

Session 114 - (2001-2002)

S 0659 General Bill, By Hayes

Summary: Trusts, Estates, and Probate Reform Act; Uniform Transfers to Minors Act, Principal and Income, Prudent Investor, Banks

A BILL TO ENACT THE SOUTH CAROLINA TRUSTS, ESTATES, AND PROBATE REFORM ACT; TO AMEND SUBARTICLE 5, ARTICLE 3, CHAPTER 7, TITLE 20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNIFORM GIFTS TO MINORS ACT, SO AS TO DESIGNATE SUBARTICLE 5 AS THE "UNIFORM TRANSFERS TO MINORS ACT", TO CHANGE THE AGE OF DISTRIBUTION TO TWENTY-ONE YEARS, INCLUDE BOTH GRATUITOUS TRANSFERS AND TRANSFERS FOR CONSIDERATION TRANSFERS AND BOTH LIFETIME TRANSFERS AND TRANSFERS FROM TRUSTS, ESTATES, AND GUARDIANSHIPS, AND LIMIT THE MINOR'S LIABILITY TO THIRD PARTIES TO CASES OF PERSONAL FAULTY; TO AMEND SECTION 62-7-302, AS AMENDED, RELATING TO A TRUSTEE'S STANDARD OF CARE, SO AS TO DESIGNATE THE SECTION AS THE "UNIFORM PRUDENT INVESTOR ACT", TO RECOGNIZE THE PRUDENT INVESTOR RULE AND THE TOTAL RETURN THEORY OF INVESTMENT MANAGEMENT; TO AMEND PART 4, ARTICLE 7, CHAPTER 7, TITLE 62, RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT, SO AS TO DESIGNATE PART 4 AS THE "UNIFORM PRINCIPAL AND INCOME ACT OF 1997"; TO PERMIT THE ALLOCATION OF BENEFICIARY RECEIPTS BY A TRUSTEE TO INCOME INSTEAD OF TO PRINCIPAL UNDER CERTAIN SPECIFIED CIRCUMSTANCES AND IN RECOGNITION OF TOTAL RETURN THEORY OF INVESTMENT; TO AMEND SECTION 62-5-501, AS AMENDED, RELATING TO THE DURABLE POWER OF ATTORNEY, SO AS TO PROVIDE FOR REASONABLE COMPENSATION FOR AN ATTORNEY-IN-FACT ACTING PURSUANT TO A DURABLE POWER OF ATTORNEY, AND TO PROVIDE FOR PROTECTION OF THIRD PARTIES RELYING ON THE ACTS OF AN INDIVIDUAL ACTING PURSUANT TO A DURABLE POWER OF ATTORNEY; TO AMEND ARTICLE 2, CHAPTER 2, TITLE 62, RELATING TO INTESTACY, SUCCESSION AND WILLS, SO AS TO CHANGE THE TITLE OF THE ARTICLE TO "INTESTACY, WILLS, AND DONATIVE TRANSFERS; TO AMEND PART 7, ARTICLE 2, CHAPTER 2, TITLE 62, RELATING TO CONTRACTUAL ARRANGEMENTS RELATING TO DEATH, SO AS TO REPLACE PART 7 WITH RULES FOR CONSTRUCTION OF WILLS AND OTHER INSTRUMENTS GOVERNING TRANSFERS; TO AMEND SECTION 62-2-803, RELATING TO THE EFFECT OF HOMICIDE ON INTESTATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE, AND BENEFICIARY DESIGNATIONS, SO AS TO PROVIDE FOR A JUDICIAL DETERMINATION OF CRIMINAL ACCOUNTABILITY, USING THE PREPONDERANCE OF THE EVIDENCE STANDARD, IN THE ABSENCE OF A CRIMINAL CONVICTION; TO AMEND PART 8, ARTICLE 2, CHAPTER 2, TITLE 62, RELATING TO GENERAL PROVISIONS AS TO INTESTATE SUCCESSION, BY ADDING SECTION 62-2-805 SO AS TO PROVIDE FOR REVOCATION OF PROBATE AND NONPROBATE TRANSFERS BY DIVORCE AND ANNULMENT; TO AMEND SECTION 34-19-120, RELATING TO ACCESS TO A LOCKBOX TO OBTAIN A POWER OF ATTORNEY, SO AS TO FACILITATE ACCESS CONDITIONED ON A VERIFIED DOCUMENT; AND TO AMEND SECTION 27-7-40, RELATING TO THE CREATION AND SEVERANCE OF A JOINT TENANCY, SO AS TO CLARIFY THAT A JOINT TENANCY WITH A RIGHT OF SURVIVORSHIP IN REAL ESTATE MAY TRANSFER HIS INTEREST WITHOUT JOINDER OF THE OTHER JOINT TENANTS.

05/01/01 Senate Introduced and read first time SJ-5

05/01/01 Senate Referred to Committee on Judiciary SJ-5