

HCS HB 1511 -- TRUST AND ESTATE ADMINISTRATION

SPONSOR: Byrd

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 17 to 0.

This substitute enacts the Missouri Uniform Trust Code. In its main provisions, the code:

- (1) Sets general provisions and definitions regarding trust administration;
- (2) Establishes rules regarding court jurisdiction and venue for actions concerning trusts;
- (3) Provides rules for the representation of minor, unborn, and unascertained beneficiaries and other interested persons by fiduciaries in judicial and non-judicial contexts;
- (4) Specifies the requirements for creating, modifying, and terminating trusts;
- (5) Sets provisions regarding the ability of creditors of trust settlors or beneficiaries to reach trust assets, including the effect of spendthrift clauses;
- (6) Sets and clarifies provisions relating to revocable trusts, including a settlor's necessary legal capacity to create a valid revocable trust, a presumption that trusts are revocable unless otherwise specified, and requirements for trust amendments and revocations;
- (7) Contains default rules for dealing with the office of trustee, which may be modified by the terms of the trust;
- (8) Details the fiduciary duties of trustees and enumerates trustees' powers; and
- (9) Specifies the liability of trustees and the rights of persons dealing with trustees.

The substitute also moves the Missouri Prudent Investor Act and the Missouri Principal and Income Act from Chapter 456, RSMo, to Chapter 469.

The substitute creates a rebuttable presumption of undue influence for certain asset transfers to in-home health care providers who are not closely related to the grantor.

FISCAL NOTE: No impact on state funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that Missouri's trust laws developed sporadically over the years in response to specific problems and issues and fails to address recent developments. The bill will provide more uniform, comprehensive, and up-to-date trust laws.

Testifying for the bill were Representative Byrd; Board of Governors of the Missouri Bar; Bank of America; Missouri Bankers Association; and St. Louis Trust Company.

OPPOSERS: There was no opposition voiced to the committee.

Julie Jinkens McNitt, Legislative Analyst