

March 27, 2003

S 549. UNIFORM PRINCIPAL AND INCOME ACT. TO ADOPT THE REVISED UNIFORM PRINCIPAL AND INCOME ACT. Creates new GS Ch. 37A as title indicates. Act establishes general fiduciary duties of trustees and personal representatives in administering estates, establishes criteria and a process for converting an income trust to a unitrust, and imposes certain requirements upon trustees in apportioning trust assets and disbursements between income and principal. (1) Fiduciary Duties: New GS 37A-1-103 outlines general fiduciary duties of trustees and personal representatives and requires that trustees administer a trust in accordance with Chapter if the terms of the trust or the will do not make other provisions or give the fiduciary a discretionary power of administration. Further provides that a trustee's determination in accordance with Chapter is presumed to be fair and reasonable as to all beneficiaries of the trust. GS 37A-1-104(b) outlines the factors that trustees must consider in adjusting trust assets between principal and income and circumstances in which trustee may not make such adjustments. (2) Conversion to a Unitrust: Applicable to all trusts in existence after Jan. 1, 2004, with certain exceptions stated. New GS 37A-1-104.2 describes the circumstances under which, either without court approval or with court approval, a trustee may (a) convert an income trust to a total return unitrust; (b) reconvert a total return unitrust to an income trust; and (c) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust. GS 37A-1-104.4 establishes the method of determining the annual value of the unitrust. GS 37A-1-104.8 provides that trustee who in good faith takes any action under part shall not be liable to any person affected by trustee's decisions. GS 37A-1-105 describes the nature of a court's power to control trustee's discretionary power. (3) Determination and Distribution of Net Income: GS 37A-2-201 details the methods of determining net income and GS 37A-2-202 prescribes the method of determining a beneficiary's share of net income. GS 37A-3-301 through -303 specify when the beneficiary's income interest begins and ends, including the apportionment of receipts and disbursements. (4) Allocation of Receipts During Administration of Trust: GS 37A-4-401 through -415 detail how certain trust receipts should be apportioned as between income and principal, including money received from a business entity; trust or estate distributions; rental property; obligations to pay money; insurance policies and similar contracts; deferred compensation, annuities, and similar payments; liquidating assets; minerals, water, and other natural resources; timber; property not productive of income; derivatives and income; and asset-backed securities. (5) Allocation of Disbursements During Administration of Trust: GS 37A-5-501 through -506 specify those disbursements that should be made from income and principal, authorize certain transfers between income and principal, and provide

for the apportionment of income taxes between income and principal. Effective for all trusts or decedent's estates existing as of Jan. 1, 2004, except as otherwise provided in the will, trust, or provisions of Ch. 37A.

Intro. by Hagan.

Ref. to Judiciary I	GS 37A
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April 22, 2003

S 549. UNIFORM PRINCIPAL AND INCOME ACT. Intro. 3/27/03. Senate committee substitute makes the following changes to 1st edition. Amends GS 160A-234(a) (assessment of property held by tenancy for life or years) to delete reference to GS 37-36(b) and provide that assessments shall be paid by the holder of the remainder or reversion. Makes technical changes.

June 2, 2003

S 549. UNIFORM PRINCIPAL AND INCOME ACT. Intro. 3/27/03. House committee substitute makes the following changes to 2nd edition. Amends GS 37A-1-103(b) to provide that fiduciary shall be impartial in the exercise of discretion in connection with the conversion or administration of a unitrust. Adds new GS 37A-1-103(c) to clarify that the exercise of powers of allocation of receipts and expenditures contained or incorporated by reference to GS 32-27(29) in wills dated prior to Jan. 1, 2004, shall continue to be valid. Makes technical and conforming changes.

June 24, 2003

SL 2003-232 (S 549). UNIFORM PRINCIPAL AND INCOME ACT. AN ACT TO ADOPT THE REVISED UNIFORM PRINCIPAL AND INCOME ACT. Summarized in *Daily Bulletin* 3/27/03, 4/22/03, and 6/2/03. Enacted June 19, 2003. Effective January 1, 2004.