

March 16, 2009

H 620. STALKING LAW CONFORMING CHANGES (=S 617). Filed 3/16/09. *TO MAKE CONFORMING CORRECTIONS RELATED TO THE REPEALED STALKING STATUTE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.* Identical to S 617, filed 3/16/09.

Intro. by Ross.

GS 14, 15C, 50B, 50C, 95

June 8, 2010

H 620. WILL/UNIF. PRINCIPAL AND INCOME ACT CHANGES (NEW). Filed 3/16/09. Senate committee substitute deletes all provisions of 1st edition and replaces it with *AN ACT TO MAKE CHANGES TO THE STATUTES CONCERNING BEQUESTS OR DEVICES IN A WILL TO THE ATTORNEY WHO DRAFTED THE WILL, AND TO MAKE REVISIONS TO THE UNIFORM PRINCIPAL AND INCOME ACT.*

Repeals GS 31-4.1 (prohibits an attorney who drafts an attested written will or a codicil to an attested written will from being a beneficiary under that will, unless the attorney meets an exception, and requires the attorney to attach an affidavit verifying that information). Effective July 1, 2010.

Repeals GS 31-4.2 (requires an attorney who drafts an attested written will or a codicil to an attested written will to affix his or her name and business address, as drafter, to the instrument). Effective July 1, 2010.

Amends GS 37A-4-409 to distinguish that *separate fund* includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan. Removes those categories from the definition of *payment*, and states that *payment* includes any payment from a separate fund, regardless of the reason for the payment, for purposes of proposed subsections (d), (d1), (d2), and (d3) under the statute. Amends GS 37A-4-409(d), deleting the requirement that a trustee allocate to income the amount necessary to obtain the estate tax marital deduction. Enacts three new subsections and further amends subsection (d) to explain that proposed new subsections (d2) and (d3) apply, and subsections (b) and (c) (requiring a 10% allocation) do not apply, unless otherwise provided in (d1), when determining the allocation of a payment from a separate fund to (1) a trust to which an election to qualify for a marital deduction under section 2056(b)(7) of the Internal Revenue Code (Code) has been made or (2) a trust qualifying for the marital deduction under section 2056(b)(5) of the Code. Proposed subsection (d2) provides that a trustee will determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this section, and upon the surviving spouse's request, demand that the separate fund's administrator distribute the internal income to the trust. Directs the trustee to allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse, and to allocate the balance of the payment to principal. Directs the trustee to, upon request of the surviving spouse, allocate principal to income to the extent that the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period. Proposed subsection (d3) provides that if a trustee cannot determine the internal income of a separate fund but can determine its value, the internal income of the separate fund is deemed to equal 4% of the fund's value. Provides further that if the trustee cannot determine the internal income of the separate fund or its value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of expected future payments, as specified. Proposed subsection (d1) explains that subsections (d), (d2), and (d3) do not apply if and to the extent that the series of payments would, without the application of (d), otherwise qualify for the marital deduction.

Amends GS 37A-5-505 to authorize that a tax paid on the trust's share of an entity's taxable income will be paid proportionately from principal and income to the extent that receipts from the entity are allocated to both principal and income, and from principal to the extent that the tax exceeds total receipts (was, pay taxes from income to the extent the receipts are allocated to income, and pay from principal to the extent the receipts are allocated to principal). After paying taxes under the section, the trustee must adjust income or principal receipts to the extent that the

trust's taxes are reduced because of beneficiary payments (was, receipts will be reduced at allocation to principal or income).

Makes technical changes.

Provides that, effective July 1, 2010, the failure of an attorney to comply with either the affidavit requirement under GS 31-4.1 or the disclosure requirement under GS 31-4.2 does not invalidate a will or codicil. Makes the act effective January 2, 2011, unless otherwise indicated.

July 8, 2010

H 620. WILL/UNIF. PRINCIPAL AND INCOME ACT CHANGES. Filed 3/16/09. Conference report recommends the following changes to 2nd edition to reconcile matters in controversy. Provides that the House of Representatives concurs in the Senate committee substitute (2nd edition).

August 12, 2010

SL 2010-181 (H 620). WILL/UNIFORM PRINCIPAL AND INCOME ACT CHANGES. *AN ACT TO MAKE CHANGES TO THE STATUTES CONCERNING BEQUESTS OR DEVISES IN A WILL TO THE ATTORNEY WHO DRAFTED THE WILL, AND TO MAKE REVISIONS TO THE UNIFORM PRINCIPAL AND INCOME ACT.* Summarized in *Daily Bulletin* 6/8/10 and 7/8/10. Enacted August 2, 2010. Sections 1, 2, and 5 are effective July 1, 2010. The remainder is effective January 1, 2011.