

SENATE BILL NO. 148—COMMITTEE ON JUDICIARY

FEBRUARY 26, 2007

Referred to Committee on Judiciary

SUMMARY—Revising certain provisions of the Uniform Principal and Income Act (1997) governing disbursements made from principal and income. (BDR 13-903)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted-material]** is material to be omitted.

AN ACT relating to trusts; revising certain provisions of the Uniform Principal and Income Act (1997) governing disbursements made from principal and income; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, regular compensation for the services of a trustee and any person providing investment services to the trustee must be paid evenly out of the principal of the trust and the income from the trust. (NRS 164.900, 164.905) This bill provides that the amount paid for regular compensation out of income must not exceed 5 percent of income for that portion of the accounting period on which the compensation is based.

For example, under existing law, if regular compensation owed to a trustee is \$20,000 for one year, \$10,000 is paid out of principal and \$10,000 is paid out of income, regardless of income for that year. Under the provisions of this bill, the amount of income for the year would first be determined. Assuming the amount of income for the year were \$100,000 and the regular compensation owed to a trustee were \$20,000, then \$5,000 would be paid out of income and the remaining \$15,000 would be paid out of principal. However, if the amount of income for the year were \$200,000 instead of \$100,000, then regular compensation would be paid evenly out of income and principal, as under existing law, because the amount paid out of income, \$10,000, would not exceed the cap of 5 percent of income.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 164.900 is hereby amended to read as follows:

164.900 A trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

1. One-half of the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee concerning investment ~~to~~ *, except that the amount of the disbursements from income made pursuant to this subsection must not exceed 5 percent of income for the portion of the accounting period on which such regular compensation is based;*

2. One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

3. All the other ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

4. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

Sec. 2. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining ~~one-half~~ *portion* of the disbursements described in subsections 1 and 2 of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in subsection 4 of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of



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1 substances, collecting amounts from persons liable or potentially
2 liable for the costs of those activities, penalties imposed under
3 environmental laws or regulations and other payments made to
4 comply with those laws or regulations, statutory or common law
5 claims by third parties, and defending claims based on
6 environmental matters.
7 2. If a principal asset is encumbered with an obligation that
8 requires income from that asset to be paid directly to the creditor,
9 the trustee shall transfer from principal to income an amount equal
10 to the income paid to the creditor in reduction of the principal
11 balance of the obligation.

