

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 956

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after "changes;" insert "providing for the application of this Act;".

AMENDMENT NO. 2

On page 2, in line 30, strike "AND"; and in line 33, after "SUBTITLE" insert "; AND

(5) (I) 1. EACH QUALIFIED BENEFICIARY, AS DEFINED IN § 15-502.2 OF THIS SUBTITLE, CONSENTS TO THE PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; AND

2. A COURT OF COMPETENT JURISDICTION REVIEWS THE TRUSTEE'S PETITION FILED UNDER § 15-502.2 OF THIS SUBTITLE AND APPROVES THE PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; OR

(II) 1. EACH QUALIFIED BENEFICIARY, AS DEFINED IN § 15-502.2 OF THIS SUBTITLE, OBJECTS TO THE PROPOSED DECISION TO NOT EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; AND

2. A COURT OF COMPETENT JURISDICTION REVIEWS THE TRUSTEE'S PETITION FILED UNDER § 15-502.2 OF THIS SUBTITLE AND DOES NOT APPROVE THE PROPOSED DECISION TO NOT EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME".

AMENDMENT NO. 3

On page 2, strike in their entirety lines 34 through 36, inclusive, and substitute:

(Over)

“(B) IN DECIDING WHETHER AND TO WHAT EXTENT TO EXERCISE THE POWER CONFERRED BY SUBSECTION (A) OF THIS SECTION, A TRUSTEE SHALL CONSIDER ALL OF THE FACTORS RELEVANT TO THE TRUST AND ITS BENEFICIARIES, INCLUDING THE FOLLOWING FACTORS TO THE EXTENT THEY ARE RELEVANT:”.

AMENDMENT NO. 4

On page 4, in line 17, strike the second “OR”; and in line 21, after “TAX” insert “;

(10) IF ANY QUALIFIED BENEFICIARY, AS DEFINED IN § 15-502.2 OF THIS SUBTITLE, DOES NOT CONSENT TO THE PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; OR

(11) A COURT OF COMPETENT JURISDICTION REVIEWS THE TRUSTEE’S PETITION FILED UNDER § 15-502.2 OF THIS SUBTITLE AND DOES NOT APPROVE THE PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME”.

AMENDMENT NO. 5

On page 5, strike beginning with “OR” in line 29 down through “TAKEN” in line 30 and substitute “THE NOTICE IS MAILED”.

AMENDMENT NO. 6

On page 6, in line 1, after “OBJECTIONS” insert “OR CONSENTS”; in line 6, after “OBJECTIONS” insert “OR CONSENTS”; and strike in their entirety lines 7 through 12, inclusive, and substitute:

“(E) (1) IF EACH QUALIFIED BENEFICIARY CONSENTS IN WRITING TO A PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME, THE TRUSTEE SHALL FILE, WITHIN 60 DAYS AFTER THE TRUSTEE RECEIVES THE WRITTEN CONSENTS, A PETITION TO REVIEW THE PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE TRUSTEE RESIDES IN THIS STATE, IF THE TRUSTEE IS AN INDIVIDUAL, OR IN WHICH THE PRINCIPAL PLACE OF BUSINESS OF THE TRUSTEE IS LOCATED IN THIS STATE.

(2) IF A TRUSTEE GIVES NOTICE OF A PROPOSED DECISION NOT TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME, AND EACH QUALIFIED BENEFICIARY OBJECTS IN WRITING TO THE PROPOSED DECISION, THE TRUSTEE SHALL FILE, WITHIN 60 DAYS AFTER THE TRUSTEE RECEIVES THE WRITTEN OBJECTIONS, A PETITION TO REVIEW THE PROPOSED DECISION TO NOT EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE TRUSTEE RESIDES IN THIS STATE, IF THE TRUSTEE IS AN INDIVIDUAL, OR IN WHICH THE PRINCIPAL PLACE OF BUSINESS OF THE TRUSTEE IS LOCATED IN THIS STATE.”.

AMENDMENT NO. 7

On page 6, strike in their entirety lines 13 through 16, inclusive, and substitute:

“(F) (1) IN A PROCEEDING UNDER SUBSECTION (E) OF THIS SECTION, A TRUSTEE HAS THE BURDEN OF PROVING THAT THE TRUSTEE’S PROPOSED DECISION SHOULD BE TAKEN.”.

AMENDMENT NO. 8

On page 6, in line 19, strike “TO” and substitute “BY”; in line 20, strike “AND”; and strike beginning with the second “TO” in line 20 down through “SENT” in line 21.

AMENDMENT NO. 9

On page 6, strike in their entirety lines 22 through 31, inclusive, and substitute:

“(G) (1) A TRUSTEE WHO MEETS THE REQUIREMENTS OF THIS SECTION IS NOT LIABLE, FOR A DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME, TO:

(I) A QUALIFIED BENEFICIARY WHO FILED A WRITTEN CONSENT TO A PROPOSED DECISION TO EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; OR

(II) ANY PERSON WHO HAS A PRESENT OR FUTURE INTEREST IN THE TRUST, VESTED OR CONTINGENT, INCLUDING ANY UNBORN OR UNASCERTAINED BENEFICIARY, IF A COURT APPROVES THE TRUSTEE'S PETITION TO REVIEW THE PROPOSED DECISION.

(2) A TRUSTEE WHO MEETS THE REQUIREMENTS OF THIS SECTION IS NOT LIABLE, FOR A DECISION TO NOT EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME, TO:

(I) A QUALIFIED BENEFICIARY WHO DID NOT FILE A WRITTEN OBJECTION TO A PROPOSED DECISION TO NOT EXERCISE THE POWER TO ADJUST BETWEEN PRINCIPAL AND INCOME; OR

(II) ANY PERSON WHO HAS A PRESENT OR FUTURE INTEREST IN THE TRUST, VESTED OR CONTINGENT, INCLUDING ANY UNBORN OR UNASCERTAINED BENEFICIARY, IF A COURT APPROVES THE TRUSTEE'S PETITION TO REVIEW THE PROPOSED DECISION."

AMENDMENT NO. 10

On page 8, after line 11, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to each trust or decedent's estate existing on or after the effective date of this Act.";

and in line 12, strike "2." and substitute "3.".