SUBSTITUTE SENATE BILL 6831
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State of Washington   **61st Legislature**   **2010 Regular Session**

By Senate Ways & Means (originally sponsored by Senator Parlette)

READ FIRST TIME 02/09/10.

1   AN ACT Relating to estates and trusts; adding new sections to
2 chapter 11.108 RCW; creating new sections; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4   NEW SECTION. **Sec. 1.** The legislature finds in order to carry out
5 the intent of decedents in the construction of wills and trusts, and in
6 order to promote judicial economy in the administration of trusts and
7 estates, that it is necessary to construe certain formula clauses to
8 refer to federal estate and generation-skipping transfer tax rules
9 applicable to estates of decedents dying on December 31, 2009.

10   NEW SECTION. **Sec. 2.** A new section is added to chapter 11.108 RCW
11 to read as follows:
12   (1) A will or trust of a decedent who dies after December 31, 2009,
13 and before January 1, 2011, is deemed to refer to the federal estate
14 and generation-skipping transfer tax laws as they applied with respect
15 to estates of decedents dying on December 31, 2009, if the will or
16 trust contains a formula that:
17   (a) Refers to any of the following: "Unified credit," "estate tax
18 exemption," "applicable exemption amount," "applicable credit amount,"

1 "applicable exclusion amount," "generation-skipping transfer tax
2 exemption," "marital deduction," "maximum marital deduction," or
3 "unlimited marital deduction;"

4 (b) Measures a share of an estate or trust based on the amount that
5 can pass free of federal estate taxes or the amount that can pass free
6 of federal generation-skipping transfer taxes; or

7 (c) Is otherwise based on a provision of federal estate tax or
8 federal generation-skipping transfer tax law similar to the provisions
9 in (a) or (b) of this subsection.

10 (2) This section is presumed to not apply with respect to a will or
11 trust that (a) is executed or amended after December 31, 2009, or (b)
12 clearly manifests an intent that a contrary rule applies in cases where
13 the decedent dies on a date on which there is no then-applicable
14 federal estate or federal generation-skipping transfer tax and such tax
15 has been permanently repealed and not merely temporarily repealed for
16 calendar year 2010.

17 (3) The reference to January 1, 2011, in this section refers, if
18 the federal estate and generation-skipping transfer tax becomes
19 effective before that date, to the first date on which such tax becomes
20 legally effective.

21 (4) Construction of a will or trust under this section may be
22 confirmed pursuant to the procedures set forth in the trust and estate
23 dispute resolution act in chapter 11.96A RCW.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 11.108 RCW
25 to read as follows:

26 The personal representative, trustee, or any affected beneficiary
27 under a will or trust may bring a proceeding under the trust and estate
28 dispute resolution act in chapter 11.96A RCW, to determine whether the
29 decedent intended that the references under section 2 of this act be
30 construed with respect to the federal law as it existed after December
31 31, 2009. Such a proceeding must be commenced within twelve months
32 following the death of the testator or grantor, and not thereafter.

33 NEW SECTION. **Sec. 4.** The provisions of this act are effective
34 retroactive to December 31, 2009.

1   NEW SECTION. **Sec. 5.** This act is remedial in nature and must be
2   applied and construed liberally in order to carry out its intent.

3   NEW SECTION. **Sec. 6.** If any provision of this act or its
4   application to any person or circumstance is held invalid, the
5   remainder of the act or the application of the provision to other
6   persons or circumstances is not affected.

7   NEW SECTION. **Sec. 7.** This act is necessary for the immediate
8   preservation of the public peace, health, or safety, or support of the
9   state government and its existing public institutions, and takes effect
10 immediately.

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