FINAL BILL REPORT
SSB 5171

C 365 L 09
Synopsis as Enacted

Brief Description: Modifying the Washington principal and income act of 2002.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline and Rockefeller; by request of Uniform Legislation Commission).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The National Conference of Commissioners on Uniform State Laws (NCCUSL) is a non-profit association and drafts model uniform state laws on subjects where consistency from state to state is desirable. The Washington Uniform Legislation Commission (WULC) was created in 1905 and analyzes whether uniform laws recommended by NCCUSL and others are appropriate for incorporation into Washington laws.

Washington adopted the Uniform Principal and Income Act (UPIA) in 1971 and updated it in 2002. UPIA governs the allocation of income versus principal for the receipts and disbursements of a trust or estate. Trusts and estates have two classes of owners: those that have an interest in the entities income, and those that have an interest in the principal. The UPIA governs how a receipt or disbursement is to be categorized (principal or income) and will determine which equity interest holder is to receive the benefit of any receipt or whose interest will be reduced by a disbursement.

The WULC, working with the NCCUSL, has recommended an amendment to the UPIA to address an Internal Revenue Service (IRS) ruling on distributions from retirement plans to marital trusts.

The IRS has issued Revenue Ruling 2006-26 which found that because of the way "income" was defined in the UPIA, retirement benefits left in trust do not qualify for its safe harbor for marital deductions, unless the estate plan was specifically drafted to address this issue.

Summary: The definition of "payment" is amended to include any payment from a separate fund in certain circumstances. "Separate fund" is also defined.

The requirement that a trustee allocate to income an amount necessary to obtain a martial deduction is repealed.

A trustee, in determining the allocation of a payment made from a separate fund, must determine the internal income of each separate fund for the accounting period as if the separate fund were a trust covered by the UPIA. This applies when a trustee is determining the allocation of a payment made from a separate fund: (1) to a trust to which an election to qualify for a marital deduction has been made under the IRS Code relating to life estates for surviving spouses; (2) to a trust that qualifies for the marital deduction under IRS Code relating to life estates with power of appointment; and, (3) if the series of payments qualify for the marital deduction under the IRS Code relating to survivor annuities.

A formula is provided in instances when the trustee cannot determine either the internal income or the fund's value.

Votes on Final Passage:

Senate	45	0	
House	94	2	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 26, 2009