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BILL



ANALYSIS

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House Bill 6129 (Substitute H-1 as reported without amendment)

House Bill 6130 (Substitute H-1 as reported without amendment)

House Bill 6130 (Substitute H-1 as reported without amendment)

Sponsor: Representative Klint Kesto (H.B. 6129)

Representative Julie Calley (H.B. 6130)

Representative Brandt Iden (H.B. 6131)

House Committee: Law and Justice

Senate Committee: Judiciary

CONTENT

House Bill 6129 (H-1) would amend the Michigan Trust Code to do the following:

- Allow a trust instrument to include a separate trustees provision, and specify that certain conditions would apply while a separate trustees provision applied.
- Require a separate trustees provisions to determine circumstances pertaining to the performance of certain trustee functions and responsibilities.
- Specify that a separate trustee would have a duty to inform and report to trust beneficiaries and other separate trustees on each of the separate trustee's functions.
- Specify that a separate trustee would not have a duty to monitor or review the actions of any other separate trustee, and would not have to notify or warn a settlor or beneficiary of a breach of trust or possible breach of trust on the part of another separate trustee.
- Exempt from liability a separate trustee for the acts or omissions of another separate trustee.
- Modify provisions pertaining to filling a vacancy in a trusteeship.

House Bill 6130 (H-1) would amend the Code to do the following:

- Specify that the bill would not apply to certain nonfiduciary powers associated with a trust.
- Specify that certain rules of construction would apply to powers under a trust.
- Allow the terms of a trust to grant a power of direction to a trust director.
- Prescribe the duties and limitations of a trust director's power of direction.
- Prescribe the duties and limitations of a trustee as they pertained to a trust director.

House Bill 6131 (H-1) would amend the Code to do the following:

- Specify that the terms of a trust would not prevail over provisions of the Code that House Bills 6129 (H-1) and 6130 (H-1) would enact.
- Specify that terms of a trust designating the principal place of administration would be valid and controlling if a trust director's principal place of business were located in, or a trust director were a resident of, the designated jurisdiction.
- Require notice of a proceeding to terminate or modify a trust to be given to a trust director and a person who was given power by terms of the trust.
- Delete a provision allowing a remaining trustee or cotrustees to act for the trust if a vacancy in a cotrusteeship occurred.

The bill also would repeal Section 7809 of the Code, which prescribes the duties of a trust protector.

The bills are tie-barred.

MCL 700.7704 et al. (H.B. 6129)
Proposed MCL 700.7703a (H.B. 6130)
MCL 700.7103 et al. (H.B. 6131)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 6129 (H-1) would have no fiscal impact on the State and an indeterminate fiscal impact on local government. To the extent that separate trustees petition local courts in filling separate trusteeship vacancies, the bill could impact court caseloads and related administrative costs.

House Bills 6130 (H-1) and 6131 (H-1) would have no fiscal impact on State or local government.

Date Completed: 12-13-18

Fiscal Analyst: Abbey Frazier

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.