

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1763

S.P. 710

In Senate, April 24, 2023

An Act Regarding Trustee Duties to Beneficiaries

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LAWRENCE of York.
Cosponsored by Representative SARGENT of York and
Representative: RUNTE of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 18-B MRSA §810, sub-§5** is enacted to read:

3 **5. Scheduled reports.** Annually, and within 30 days of a written request of a
4 beneficiary, a trustee shall send a beneficiary a written report that includes:

5 A. Information detailing the property, liabilities, receipts and disbursements of the
6 trust, including:

7 (1) A list of the trust's assets and, if feasible, the market value of each asset; and

8 (2) The amount and source of money coming into the trust and the amount and
9 recipient of money paid out of the trust; and

10 B. The amount and source of the trustee's compensation.

11 **Sec. 2. 18-B MRSA §818** is enacted to read:

12 **§818. Selling real property and dwellings belonging to trust**

13 **1. Current appraisal.** A trustee may not sell or otherwise convey real property or a
14 dwelling belonging to a trust in an amount not supported by an appraisal conducted within
15 90 days of the sale or conveyance by an impartial appraiser certified under Title 32, chapter
16 124.

17 **2. Alternative housing for beneficiary.** A trustee may not sell or otherwise convey
18 real property that is the primary residence or a dwelling that is the primary residence of a
19 beneficiary without the consent of the beneficiary unless the trustee arranges for alternative
20 housing of the same or similar quality and accommodations as the real property or dwelling
21 being sold or conveyed.

22 **Sec. 3. 18-B MRSA §819** is enacted to read:

23 **§819. Beneficiaries with physical or mental disabilities**

24 **1. Accommodations for beneficiary with physical or mental disability.** A trustee
25 shall make appropriate accommodations for a beneficiary with a physical or mental
26 disability supported by documentation to ensure that the trustee and the administration of
27 the trust meet the special needs of the beneficiary. A beneficiary may bring an action
28 against a trustee who violates this subsection. For purposes of this section, "physical or
29 mental disability" has the same meaning as in Title 5, section 4553-A.

30 **2. Court review.** In reviewing any matter involving a trust with a beneficiary with a
31 physical or mental disability, the court shall make any decision in the best interests of the
32 special needs of the beneficiary.

33 **Sec. 4. 18-B MRSA §1004**, as enacted by PL 2003, c. 618, Pt. A, §1 and affected
34 by §2, is amended to read:

35 **§1004. Attorney's fees and costs**

36 In a judicial proceeding involving the administration of a trust, the court, as justice and
37 equity may require, may award costs and expenses, including reasonable attorney's fees, to
38 any party, to be paid by another party or from the trust that is the subject of the controversy.
39 A trustee may not expend funds or assets of the trust in any controversy against a
40 beneficiary without the prior approval of the court upon a showing of a reasonable

1 likelihood of prevailing in the controversy. The court may allow a beneficiary to expend
2 funds or assets of the trust in a controversy against the trustee upon a showing of a colorable
3 claim against the trustee.

4 **SUMMARY**

5 This bill regards trusts and does the following.

6 1. It requires a trustee to send on an annual basis or within 30 days of a written request
7 by a beneficiary a detailed report on the trust, including the trust's assets, liabilities, receipts
8 and disbursements and the compensation received by the trustee.

9 2. It requires a trustee, when selling or otherwise conveying real property or a dwelling
10 that is the primary residence of a beneficiary, to support the sales price by an appraisal
11 conducted within 90 days of the sale or conveyance by an impartial certified appraiser and
12 arranging alternative housing of the same or similar quality and accommodation for the
13 beneficiary as the housing sold or conveyed.

14 3. It requires a trustee to make appropriate accommodations for a beneficiary with a
15 physical or mental disability to ensure that the special needs of the beneficiary are met,
16 allows a beneficiary to bring an action to enforce this provision and requires a court to
17 make any decision in a matter involving a beneficiary of a trust who has a physical or
18 mental disability in the best interests of the special needs of the beneficiary.

19 4. It requires a trustee to make a showing to the court of a reasonable likelihood of
20 prevailing prior to expending funds or assets of a trust in a controversy against a beneficiary
21 and allows a beneficiary to expend funds or assets of a trust in a controversy against a
22 trustee upon a showing to the court of a colorable claim against the trustee.