

PARTIAL BILL SUMMARY

MEASURE: SB 1708 Conference Committee Substitute

AUTHOR: Duncan

SUBJECT: Uniform Code

PROVISIONS:

The provisions concerning trusts (taken from SB 1825) in the Conference Committee Substitute for Engrossed SB 1708 only cover the following areas:

- Definitions applicable to the bill's provisions on trusts;
- Supplementary law;
- Principal place of administration;
- Notice to persons;
- Role of a court in trust administration;
- Jurisdiction over trustees and beneficiaries;
- Subject matter jurisdiction; and
- Venue.

This is in stark contrast to the original Engrossed SB 1825, which had 90 sections and covered:

- Scope;
- Definitions;
- What provisions may be modified by the terms of a trust;
- Supplemental law;
- Choice of law;
- The principal place of administration for a trust;
- Notice to persons;
- Non-judicial settlement agreements;
- Rules of construction;
- When a trust is revoked by death or divorce;
- The role of a court in trust administration;
- Jurisdiction over trustees and beneficiaries;
- Subject matter jurisdiction;
- Venue;
- Representation of persons by persons in various circumstances, including appointment;
- Methods of creating a trust and requirements;
- Trusts for charitable purposes and for the care of animals;
- What evidence in relation to oral trusts;

- Trust modification or termination, including procedural rules for this, and methods, including by consent, due to unanticipated circumstances or where the trust becomes uneconomical, by cy pres and to achieve tax objectives;
- Reformation;
- Spend thrift provisions and creditors claims;
- Discretionary trusts;
- Creditors claims against the settlor;
- Overdue distribution; personal obligations of the trustee;
- Capacity of settlor and revocation or amendment of revocable trust;
- Settler's powers;
- Limitations on actions contesting validity;
- A number of sections on the office of the trustee, including acceptance of position, bond, co-trustees, vacancies, liability, discretionary powers, delegation, qualifications, and removal;
- Powers and duties of trustees including loyalty, impartiality; rules on prudent administration, costs of administration, protection of property, records, duty to provide information and report;
- Distribution on termination;
- Damages for breach of trust;
- Reliance on trust instrument;
- Protection of persons dealing with a trustee; and
- Miscellaneous provisions including non-retroactive application.

PREPARED BY: Dante Giancola, Deputy Director

DATE: 5-23-08