SS HS HCS HB 1511 -- TRUST AND ESTATE ADMINISTRATION

This bill enacts the Missouri Uniform Trust Code. In its main provisions, the code:

(1) Establishes 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) Establishes provisions regarding the ability of creditors of trust settlors or beneficiaries to reach trust assets, including the effect of spendthrift clauses;

(6) Modifies existing and creates new provisions regarding revocable trusts, including a settlor'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) Outlines the fiduciary duties of trustees and enumerates trustees' powers and specifies the liability of trustees and the rights of persons dealing with trustees;

(9) Moves the Missouri Prudent Investor Act and the Missouri Principal and Income Act from Chapter 456, RSMo, to Chapter 469;

(10) 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;

(11) Modifies the nonprobate transfer of assets. Recipients of a recoverable transfer of a decedent's property are 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 must 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 may toll the 18-month requirement. Any judgment in a proceeding for accounting must take into account the expenses of administration of the estate;

(12) Specifies that if an action for accounting is commenced within 18 months, other recipients of recoverable transfers may be brought into the action, even if the 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 will be liable to account, and no other recipient may be joined;

(13) Allows a beneficiary who receives a motor vehicle, an outboard motor, or a 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;

(14) Allows 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 must include a directive to the director to transfer the certificate of ownership on the death of the owner or owners and 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; and

(15) Prohibits a certificate of ownership in beneficiary form from being 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 cannot be required for transactions relating to the manufactured home. The owner may revoke the certificate of ownership or change beneficiaries before their death under certain conditions. A beneficiary's interest in the home is subject to the security interests which the 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 is required to issue a new certificate of ownership to the surviving owners or beneficiaries upon proof of death.