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March 27, 1984



Telephone  
(907) 277-1604  
(907) 276-1605

The Honorable Charlie Bussell  
Pouch V  
Juneau, AK 99811

Dear Mr. Bussell:

I write to solicit your support for the passage of the following pieces of legislation:

	<u>House</u>	<u>Senate</u>
1. Renunciation of Rights in Decedent's Estates	HB 695	SB 513
2. Administration of Decedent's Estates	HB 694	SB 512
3. Uniform Disposition of Community Property Rights at Death	HP 697	SB 515
4. Married Person's Rights in the Family Home	HB 696	SB 514
5. Uniform Principal and Income Act	HB 693	SB 511

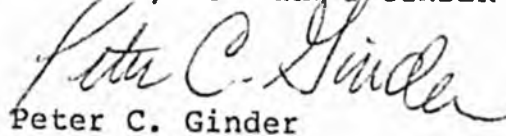
I am an attorney practicing in Anchorage, Alaska. My practice is largely devoted to estate planning, estate and gift tax analysis, and probate and trust administration. I am therefore quite familiar with the contents of each of the proposed measures. None of the proposed bills have the glamour associated with larger issues dealt with by your Committee. Nonetheless, I would encourage you to give active consideration to passing each of these measures. The enactment into law of each of these measures will result in a far higher degree of certainty in various areas covered by the proposed legislation than is now the case. It is also my opinion that any lingering uncertainty in these areas can only result in additional expense to our clients.

The Honorable Charlie Bussell  
March 27, 1984  
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Thank you very much for your consideration. Please do not hesitate to call or write if you have any questions.

Very truly yours,

KEMPPED, HUFFMAN, & GINDER

A handwritten signature in cursive script that reads "Peter C. Ginder". The signature is written in dark ink and is positioned above the printed name.

Peter C. Ginder

PCG:pls

cc: John Liska  
Ramona Barnes  
Don Clocksin  
Joe Hayes  
Hugh Malone  
Ron Wendte

FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 693  
 Title: "...relating to principal and income of trusts..."  
 Sponsor: House Rules/Code Rev. Comm.  
 Requestor: House Judiciary  
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: General Government  
 Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 3-13-84  
 Approved by Commissioner: Norman C. Gorsuch Date: 3-13-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note  
Analysis  
HB 693

March 13, 1984

This bill was requested by the Code Revision Commission so that the state may adopt the Uniform Principal and Income Act. The act has been adopted by 37 other states, making it one of the more widely accepted uniform acts. The proposed act codifies rules a trustee shall follow when the document that established the trust does not provide instructions to cover all circumstances, which frequently is the case. It directs how the trustee shall credit a receipt or charge an expenditure in a variety of fact situations. Because this bill only deals with private sector financial transactions, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT  
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



COMMISSIONERS  
JOHN W. ABBOTT - CHAIRMAN  
JAMES L. BALDWIN - VICE CHAIRMAN  
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CHARLIE BUSSELL  
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ALASKA STATE LEGISLATURE  
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-4878

EXECUTIVE SECRETARY  
BILLY G. BARRIER

March 1, 1984

Senator Bill Ray, Chairman  
Alaska Legislative Council  
Pouch V, State Capitol  
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and (HB 693/SB 511)  
income of trusts;  
(2) a bill relating to administration (HB 694/SB 512)  
of decedents' estates;  
(3) a bill relating to renunciation of (HB 695/SB 513)  
of rights in decedents' estates;  
(4) a bill relating to married persons' (HB 696/SB 514)  
rights in a family home; and  
(5) a bill relating to the uniform dis- (HB 697/SB 515)  
position of certain property rights  
at death

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

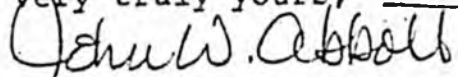
One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

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committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman  
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield  
Hon. Edmond W. Burke, Chief Justice  
Myrton R. Charney, Executive Director  
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HE 693 & SB 511 --

ALASKA CODE REVISION COMMISSION  
COMMENTARY TO ACCOMPANY BILL TO ADOPT  
THE UNIFORM PRINCIPAL AND INCOME ACT

Many private trusts now are being established in Alaska, both by living persons and pursuant to the last will and testaments of deceased Alaskans.

The Uniform Principal and Income Act codifies rules a trustee shall follow when the document that established the trust does not provide instructions to cover all circumstances, which frequently is the case. It directs how the trustee shall credit a receipt or charge an expenditure in a variety of fact situations.

Thirty-seven states have adopted either the 1931 or 1962 version of the Uniform Principal and Income Act. Therefore, what is proposed for adoption is one of the more widely accepted uniform acts.

A trustee may be a sophisticated trust department of a bank or a wholly unsophisticated family member or friend. There are many trustees in each of these categories and others. They all have a need for the guidance this Act provides.

Customarily, a trustee has duties to someone who receives income from the trust and corresponding duties to someone else who will receive the principal assets of the trust (the principal) at some future time, often at a time far in the future. From day to day the trust has expenses and receipts. The trust document seldom if ever tries to answer all the questions the trustee must decide about how to allocate between principal and income.

The Act sets the rules that apply in the absence of rules in the trust instrument. The Act does not supersede directions to the trustee that are set out in the trust instrument. The intent of the person who established the trust is to control when that intent can be determined. The Act will fill in only when the trust instrument is silent.

Nor does the Act supersede a provision in a trust instrument that gives a trustee absolute discretion in how to allocate. Even in that case, however, the Act is a ready source of guidance to a trustee on the choices that must be made.

The Act follows the so-called "Massachusetts Rule" of awarding cash dividends on corporate stock to income and stock

dividends to principal, thereby rejecting the Pennsylvania Rule or some variation of it requiring apportionment between the two funds. Provision is made for corporate distributions pursuant to a court decree such as a divestiture order in an antitrust suit. Provision is also made for treatment of the distributions of a regulated investment company or real estate investment trust. In recent years, the discount type of bond such as the Series E bond of the United States government and the zero coupon bond have become common. Provision has been made in the Act for allocating the increment in value between principal and income.

Because of the difficulty of apportioning receipts from extraction of natural resources among the income and principal beneficiaries it is provided in the Act that an arbitrary allocation should occur, that is, 27-1/2% of the gross receipts shall be added to principal as a "depletion reserve," and the balance is payable to the income beneficiary. Attempts to apportion the receipts on the relation of the amount of minerals extracted to the amount of minerals remaining in the ground have proved difficult of calculation and this method of allocation was accordingly rejected in favor of simplicity.

The Act contains a "catch-all" providing for disposition of receipts where there is no specific section in the Act dealing with the allocation. A form of "prudent man" rule has been adopted to handle this situation. Receipts from cutting of timber are covered only by this "prudent man" rule since the effect cutting of timber has on the value of land varies too much to apply the general rule on "depletion reserve."

The form of the Act is straightforward. The initial section, AS 13.38.010, establishes the relationship between the trust instrument and rules in the Act: As noted above, the trust instrument (that is, the creator's intent as expressed in the trust instrument) always prevails if it conflicts with the rules in the Act.

The second section, AS 13.38.020, defines the terms "principal" and "income" and contains cross references to the sections where the definitions are refined in the balance of the Act.

In a practical sense, the entire bill is a refinement of the definitions of principal and income set out in proposed AS 13.38.020.

The first two sections, therefore, are the key to the Act. The remainder of the Act is accounting principles applied to the listed kinds of property, kinds of receipts and expenditures and times of receipts and expenditures, as set out in the section headings of the Act:

- AS 13.38.010. Duty of Trustee as to Receipts and Expenditures.
- AS 13.38.020. Income and Principal Defined.
- AS 13.38.030. When Right to Income Arises; Apportionment of Income.
- AS 13.38.040. Income Earned During Administration of a Decedent's Estate.
- AS 13.38.050. Corporate Distributions.
- AS 13.38.060. Bond Premium and Discount.
- AS 13.38.070. Business and Farming Operations.
- AS 13.38.080. Disposition of Natural Resources.
- AS 13.38.090. Timber.
- AS 13.38.100. Other Property Subject to Depletion.
- AS 13.38.110. Underproductive Property.
- AS 13.38.120. Charges Against Income and Principal.
- AS 13.38.130. General Definitions.
- AS 13.38.140. Application of Chapter.

Various small substantive departures from the uniform act were considered by the code revision commission in the drafting process. However, after review with the Alaska Bar Association's Probate and Trust Committee and after unofficial but careful review by the leadership of the Alaska Association of Certified Public Accountants, the bill is almost verbatim the uniform act.

The only substantive changes from the Uniform Principal and Income Act are two relatively minor changes in section AS 13.38.110 on Underproductive Property.

The main aim of the Act is simplicity and convenience of administration of the estate. A second aim, of course, is fairness to all beneficiaries both present and future. Because simplicity and convenience are a primary aim of the Act, the Act is made applicable to all trusts and estates whether in existence at the time the Act becomes law or not.

Because the rules in the Act dictate choices that are standard in accounting practice, there is little reason to believe the rules in the Act will differ, in significant ways, from the present practices of most trustees. Therefore, no problems of transition are anticipated.

In brief, the Act, therefore, sets forth simple and workable rules of administration which are believed to be consistent with the wishes of creators of trusts upon the subject treated unless the creator specifically provides for a different treatment in the trust instrument.