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BILL ANALYSIS

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House Bill 5307 (as reported without amendment)
Sponsor: Representative William Van Regenmorter
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would create the "Uniform Principal and Income Act" (UPIA) to prescribe the manner in which receipts and expenditures of trusts and estates would have to be credited and charged between income and principal; prescribe the manner in which income would have to be apportioned among beneficiaries at the beginning and upon the termination of a trust or estate; and repeal the Revised Uniform Principal and Income Act. The bill would:

- Allow a fiduciary to adjust between principal and income as the fiduciary considered necessary, when a trust provided for a fixed income for the income beneficiary and the fiduciary invested and managed trust or estate assets as a prudent investor.
- Allow a professional trustee, in exercising this discretion, to adopt a policy that applied to all trusts and estates or to individual, or classes of, trusts and estates.
- Require a trustee to allocate to income, as a rule, money received from an "entity", such as a corporation, partnership, or investment company.
- Require a trustee to allocate certain assets, money, or proceeds to principal.
- Provide for the allocation of receipts from rental property, life insurance, pensions, liquidating assets, natural resources, derivatives, and asset-backed securities.
- Allow a trustee to account separately for a business or other activity conducted by the trustee, e.g., manufacturing, farming, real estate management, or mining.
- Provide generally for the equal division of expenses between principal and income.
- Provide for the payment of ordinary expenses out of income, and the payment of compensation to the fiduciary and legal proceedings from principal and income.
- Allow a fiduciary to make adjustments between principal and income for tax purposes, make elections under the tax laws, and remedy inequities that arose because of taxes.

The bill would take effect on May 1, 2004, and would apply to each trust or estate existing on that date, except as otherwise expressly provided in the will or terms of the trust or UPIA. The bill would require a fiduciary would to administer a trust or estate according to its terms, notwithstanding a conflict with UPIA.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

To the extent that it would affect the number of disputes over wills and trusts, the bill would have an indeterminate fiscal impact on the judiciary.

Date Completed: 4-15-04

Fiscal Analyst: Bethany Wicksall

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Analysis available @ <http://www.michiganlegislature.org>

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