE WITH THE TERMS OF THE TRUST OR SUBTITLE 4 OF THIS TITLE, OR~~
30 ~~ON THE REMOVAL OR RESIGNATION OF A TRUSTEE IN ACCORDANCE WITH THE~~
31 ~~TERMS OF THE TRUST OR SUBTITLE 7 OF THIS TITLE, A TRUSTEE MAY ELECT TO~~
32 ~~FOLLOW THE PROCEDURES SET FORTH IN THIS SUBSECTION CONCERNING THE~~
33 ~~RELEASE OF THE TRUSTEE FROM LIABILITY FOR THE ADMINISTRATION OF THE~~
34 ~~TRUST.~~

1 **(2) A TRUSTEE SEEKING A RELEASE OF THE TRUSTEE FROM**
2 **LIABILITY UNDER THIS SUBSECTION SHALL SEND TO EACH INTERESTED PARTY, BY**
3 **FIRST-CLASS, CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A REPORT THAT:**

4 ~~(1)~~ **(I)** INFORMS THE INTERESTED PARTY THAT THE TRUST IS
5 TERMINATING OR THAT THE TRUSTEE HAS RESIGNED OR HAS BEEN REMOVED;

6 ~~(2)~~ **(II)** PROVIDES THE INTERESTED PARTY:

7 ~~(H)~~ **1.** AN ACCOUNTING OF THE TRUST, SUCH AS ACCOUNT
8 STATEMENTS, FOR THE IMMEDIATELY PRECEDING 5 YEARS;

9 ~~(H)~~ **2.** AN ESTIMATE OF ANY TRUST PROPERTY OR
10 INTERESTS REASONABLY ANTICIPATED BUT NOT YET RECEIVED OR DISBURSED;
11 AND

12 ~~(H)~~ **3.** THE AMOUNT OF ANY FEES, INCLUDING TRUSTEE
13 FEES, REMAINING TO BE PAID; AND

14 ~~(3)~~ **(III)** NOTIFIES THE INTERESTED PARTY THAT:

15 ~~(H)~~ **1.** THE INTERESTED PARTY MAY SUBMIT A WRITTEN
16 OBJECTION TO THE TRUSTEE REGARDING THE TRUSTEE'S ADMINISTRATION OF THE
17 TRUST WITHIN ~~90~~ **120** DAYS AFTER THE TRUSTEE MAILED THE REPORT; ~~AND~~

18 ~~(H)~~ **2.** IF THE INTERESTED PARTY DOES NOT SUBMIT A
19 WRITTEN OBJECTION TO THE TRUSTEE WITHIN ~~90~~ **120** DAYS AFTER THE TRUSTEE
20 MAILED THE REPORT, THE INTERESTED PARTY SHALL BE DEEMED TO HAVE
21 RELEASED THE TRUSTEE AND CONSENTED TO AND RATIFIED ALL ACTIONS OF THE
22 TRUSTEE; AND

23 **3.** **THE TRUSTEE IS UNAWARE OF ANY UNDISCLOSED**
24 **INFORMATION THAT COULD GIVE RISE TO A CLAIM BY AN INTERESTED PARTY.**

25 **(D)** IF AN INTERESTED PARTY DOES NOT SUBMIT A WRITTEN OBJECTION TO
26 THE TRUSTEE WITHIN ~~90~~ **120** DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE
27 INTERESTED PARTY SHALL BE DEEMED TO HAVE RELEASED THE TRUSTEE AND
28 CONSENTED TO AND RATIFIED ALL ACTIONS OF THE TRUSTEE.

29 **(E)** IF NO INTERESTED PARTY SUBMITS A WRITTEN OBJECTION TO THE
30 TRUSTEE WITHIN ~~90~~ **120** DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE
31 TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY TO THE APPROPRIATE
32 SUCCESSORS IN INTEREST WITHIN A REASONABLE PERIOD OF TIME.

1 **(F) IF AN INTERESTED PARTY SUBMITS A WRITTEN OBJECTION TO THE**
2 **TRUSTEE WITHIN ~~90~~ 120 DAYS AFTER THE TRUSTEE MAILED THE REPORT, THE**
3 **OBJECTION MAY BE:**

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.