

**Public Policy Position
HB 6011**

The Probate & Estate Planning Section is a voluntary membership section of the State Bar of Michigan, comprised of 3,433 members. The Probate & Estate Planning Section is not the State Bar of Michigan and the position expressed herein is that of the Probate & Estate Planning Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Probate & Estate Planning Section has a public policy decision-making body with 23 members. On December 9, 2024, the Section adopted its position after an electronic discussion and vote. 21 members voted in favor of the Section's position, 1 member voted against this position, 0 members abstained, 1 member did not vote.

Support with Recommended Amendments

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HOUSE BILL NO. 6011

September 26, 2024, Introduced by Reps. Tsernoglou, Rheingans, Paiz, Brenda Carter, Andrews, Byrnes, Breen, Arbit, Dievendorf, Hope, Conlin, Wilson and Young and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
(MCL 700.1101 to 700.8206) by adding section 7908a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 7908a. (1) A trustee may obtain a settlement of its**
2 **accounts in accordance with subsection (2) when any of the**
3 **following occur:**
4 **(a) A trust terminates under the terms of the trust.**
5 **(b) A trust terminates early under section 7414.**
6 **(c) A trustee resigns or is removed.**
7 ~~**(d) A trustee seeks discharge of an interim accounting period**~~

1 ~~when the trust is continuing.~~

2 (2) A trustee that elects to proceed under this section shall
3 provide all of the following to the qualified trust beneficiaries,
4 any co-trustee of the trust, and the successor trustee, if
5 applicable, within a reasonable time after termination of the trust
6 under the terms of the trust, the resignation or removal of the
7 trustee, or the end of the period for which the trustee is seeking
8 discharge settlement of its accounts as described in subsection (8):

9 (a) A statement showing the fair market value of the net
10 assets to be distributed from a terminating trust or to a successor
11 trustee.

12 (b) A report of the trust for ~~the prior 2 years~~ the period for
13 which the trustee is seeking discharge as described in subsection
14 (8) showing all receipts and disbursements and inventory value of
15 the net assets.

16 (c) An estimate for any items reasonably anticipated to be
17 received or disbursed.

18 (d) The amount of any fees, including trustee fees, remaining
19 to be paid.

20 (e) Notice that the trust is terminating, or that the trustee
21 has resigned or been removed, the time period for which the trustee
22 seeks discharge settlement of its accounts as described in
23 subsection (8), and a statement providing that claims against a
24 trustee under sections 7604 and 7905, if as applicable, will be
25 barred if no objections or requests for additional time for
26 review are received within ~~the time period described in subsection~~
27 ~~(4)~~ 91-days after the notice was sent by the trustee.

28 (f) The name and mailing address of the trustee.

29 (g) The name and telephone number of a person that may be

1 contacted for additional information.

2 (3) The trustee may also provide the statement and notice
3 described in subsection (2) to any other person that the trustee
4 reasonably believes may have an interest in the trust.

5 (4) If, after receiving the notice and trust information
6 described in subsection (2), a qualified trust beneficiary or any
7 other party that received the notice and trust information objects
8 to a disclosed act or omission or requests additional time for
9 review, the qualified trust beneficiary or any other party shall
10 provide written notice of the objection or request for additional
11 time for review to the trustee not later than 45 91-days after the
12 notice was sent by the trustee. If no written objection or request
13 for additional time for review is provided in the 45 91-day time
14 period by any party, the information provided under subsection (2)
15 is considered approved by ~~the~~ each recipient. If a written objection
16 or request for additional time for review is provided in the 91-day
17 time period by any party, the statement and notice described in
18 subsection (2) is considered approved only by recipients who have
19 expressly approved. The trustee, within a reasonable period of time
20 following the expiration of the 45 91-day time period, shall
21 distribute the assets as provided in the trust or to the successor
22 trustee. If an ~~objecting a~~ party gives the trustee a written
23 objection or request for additional time for review within the
24 applicable 45 91-day time period, the trustee ~~or the objecting party~~
25 may do either one or more of the following:

26 (a) Submit ~~the written objection~~ contested issues to the court
27 for resolution and ~~charge the expense of commencing a proceeding to~~
28 ~~the trust~~.

29 (b) Seek to resolve the objection contested issues by a,

1 written withdrawal of the objection or request, nonjudicial
2 settlement agreement, or other written agreement.

3 (c) If the request is an initial request for additional time to
4 review, reissue the notice under subsection (2) providing an
5 additional period for review of at least 28 days and also providing
6 that no further requests for additional time to review are
7 permitted.

8 (5) Any agreement entered into under subsection (4) (b) may
9 include a release, an indemnity clause, or both, on the part of the
10 objecting party against the trustee relating to the trust. ~~If the~~
11 ~~parties agree to a nonjudicial settlement agreement or other~~
12 ~~written agreement, any related expenses must be charged to the~~
13 ~~trust.~~ On a resolution of an objection under this subsection,
14 within a reasonable period of time, the trustee shall distribute
15 the remaining trust assets as provided in the trust or to the
16 successor trustee.

17 (6) A successor trustee may rely on the statement or
18 accounting received from the trustee for purposes of locating trust
19 property under section 7813. If no qualified trust beneficiary or
20 other party who received the notice and trust information objects
21 within the ~~45~~ 91-day time period, the successor trustee will be
22 released from all liability for not objecting. This section does not
23 impose additional duties on the successor trustee, other than those
24 already imposed by Article VII.

25 (7) The trustee may rely on the written statement of a person
26 receiving notice that the person does not object.

27 (8) When a trustee distributes assets of a terminating trust
28 or to the successor trustee after complying with this article and
29 having received no objections or requests for additional time for

1 review, each person who received notice that adequately disclosed
2 the existence of a potential claim for breach and either consented
3 or failed to object or request additional time for review under this
4 section is barred from ~~doing either of the following:~~ (a) bringing a
5 claim against the trustee or challenging the validity of the trust
6 to the same extent and with the same preclusive effect as if the
7 court had entered a final order approving the trustee's final
8 account.

9 ~~(b) Bringing a claim against the trustee for the period of~~
10 ~~such interim accounts to the same extent and with the same~~
11 ~~preclusive effect as if the court had entered a final order~~
12 ~~approving the trustee's interim accounts.~~

13 (9) Except as expressly provided in subsection (8), this section
14 does not prevent the right of any party to seek judicial resolution
15 of a contested issue and does not prevent a trustee from proceeding
16 under section 7201 to have the trustee's accounts reviewed and
17 settled by the court.