

SENATE

STATE OF MINNESOTA

EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1306

(SENATE AUTHORS: REST)

DATE	D-PG	OFFICIAL STATUS
04/27/2011	1431	Introduction and first reading Referred to Judiciary and Public Safety
05/02/2011	1601	Comm report: To pass
	1604	Second reading

A bill for an act
relating to probate; authorizing courts to modify certain provisions; amending
Minnesota Statutes 2010, section 524.2-712.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 524.2-712, is amended to read:

**524.2-712 DECEDENTS DYING AFTER DECEMBER 31, 2009, AND
BEFORE JANUARY 1, 2011; FORMULA CLAUSES TO BE CONSTRUED TO
REFER TO FEDERAL ESTATE TAX AND FEDERAL GENERATION-SKIPPING
TRANSFER TAX LAWS.**

(a) A governing instrument, including a will or trust agreement, of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula or provision referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "marital deduction," "maximum marital deduction," "unlimited marital deduction," "inclusion ratio," "applicable fraction," or any section of the Internal Revenue Code relating to the federal estate tax or federal generation-skipping transfer tax, or that measures a share of an estate or trust by reference to federal estate taxes or federal generation-skipping transfer taxes, is deemed to refer to the federal estate tax and federal generation-skipping transfer tax laws as they applied with respect to the estates of decedents dying on December 31, 2009. This paragraph does not apply to a governing instrument, including a will or trust agreement, that manifests an intent that a contrary rule will apply if the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

~~(b) If the federal estate or federal generation-skipping transfer tax becomes effective before January 1, 2011, then the reference to January 1, 2011, in paragraph (a) is deemed to refer to the first date on which this tax becomes legally effective, instead of January 1, 2011.~~

~~(c)~~ (b) The personal representative, trustee, or any interested person under the governing instrument, including a will or trust agreement, may bring a proceeding to determine whether the decedent intended that a formula or provision described in paragraph (a) be construed with respect to the law as it existed after December 31, 2009. This proceeding must be commenced by December 31, 2011~~;~~, and the court may consider extrinsic evidence that contradicts the plain meaning of the will, trust, or other governing instrument. The court may modify a provision of a will, trust, or other governing instrument that refers to the federal estate tax or generation-skipping transfer tax laws as described in paragraph (a) to conform the terms to the decedent's intention, or achieve the decedent's tax objectives in a manner that is not contrary to the decedent's probable intention. The court may provide that its decision, including any decision to modify a provision of a will, trust, or other governing instrument, is effective as of the date of the decedent's death.