

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3540-06
Bill No.: SS for HS for HCS for HB 1511 with SA 1
Subject: Attorneys: Estates, Wills, and Trusts
Type: Original
Date: May 6, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue - Division of Taxation, Department of Social Services, and the Department of Health and Senior Services** stated this proposal would have no fiscal impact on their agencies.

In response to an earlier version of this proposal (HS/HCS/HB 1511, FN 3540-05), the **Department of Economic Development - Division of Finance and Division of Credit Unions** stated this proposal would have no fiscal impact on their agencies.

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Office of State Courts Administrator** stated this proposal would have no fiscal impact on the Courts.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** indicated this proposal would result in no costs or savings to BAP.

Officials from the **Office of Secretary of State (SOS)** assumed the rules, regulations and forms issued by the Director of Finance could require as many as 34 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in the

ASSUMPTION (continued)

Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The actual costs could be more or less the SOS's estimated cost of \$2,091 for FY 2005. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

SECTION 301.681, 306.458, 306.461

Officials with the **Department of Revenue - Division of Motor Vehicles** assume that their agency will incur \$530 in costs for notifying the field of procedures changes. **Oversight** assumes the costs for notifying the field of procedural changes would not be material and could be absorbed within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses dealing with estates, wills, or trusts could expect fiscal impact as a result of this proposal.

DESCRIPTION

SECTIONS 301.681, 306.458, 700.630

This proposal would allow a beneficiary who receives a motor vehicle or an outboard motor or

DESCRIPTION (continued)

vessel pursuant to a transfer on death instrument to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary's name.

SECTIONS 352.600 and 456.010 through 469.453

This proposal enacts the Missouri Uniform Trust Code which includes the following provisions:

- (1) Sets general provisions and definitions regarding trust administration;
- (2) Establishes rules regarding court jurisdiction and venue for actions concerning trusts;
- (3) Provides rules for the representation of minor, unborn, and unascertained beneficiaries and other interested persons by fiduciaries in judicial and non-judicial contexts;
- (4) Specifies the requirements for creating, modifying, and terminating trusts;
- (5) Sets provisions regarding the ability of creditors of trust settlers or beneficiaries to reach trust assets, including the effect of spendthrift clauses;
- (6) Sets and clarifies provisions relating to revocable trusts, including a settler's necessary legal capacity to create a valid revocable trust, a presumption that trusts are revocable unless otherwise specified, and requirements for trust amendments and revocations;
- (7) Contains default rules for dealing with the office of trustee, which may be modified by the terms of the trust;
- (8) Details the fiduciary duties of trustees and enumerates trustees' powers; and
- (9) Specifies the liability of trustees and the rights of persons dealing with trustees.

The proposal creates a rebuttable presumption of undue influence for certain asset transfers to in-home health care providers who are not closely related to the grantor.

The proposal also moves the Missouri Prudent Investor Act and the Missouri Principal and Income Act from Chapter 456, RSMo, to Chapter 469.

DESCRIPTION (continued)

SECTION 461.300

This section would modify the non-probate transfer of assets. Recipients of a recoverable transfer of a decedent's property would be liable to account for a percentage of the property received if necessary to discharge statutory allowances to the decedent's surviving spouse and dependent children and for other unpaid claims remaining after the application of the decedent's estate. In order to enforce the obligation of a recipient of a recoverable transfer, an action for accounting would be commenced within 18 months of the death of the decedent by the decedent's personal representative or a qualified claimant, if the personal representative fails to follow certain procedures relating to the personal representative's failure to respond to a demand for accounting. The failure of the personal representative to provide certain information in response to a demand from a qualified claimant could toll the 18-month requirement. Any judgement in a proceeding for accounting would take into the account the expenses of administration of the estate.

If an action for accounting is commenced within 18 months, other recipients of recoverable transfers could be brought into the action, even if such joinder occurs later than 18 months following the decedent's death. If an action is commenced after 18 months, then only the personal representative who received a recoverable transfer would be liable to account pursuant to this act and no other recipient may be joined.

SECTION 700.630

This section would allow owners of manufactured homes who own the home as joint tenants with the right of survivorship or as tenants by the entirety to receive a certificate of ownership in beneficiary form from the Director of the Department of Revenue. The beneficiary form shall include a directive to the Director of Revenue to transfer the certificate of ownership on the death of the owner or owners. The directive shall also permit the beneficiary to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary's name.

A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a manufactured home as tenants in common. During the lifetime of the owners, the signature or consent of the beneficiary shall not be required for transactions relating to the manufactured home. The owner may revoke the certificate of ownership or change beneficiaries before the owner's death under certain conditions (Sale of ownership in home with proper assignment of certificate or reissuance of certificate or redesignation of beneficiary with the Director). A beneficiary's interest in the home shall be subject to security interests which the

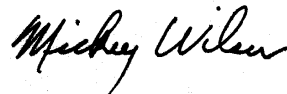
DESCRIPTION (continued)

owner accrued during his or her lifetime. A beneficiary's interest in a certificate of ownership may not be changed or revoked by will or other instruments. The Director shall issue a new certificate of ownership to the surviving owners or beneficiaries upon proof of death.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
 Division of Finance
 Division of Credit Unions
Office of Secretary of State
 Administrative Rules Division
Office of State Courts Administrator
Department of Social Services
Department of Revenue
 Division of Taxation
 Division of Motor Vehicles
Office of Attorney General
Office of Administration
 Division of Budget and Planning
Department of Health and Senior Services



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