

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2285 Session of 2012

INTRODUCED BY DELOZIER, GABLER, DeLUCA, GIBBONS, GINGRICH,
GODSHALL, HESS, KILLION, QUIGLEY, GROVE, HARPER, MILNE, RAPP,
GEIST, MURT AND DENLINGER, MARCH 27, 2012

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, OCTOBER 2,
2012

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in Pennsylvania Uniform
3 Transfers to Minors Act, further providing for court
4 authorization of a transfer AND, IN TRUSTS, FURTHER PROVIDING
5 FOR POOLED TRUSTS FOR PERSONS WITH DISABILITIES. ←

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ~~Section 1. Section 5306(e)(3) of Title 20 of the~~ ←
9 ~~Pennsylvania Consolidated Statutes is amended to read:~~

10 SECTION 1. SECTIONS 5306(C)(3) AND 7799.3 HEADING AND ←
11 SUBSECTIONS (F) AND (H) OF TITLE 20 OF THE PENNSYLVANIA
12 CONSOLIDATED STATUTES ARE AMENDED TO READ:

13 § 5306. Other transfer by fiduciary.

14 * * *

15 (c) Additional requirements for transfer.--A transfer under
16 subsection (a) or (b) may be made only if:

17 * * *

18 (3) the transfer is authorized by the court if it

1 exceeds [\$25,000] \$50,000 in value.

2 § 7799.3. POOLED TRUSTS FOR [PERSONS] INDIVIDUALS WITH
3 DISABILITIES.

4 * * *

5 (F) NOTICE.--THE OFFICE OF ATTORNEY GENERAL AND THE
6 DEPARTMENT OF PUBLIC WELFARE SHALL MAKE AVAILABLE INFORMATION ON
7 THE TREATMENT OF POOLED TRUSTS FOR THE [PERSONS] INDIVIDUALS
8 WITH DISABILITIES IN THE MEDICAL ASSISTANCE PROGRAM.

9 * * *

10 (H) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
11 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
12 SUBSECTION:

13 "BENEFICIARY." AN INDIVIDUAL WITH A DISABILITY WHO HAS THE
14 RIGHT TO RECEIVE SERVICES AND BENEFITS OF A POOLED TRUST.

15 "BOARD." A GROUP OF PERSONS VESTED WITH THE MANAGEMENT OF
16 THE BUSINESS AFFAIRS OF A TRUSTEE.

17 "DISABILITY." A PHYSICAL OR MENTAL IMPAIRMENT AS DEFINED IN
18 SECTION 1614 OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C.
19 § 1382C).

20 "POOLED TRUST." A TRUST WHICH MEETS ALL OF THE FOLLOWING:

21 (1) THE TRUST CONTAINS ASSETS OF MORE THAN ONE
22 BENEFICIARY.

23 (2) EACH BENEFICIARY [HAS] IS AN INDIVIDUAL WITH A
24 DISABILITY.

25 (3) THE TRUST IS MANAGED BY A NONPROFIT CORPORATION.

26 (4) A SEPARATE ACCOUNT IS MAINTAINED FOR EACH
27 BENEFICIARY OF THE TRUST, BUT, FOR PURPOSES OF INVESTMENT AND
28 MANAGEMENT OF FUNDS, THE TRUST POOLS THESE ACCOUNTS. ACCOUNTS
29 IN THE TRUST MAY BE ESTABLISHED BY THE PARENT, GRANDPARENT OR
30 LEGAL GUARDIAN OF THE INDIVIDUAL WITH A DISABILITY, BY THE

1 INDIVIDUAL WITH A DISABILITY OR BY A COURT.

2 (5) UPON THE DEATH OF A BENEFICIARY OR UPON THE EARLIER
3 TERMINATION OF THE TRUST, AMOUNTS REMAINING IN THE
4 BENEFICIARY'S ACCOUNT MUST BE DISTRIBUTED IN ACCORDANCE WITH
5 ONE OF THE FOLLOWING:

6 (I) THE TRUST MAY RETAIN UP TO 50% OF THE REMAINING
7 BALANCE FOR THE BENEFIT OF OTHER BENEFICIARIES OR OTHER
8 INDIVIDUALS WITH DISABILITIES. THE REMAINING 50% OF THE
9 BALANCE MUST BE REIMBURSED TO THE COMMONWEALTH AND ANY
10 OTHER STATE THAT PROVIDED MEDICAL ASSISTANCE UP TO AN
11 AMOUNT EQUAL TO THE TOTAL AMOUNT OF MEDICAL ASSISTANCE
12 PAID ON BEHALF OF THE BENEFICIARY.

13 (II) THE AMOUNTS MUST BE USED TO REIMBURSE THE
14 COMMONWEALTH AND ANY OTHER STATE THAT PROVIDED MEDICAL
15 ASSISTANCE UP TO AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF
16 MEDICAL ASSISTANCE PAID ON BEHALF OF THE BENEFICIARY.

17 "TRUSTEE." A NONPROFIT ORGANIZATION THAT MANAGES A POOLED
18 TRUST.

19 Section 2. The amendment of 20 Pa.C.S. § 5306(c)(3) shall
20 apply to transfers initiated on or after the effective date of
21 this ~~act~~ SECTION.

22 Section 3. This act shall take effect in 60 days.

