

Chapter 450

(House Bill 703)

AN ACT concerning

Estates and Trusts – Maryland Trust Act – Incapacity

FOR the purpose of defining certain terms for purposes of the Maryland Trust Act; clarifying that a revocable trust does not become irrevocable if the settlor loses the capacity to create a will; and generally relating to the Maryland Trust Act.

BY renumbering

Article – Estates and Trusts
Section 14.5–103(k) through (z), respectively
to be Section 14.5–103(m) through (bb), respectively
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

BY adding to

Article – Estates and Trusts
Section 14.5–103(k) and (l)
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article – Estates and Trusts
Section 14.5–601
Annotated Code of Maryland
(2011 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14.5–103(k) through (z), respectively, of Article – Estates and Trusts of the Annotated Code of Maryland be renumbered to be Section(s) 14.5–103(m) through (bb), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Estates and Trusts

14.5–103.

(K) “INCAPACITATED” MEANS THE STATE OF HAVING AN INCAPACITY.

(L) “INCAPACITY” MEANS THE INABILITY OF AN INDIVIDUAL TO MANAGE THE INDIVIDUAL’S PROPERTY OR FINANCIAL AFFAIRS EFFECTIVELY DUE TO:

- (1) PHYSICAL OR MENTAL DISABILITY;**
- (2) DISEASE OR ILLNESS;**
- (3) HABITUAL DRUNKENNESS;**
- (4) DRUG ADDICTION;**
- (5) IMPRISONMENT;**
- (6) COMPULSORY HOSPITALIZATION;**
- (7) CONFINEMENT;**
- (8) DETENTION BY A FOREIGN POWER; OR**
- (9) DISAPPEARANCE.**

14.5–601.

(a) The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

(b) Nothing in this section shall be construed to prohibit the creation of a revocable trust if that creation is otherwise authorized under State law.

(c) The fact that the settlor becomes incapacitated **OR LOSES THE CAPACITY REQUIRED TO CREATE A WILL** does not convert a revocable trust into an irrevocable trust.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

Approved by the Governor, May 12, 2015.