

FINAL BILL REPORT

SSB 6831

C 11 L 10
Synopsis as Enacted

Brief Description: Concerning estates and trusts.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Parlette).

Senate Committee on Judiciary
Senate Committee on Ways & Means
House Committee on Judiciary
House Committee on Finance

Background: Many wills and trusts drafted to take advantage of federal tax exemptions for spouses and children use terms and formulas referring to things such as the applicable credit amount, unified credit, federal estate tax, and generation-skipping transfer tax. However, in 2010 there is no federal estate tax, and therefore many of the formulas used in drafting wills and trusts will not function to fund trust or estate plans as intended when the will or trust document was created.

Summary: A will or trust of a decedent who dies after December 31, 2009, but before January 1, 2011, will be deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the will or trust:

1. contains a formula referring to the unified credit, estate tax exemption, applicable exemption amount, applicable credit amount, applicable exclusion amount, generation-skipping transfer tax exemption, GST exemption, marital deduction, maximum marital deduction, or unlimited marital deduction;
2. measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes; or
3. is otherwise based on a similar provision of federal estate tax or generation-skipping transfer tax law.

The personal representative or any affected beneficiary under a will or trust may bring a proceeding under the trust and estate dispute resolution act to determine whether the decedent intended that the references referred to above be construed with respect to the federal law as it existed after December 31, 2009. Such a proceeding must be commenced within 12 months following the death of the testator or grantor, and not thereafter.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The provisions of the act are retroactive to December 31, 2009.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: March 10, 2010