



Legislative Council Staff

Research Note

Version: Final

Date: 6/16/2016

Bill Number

Senate Bill 16-085

Sponsors

Senator Steadman
Representative Willett

Short Title

Uniform Trust Decanting Act

Research Analyst

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Status

This research note reflects the final version of the bill which was signed by the Governor on June 6, 2016, and becomes effective on August 10, 2016, assuming no referendum petition is filed.

Summary

This bill, recommended by the Colorado Commission on Uniform State Laws, allows a trustee to reform an irrevocable trust document within reasonable limits that ensure the trust will achieve the settlor's—the person who created the trust's—original intent. The act prevents decanting—a term to describe the distribution of assets from one trust into a second trust—when it would defeat a charitable or tax-related purpose of the settlor.

Background

Decanting is the process by which the assets from one trust are distributed into a second trust. Under Colorado law, a trust may be modified or revoked unless the terms of a trust expressly provide that the trust is irrevocable. When the terms of an irrevocable trust need to be modified, for example because they are outdated or the settlor's intent has become impossible, decanting allows the assets of that old trust to be transferred to a new trust with more favorable terms.

The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts. According to the ULC, two states, Colorado and New Mexico, have adopted the Trust Decanting Act, and it has been introduced as legislation in California and Illinois.

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Senate Action

Senate Judiciary Committee (March 2, 2016). At the hearing, representatives of the ULC and the Colorado Bar Association testified in support of the bill. The committee referred the bill, unamended, to the Senate Committee of the Whole, with a recommendation that it be placed on the consent calendar.

Senate second reading (March 7, 2016). The Senate Committee of the Whole passed the bill, unamended, on second reading.

Senate third reading (March 8, 2016). The Senate adopted the bill on third reading.

House Action

House Judiciary Committee (April 7, 2016). The committee heard testimony in support of the bill from a representative of the ULC, and referred the bill, unamended, to the House Committee of the Whole.

House second reading (April 13, 2016). The House Committee of the Whole passed the bill, unamended, on second reading.

House third reading (April 14, 2016). The House adopted the bill on third reading.