

HOUSE BILL NO. 678

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Leftwich)

A BILL to amend and reenact § 64.2-800 of the Code of Virginia, relating to trusts; release or ratification of trustee by beneficiary.

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-800 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-800. Beneficiary's consent, release, or ratification.

A. 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 beneficiary's rights or of the material facts relating to the breach.

B. A beneficiary shall be deemed to have released a trustee and ratified all actions of a trustee for the administration of the trust if, when the trust terminates or the trustee ceases to serve:

1. The trustee sends the beneficiary the following:

- a. A report as described in subsection C of § 64.2-775, for the immediately preceding two years;
- b. The amount of any taxes, expenses, or fees, including trustee fees and any reserves, remaining to be paid;
- c. Notice that (i) the trust is terminating or that the trustee is ceasing to serve; (ii) if the beneficiary

does not object in writing to the trustee within 45 days after the trustee sent the notice and information, the beneficiary shall be deemed to have released the trustee and ratified all actions of the trustee; and (iii)

27 the trustee is unaware of any undisclosed information that could give rise to a claim by the beneficiary;
28 and

29 d. If the trust is terminating, a description of any trust property or interests reasonably anticipated
30 but not yet received and a proposal for distribution; and

31 2. The beneficiary does not notify the trustee of the beneficiary's objection in writing within 45
32 days after the trustee sent the notice and information pursuant to subdivision 1.

33 C. The provisions of subsection B shall not apply to a transaction pursuant to Article 8.1 (§ 64.2-
34 779.1 et seq.) of Chapter 7.

35 D. In the event the trustee is not released and his actions ratified pursuant to the process provided
36 by subsection B, the trustee shall not be precluded from obtaining a release of liability by another permitted
37 method.

38 E. When a trustee complies with the provisions of subsection B, has received no objection or has
39 resolved any objection, and distributes the assets of a terminating trust to a beneficiary or to a successor
40 trustee, such action shall have the same legal and preclusive effect as if a court had entered a final order
41 approving the trustee's final account or approving the trustee's interim accounts. A beneficiary or other
42 party who received the notice and statements and either consented or did not object shall be prohibited
43 from bringing a claim against the trustee.

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