

HCS HB 968 -- TRUST AND ESTATE ADMINISTRATION

SPONSOR: Thompson

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 10 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight" by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HB 968.

This bill specifies that the income and principal of the Endowed Care Trust Fund is determined under the laws applicable to trusts with an exception that the trustee has no power: of adjustment; of conversion; no discretion to determine or modify the unitrust rate or to determine applicable value to compute the unitrust amount beyond that granted by law. A unitrust definition of income shall be determined by the cemetery operator in the terms of the endowed care trust fund agreement and not by the trustee. Further, no principal from the Trust Fund shall be distributed except if a unitrust amount is required under the agreement. The cemetery operator may instruct by record for the trustee to distribute less than all the income distributable for the year if the cemetery operator determines that the money is not needed.

This bill establishes the "Missouri Uniform Fiduciary Income and Principal Act" (MUFIPA). Some of the current provisions of the Principal and Income Act (PIA) have been updated to achieve compliance with the MUFIPA.

The bill modifies certain definitions and adds definitions such as "asset-backed security", "court", "current income beneficiary", "distribution", "estate", "independent person", "personal representative", "record", "settlor", "special tax benefit", "successive interest", "successor beneficiary", "trust", and "will". It removes reference to current definitions of "income beneficiary", "qualified beneficiary", and "remainder beneficiary".

The bill provides that the MUFIPA applies to a trust or estate and a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons, except as otherwise provided in the terms of a trust or in MUFIPA. In addition, the MUFIPA applies when Missouri is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest.

This bill details the fiduciary's duties including the power to adjust, convert an income trust to a unitrust and vice versa. In addition, the bill specifies the business or other activity conducted by the fiduciary, the allocation of receipts, the determination of "internal income of a separate fund", "marital trust", interest in minerals, water or other natural resources, interest in land used for growing and cutting timber, "derivative", "asset-backed security", and disbursements from income, all as further explained in the bill (Sections 469.399 to 469.487, RSMo).

The bill defines "unitrust" to mean a trust for which net income is a unitrust amount, including an express unitrust.

The bill defines terms such as "applicable value", "express unitrust", "income trust", "net fair value of a trust", "unitrust policy", and "unitrust rate". The provisions that apply to unitrusts do not create a duty to take or consider action or to inform a beneficiary about the applicability of the provisions. A fiduciary that in good faith takes or fails to take an action under the unitrust provisions is not liable to a person affected by the action or inaction.

The bill details the actions that the fiduciary can take without court approval. The bill specifies determinations, considerations, and procedures required of a fiduciary in taking actions. The requirements include sending a notice in a record, describing and proposing to take the action, to certain persons all as detailed in the bill. The MUFIPA includes provisions allowing these persons to object to a proposed action, whereupon the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. The bill contains requirements relating to the unitrust policy and unitrust rate.

The bill provides for uniformity in the interpretation and application of the MUFIPA; contains a severability clause; calls for the application of MUFIPA to a trust or estate existing or created on or after August 28, 2023 with exceptions; and explains MUFIPA's interaction with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et Seq. (Sections 469.471 to 469.487).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

**PROPONENTS:** Supporters say that the legislation provides increased flexibility to structure the trusts to meet the client's needs, for

a return of investment for income and for clarification on the law relating to principal jurisdiction. Eight states have adopted the Uniform Law. In 2018, the Uniform Commissioners came up with the changes to the Fiduciary and Income Act and the Missouri Bar Trust and Probate Committee and Estate Planning Division reviewed the changes and also provided input to harmonize the provisions relating to MO common law requirements. This legislation would bring uniformity with the trust code and provide greater expansion for financial institutions. The bill broadens the fiduciary's ability to allocate funds between the principal and income, provides savings to the taxpayers and assists with generational planning. The bill also includes provisions on digital assets. There is a section governing Endowed Care Trusts and care for cemetery parks and further changes are needed to the applicable section.

Testifying in person for the bill were Representative Thompson; Michael E. Magliari, The Missouri Bar; Missouri Bankers Association; and the Associated Cemeteries of Missouri.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.