

CHAPTER 90  
FORMERLY  
SENATE BILL NO. 105

AN ACT TO AMEND CHAPTER 9, TITLE 5 OF THE DELAWARE CODE RELATING TO THE TRANSFER OF FIDUCIARY ACCOUNTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend § 938, Chapter 9, Title 5 of the Delaware Code by making insertions as shown by underline as follows:

§ 938 Transfer of fiduciary accounts

(a) For purposes of this section, "fiduciary" shall mean a banking organization or trust company of a type referred to in this Section acting as a trustee, personal representative, guardian or custodian under a Uniform Gifts to Minors Act or any comparable act.

(b) The term "interested person" means any living person who:

- (1) Is an income beneficiary or vested remainderman of a trust;
- (2) Has a vested interest in a decedent's estate;
- (3) Receives benefits as a ward from a guardianship account; or

(4) Is the minor with respect to an account established under a Uniform Gifts to Minors Act or a comparable act.

(c) With the prior written approval of, and in accordance with the terms and conditions of transfer prescribed by, the office of the State Bank Commissioner, and upon completion of the notice procedure of subsection (d) of this section, a banking organization, trust company or a bank holding company having its principal place of business in this State may transfer 1 or more of the fiduciary accounts administrated by such banking organization, trust company, or 1 or more of the banking organizations or trust companies controlled by such bank holding company to another banking organization or trust company controlled by such banking organization or bank holding company. With the prior written approval of, and in accordance with the terms and conditions of transfer prescribed by, the office of the State Bank Commissioner, and upon completion of the notice procedures of subsection (d) of this section, a banking organization or trust company organized under the laws of any jurisdiction (including federal law) that has a place of business in this State but not its principal place of business in this State may transfer 1 or more of the fiduciary accounts administered in this State by such banking organization or trust company, to another banking organization or trust company in this State controlled by such banking organization or trust company or by a bank holding company or a savings and loan holding company that controls such transferring banking organization or trust company.

(d) Prior to effecting a transfer of 1 or more fiduciary accounts under subsection (c) of this section, the fiduciary shall send written notice of such transfer to all interested persons or their legal or natural guardians. If the persons, or their legal or natural guardians in the case of minor children or incompetents, to whom such notice was sent do not make written objections to the fiduciary of the account within 30 days of the date such notice was mailed, then the fiduciary may complete the transfer of the account.

(e) If a fiduciary completes a transfer as described in the preceding subsections, the banking organization or trust company to which such fiduciary accounts have been transferred shall automatically be substituted as a fiduciary of all the accounts so transferred without further action and without any order or decree of any court or public officer, and such transferee banking organization or trust company shall have all the rights, duties, responsibilities, obligations and liabilities, financial or otherwise, of such transferring fiduciary with respect to such accounts. Likewise, a fiduciary which completes a transfer of 1 or more accounts as described in the preceding subsections shall be removed as fiduciary of all such accounts without an accounting and without any order or decree of any court or public officer, and prospectively such fiduciary shall have no continuing duties, responsibilities, obligations or liabilities, financial or otherwise, with respect to the accounts so transferred. Such transfer shall not relieve a fiduciary of any liability it may have incurred for its action or inaction prior to the transfer.

Approved July 15, 2015