

Session 116 - (2005-2006)

H 3487 General Bill, By Sinclair

Similar (S 0422)

Summary: Uniform Trust Code

A BILL TO AMEND ARTICLE 7, TITLE 62 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRUST ADMINISTRATION, SO AS TO ENACT THE UNIFORM TRUST CODE BY PROVIDING A COMPREHENSIVE CODIFICATION OR RECODIFICATION OF MUCH OF EXISTING TRUST LAW AND SUPPLEMENTING EXISTING COMMON LAW UNLESS THE CODE SPECIFICALLY CONTRADICTS IT, AND PROVIDING, AMONG OTHER THINGS, FOR GENERAL PROVISIONS AND DEFINITIONS INCLUDING A DEFINITION FOR "QUALIFIED BENEFICIARY" AND AN APPLICATION OF THE STATE'S WILL CONSTRUCTION RULES TO THE CONSTRUCTION OF TRUSTS WHEN APPROPRIATE; FOR JUDICIAL PROCEEDINGS AND REPRESENTATION BY OTHERS, ESSENTIALLY RECODIFYING EXISTING VENUE, JURISDICTION, AND REPRESENTATION PROVISIONS; FOR THE RULES FOR CREATION OF TRUSTS INCLUDING THAT A SELF-SETTLED TRUST MUST BE IN WRITING, THAT A TRUST PURPOSE BE LAWFUL AND ACHIEVABLE, THAT A VALID NONCHARITABLE TRUST MAY BE CREATED WITHOUT DEFINITE BENEFICIARIES IN ONLY CERTAIN INSTANCES, THAT AN EARLY TERMINATION OR MODIFICATION OF A NONAMENDABLE IRREVOCABLE TRUST REQUIRES COURT APPROVAL, THAT A COURT MAY MODIFY THE ADMINISTRATIVE OR DISPOSITIVE PROVISIONS OF A TRUST, AND THAT A TRUST MAY BE TERMINATED IF IT CANNOT JUSTIFY ITS ADMINISTRATIVE COSTS, MODIFIED TO ACCOMPLISH THE SETTLOR'S TAX OBJECTIVES, OR DIVIDED OR COMBINED WITH OTHERS TO FACILITATE ADMINISTRATION; FOR RETENTION OF THE ABILITY OF THE SETTLOR'S CREDITORS TO REACH THE TRUST PROPERTY IN A TRUST; FOR THE VALIDITY SPENDTHRIFT PROVISION EXCEPT AS TO CHILD SUPPORT AND PROTECTION OF THE SPECIAL NEEDS TRUST; FOR THE PRESUMED REVOCABILITY INSTEAD OF IRREVOCABILITY OF A TRUST, CLARIFICATION OF THE MENTAL CAPACITY FOR CREATING A REVOCABLE TRUST, AND A STATUTE OF LIMITATIONS FOR CONTESTING A REVOCABLE TRUST; AND FOR RULES FOR THE OFFICE OF TRUSTEE, INCLUDING RESIGNATION AND REMOVAL, DUTIES AND POWERS OF TRUSTEES, INCLUDING THE ESSENCE OF SOUTH CAROLINA'S UNIFORM TRUSTEES POWERS ACT AND THE UNIFORM PRUDENT INVESTORS ACT, ADDING A BROADER TRUSTEE POWER AND A STANDARD OF CARE FOR TRUSTEE MATTERS IN ADDITION TO INVESTMENT AND MANAGEMENT, AND THE UNIFORM PRINCIPAL AND INCOME ACT GOVERNING FIDUCIARY ACCOUNTING PRINCIPALS, SUBSTANTIAL RETENTION OF EXISTING LAW CONCERNING LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH THEM, AND APPLICATION OF THESE PROVISIONS TO EXISTING RELATIONSHIPS; TO AMEND SECTION 27-6-50, RELATING TO EXCEPTIONS TO THE RULE AGAINST PERPETUITIES, SECTION 33-31-152, RELATING TO RIGHTS OF STATES AS TO CORPORATIONS, SECTION 34-15-10, AS AMENDED, RELATING TO A BANK ACTING AS FIDUCIARY, SECTION 62-3-703, RELATING TO GENERAL DUTIES OF A PERSONAL REPRESENTATIVE, SECTION 62-3-913, RELATING TO DISTRIBUTION BY A PERSONAL REPRESENTATIVE TO A TRUSTEE, AND SECTION 62-5-417, RELATING TO THE GENERAL DUTY OF A CONSERVATOR, ALL SO AS TO AMEND CROSS REFERENCES TO CONFORM TO THIS ACT; AND TO REPEAL SECTION 27-5-70.

02/08/05 House Introduced and read first time HJ-13

02/08/05 House Referred to Committee on Judiciary HJ-14