

Sec. 6. EFFECTIVE DATE.

Section 1 is effective the day following final enactment, but the provision allowing for an agreement concerning reduction or waiver of a civil penalty for late filing applies to a filing due April 15, 1989, or thereafter.

Presented to the governor April 28, 1990

Signed by the governor May 8, 1990, 8:58 p.m.

CHAPTER 581—S.F.No. 1891

An act relating to trusts; changing certain trust requirements; amending Minnesota Statutes 1989 Supplement, sections 501A.05; 501B.09, by adding a subdivision; 501B.46; 501B.65, subdivision 2; 501B.67, subdivision 1; 501B.68; 501B.69; and 501B.72, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1989 Supplement, section 501A.05, is amended to read:

501A.05 PROSPECTIVE APPLICATION.

(a) Except as extended by subsection (b), sections 501A.01 to 501A.07 apply to a nonvested property interest or a power of appointment that is created after December 31, ~~1990~~ 1991. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) If a nonvested property interest or a power of appointment was created before January 1, ~~1991~~ 1992, and is determined in a judicial proceeding, commenced after December 31, ~~1990~~ 1991, to violate this state's rule against perpetuities as that rule existed before January 1, ~~1991~~ 1992, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

Sec. 2. Minnesota Statutes 1989 Supplement, section 501B.09, is amended by adding a subdivision to read:

Subd. 2a. INAPPLICABLE TO CERTAIN TRUSTS. Subdivision 2 does not apply to a trust if the beneficial interests in the trust are evidenced by or constitute securities within the meaning of section 2(1) of the Securities Act of 1933, title 15, United States Code, section 77(b)(1).

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1989 Supplement, section 501B.46, is amended to read:

501B.46 PETITION FOR COURT ORDER TO SELL, MORTGAGE, OR LEASE REAL PROPERTY HELD IN TRUST.

(a) Except as provided in paragraph (c), if the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms of the trust, then permitted to sell, mortgage, or lease, and if section 501B.23 is applicable to the trust, the trustee or a beneficiary of the trust may petition the court then having jurisdiction of the trust for an order directing the trustee to sell, mortgage, or lease the real property or ~~any~~ a part of the real property.

(b) Except as provided in paragraph (c), if the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms of the trust, then permitted to sell, mortgage, or lease, and if section 501B.23 is not applicable to the trust, the trustee or a beneficiary of the trust may petition an appropriate district court under section 501B.16 for an order directing the trustee to sell, mortgage, or lease the real property or a part of the real property.

(c) If a trust is of the kind described in section 501B.09, subdivision 2a, no order described in paragraph (a) or (b) may be entered upon a petition filed by a person other than the trustee.

Sec. 4. Minnesota Statutes 1989 Supplement, section 501B.65, subdivision 2, is amended to read:

Subd. 2. **INCOME.** The increment in value realized upon sale, redemption, or other disposition of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable at maturity or at a future time at an amount in excess of the amount in consideration of which it was issued or in accordance with a fixed schedule of appreciation in excess of the price at which it was issued, is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal must be reimbursed for the increment when realized.

Sec. 5. Minnesota Statutes 1989 Supplement, section 501B.67, subdivision 1, is amended to read:

Subdivision 1. **ALLOCATION OF RECEIPTS.** If a part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on, or under land, the receipts from taking the natural resources from the land must be allocated under paragraphs (a) to (c).

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(a) If received as rent on a lease or extension payments on a lease, the receipts are income.

(b) If received from a production payment carved out of a mineral property, the receipts are income to the extent of a factor for interest or its equivalent provided in the governing instrument or a greater amount determined by the trustee to be reasonable and equitable in view of the interests of those entitled to income as well as those entitled to principal. The receipts not allocated to income are principal.

(c) If received as a royalty, overriding or limited royalty, or bonus or from a working, net profit, or other interest in minerals or other natural resources, receipts not provided for in paragraph (a) or (b) must be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. The receipts from these properties must be allocated in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal must be presumed to be reasonable and equitable if it is ~~not~~ neither substantially more nor less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986. Any allocated amount must be added to principal as an allowance for depletion of the asset. The balance of the gross receipts, after payment from the receipts of all direct and indirect expenses, is income.

Sec. 6. Minnesota Statutes 1989 Supplement, section 501B.68, is amended to read:

501B.68 TIMBER.

If a part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land must be allocated in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal must be presumed to be reasonable and equitable if it is ~~not~~ neither substantially more nor less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986.

Sec. 7. Minnesota Statutes 1989 Supplement, section 501B.69, is amended to read:

501B.69 OTHER PROPERTY SUBJECT TO DEPLETION.

Except as provided in sections 501B.67 and 501B.68, if part of the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, the receipts from the property must be allocated in accordance

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with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal is presumed to be reasonable and equitable if it is ~~not~~ neither substantially more nor less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986.

Sec. 8. Minnesota Statutes 1989 Supplement, section 501B.72, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** In applying sections 501B.59 to 501B.76 to nontrust estates, the rules in paragraphs (a) to ~~(e)~~ (d) must be followed.

(a) A legal life tenant or a remainderperson who has incurred a charge for the tenant's or remainderperson's benefit without the consent or agreement of the other, shall pay the charge in full.

(b) Costs of an improvement, including special taxes or assessments representing an addition to value of property forming part of the principal that cannot reasonably be expected to outlast the legal life estate, must be paid by the legal life tenant.

(c) If the improvement can reasonably be expected to outlast the legal life estate, only a portion of the costs must be paid by the legal life tenant and the balance by the remainderperson.

(1) The portion payable by the legal life tenant is that fraction of the total found by dividing the present value of the legal life estate by the present value of an estate of the same form as that of the legal life estate but limited to a period corresponding to the reasonably expected duration of the improvement.

(2) The present value of the legal life estate must be computed by applying the federal estate tax regulations for the calculation of the value of life estates under section 2031 of the Internal Revenue Code of 1986. The federal estate tax regulations applied must be those in force on the date when the costs of the improvement are initially determined by assessment, agreement, or otherwise. No other evidence of duration or expectancy may be considered.

(d) No allowance may be made for depreciation of property held by a legal life tenant on January 1, 1990, if the life tenant was not making the allowance with respect to the property prior to January 1, 1990.

Sec. 9. **EFFECTIVE DATE.**

Section 3 applies to proceedings initiated after January 1, 1990, with respect to interests created before, on, or after January 1, 1990.

Sections 4, 5, 6, and 7 apply to a receipt received after December 31, 1989, by a trust, decedent's estate, or legal estate whether established before, on, or

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after January 1, 1990, and whether the asset involved or legal estate was acquired by the trustee, personal representative, legal life tenant, or remainderperson before, on, or after January 1, 1990.

Except as otherwise provided, this act is effective January 1, 1990, and applies to trusts, property interests, and powers of appointment whenever created to the extent permitted under the United States Constitution and the Minnesota Constitution.

Presented to the governor April 28, 1990

Signed by the governor May 3, 1990, 5:38 p.m.

CHAPTER 582—S.F.No. 2064

An act relating to commercial transactions; adopting an article of the uniform commercial code that governs funds transfers; amending Minnesota Statutes 1989 Supplement, section 336.1-105; proposing coding for new law in Minnesota Statutes, chapter 336.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

ARTICLE 4A

FUNDS TRANSFERS

PART 1

SUBJECT MATTER AND DEFINITIONS

Section 1. **[336.4A-101] SHORT TITLE.**

This article may be cited as Uniform Commercial Code—Funds Transfers.

Sec. 2. **[336.4A-102] SUBJECT MATTER.**

Except as otherwise provided in section 336.4A-108, this article applies to funds transfers defined in section 336.4A-104.

Sec. 3. **[336.4A-103] PAYMENT ORDER-DEFINITIONS.**

(a) In this article:

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