

beneficiaries having a future interest in the trust estate in whatever proportions are provided for under the terms of the governing instrument under which the trust was created.

(g) The existence of spendthrift or similar protective language in the governing instrument under which the trust was created may not prevent termination under this section.

(h) All expenses incurred by the trustee incident to the termination of a trust under this section shall be borne by the trust estate.

(i) A distribution to a minor beneficiary shall be made to the minor's custodian under the Maryland Uniform Gifts to Minors Act or the Maryland Uniform Transfers to Minors Act.

(j) This section may not be construed to limit the right of any trustee to terminate a trust in accordance with applicable provisions of the governing instrument under which the trust was created.

(k) A trust may be terminated under this section if:

(1) The trustee has determined that termination of the trust is in the best interests of the beneficiaries; and

(2) The governing instrument does not expressly prohibit termination of the trust regardless of its size.

(l) A trust may not be terminated under this section if:

(1) The provisions of the governing instrument make the trust eligible to qualify for the marital deduction for United States estate tax or for United States gift tax purposes under the Internal Revenue Code, unless all beneficiaries agree that all of the trust estate shall be distributed to the spouse of the creator of the trust; or

(2) The provisions of the governing instrument make the trust qualify, in whole or in part, for a charitable deduction for United States estate tax, United States gift tax, or United States income tax purposes under the Internal Revenue Code, unless all beneficiaries agree that all of the trust estate shall be distributed to one or more beneficiaries that qualify for the charitable deduction under the Internal Revenue Code.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all trusts existing on or after June 1, 2004, regardless of the effective date of the governing instrument under which the trust was created.

~~SECTION 2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2004.

May 26, 2004

The Honorable Michael E. Busch
Speaker of the House