

TRUST SETTLEMENT: REQUIREMENTS FOR NOTIFICATIONS AND OBJECTIONS

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House Bill 6011 as introduced
Sponsor: Rep. Penelope Tsernoglou
Committee: Judiciary
Complete to 12-4-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6011 would add a new section to the Michigan Trust Code (Article 7 of the Estates and Protected Individuals Code)¹ creating additional requirements for the *settlement* of *trust* accounts. Under section 7201 of the code, trusts are not subject to continuing judicial supervision unless ordered by a court, but a *trustee* may request that a court review and settle any of the trustee's accounts. In addition to these existing provisions, the bill would newly allow for a trustee to obtain a settlement of its accounts when any of the following occur:

- A trust terminates under its own terms.
- A trust terminates early under section 7414.²
- A trustee resigns or is removed.
- A trustee seeks discharge of an *interim accounting period* (a financial reporting period shorter than a full fiscal year) when the trust is continuing.

Settlement means, in reference to a decedent's estate, the full process of administration, *distribution* (the process of transferring assets to designated beneficiaries), and closing.

Trust means that term as defined by section 1107 of the Estates and Protected Individuals Code.³

Trustee means an original, additional, or successor trustee, whether or not appointed or confirmed by the court.

Under the bill, a trustee proceeding with a settlement under any of the circumstances listed above would be required to provide all of the following to the *qualified trust beneficiaries*, any co-trustee of the trust, and the successor trustee (if applicable) within a reasonable time after the circumstance arises:

- A statement showing the fair market value of the net assets to be distributed.
- A report of the trust for the prior two years showing all receipts, disbursements, and inventory value of the net assets.
- An estimate for any items reasonably anticipated to be received or disbursed.
- The amount of any fees remaining to be paid (including trustee fees).
- Notice of all of the following:
 - That the trust is terminating or that the trustee has resigned or been removed.
 - The time period for which the trustee seeks discharge of its accounts.

¹ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-386-1998-VII.pdf>

² <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-7414.pdf>

³ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-1107.pdf>

- A statement providing that claims against a trustee or contesting the validity of a trust under sections 7604⁴ and 7905⁵ (if applicable) will be barred if no objections are received within 45 days after the notice was sent.
- The name and mailing address of the trustee.
- The name and phone number of a person that may be contacted for additional information.

Qualified trust beneficiary means that term as defined by section 7103 of the Michigan Trust Code.⁶

The bill would also allow the trustee to provide the information listed above to any other person the trustee reasonably believes may have an interest in the trust.

Any recipient of the trust settlement notice would have 45 days to provide written notice to the trustee of an objection to a disclosed act or omission. If no written objection is provided within this time period, the trustee would have to proceed with the distribution of assets as provided in the trust (or to the successor trustee) within a reasonable period of time after the end of the 45-day period. If a timely written objection to the trust settlement notice is received, the trustee or the objecting party could do either of the following (as well as charge any related expenses to the trust):

- Submit the objection to the court for resolution.
- Resolve the objection by a *nonjudicial settlement agreement*⁷ or other written agreement.

The bill would permit any nonjudicial settlement agreement or other written agreement to include a *release* (a statement barring future claims against the trustee related to the trust), an *indemnity clause* (a statement that the trustee shall not be liable for any action related to the trust made in good faith), or both, on the part of the objecting party. Upon resolution of any objection to the trust settlement, the trustee would have to proceed with the distribution of the remaining trust assets as above. In addition, the bill would allow a successor trustee to rely on the statement or accounting received from the trustee for purposes of locating trust property pursuant to section 7813,⁸ as well as rely on the written statement of a person receiving the trust settlement notice when determining that the person does not object to the notice.

Finally, the bill would prohibit any person who received the trust settlement notice and either consented or failed to object to the notice from bringing a claim against the trustee related to the trustee's final or interim accounts or challenging the validity of the trust as though a court had entered a final order approving the accounts.

Proposed MCL 700.7908a

⁴ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-7604.pdf>

⁵ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-7905.pdf>

⁶ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-7103.pdf>

⁷ A *nonjudicial settlement agreement* is an agreement created between a trustee and another interested party to resolve a trust dispute outside of court. These agreements may not violate a material purpose of the trust, may only be used to resolve certain specific matters covered by MCL 700.7111, and may not be used to accomplish the termination or modification of the trust.

⁸ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-700-7813.pdf>

FISCAL IMPACT:

House Bill 6011 would have no fiscal impact on the state and could have an indeterminate fiscal impact on local courts if provisions of the bill result in an increase in caseloads and related administrative costs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.