ORIGINAL HOUSE
BILL NO. HB0145

ENROLLED ACT NO. 47, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2015 GENERAL SESSION

AN ACT relating to fiduciaries; providing authority for a trustee to include capital gains in income as specified; authorizing certain distributions from income and principal; authorizing adjustments between income and principal; repealing provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 2-3-835 is created to read:

2-3-835. Trustee discretion to include capital gains in income.

(a) To the extent a trustee is given the power to make mandatory or discretionary distributions of income, the trustee may, on an annual basis, include realized capital gains in trust income and in determining section 643(a) of the Internal Revenue Code distributable net income, if the allocation is reasonable and impartial.

(b) To the extent a trustee is given the power to make mandatory or discretionary distributions of principal, the trustee may, on an annual basis, include realized capital gains in determining Section 643(a) Internal Revenue Code distributable net income, if the allocation is reasonable and impartial.

Section 2. W.S. 2-3-804 by creating a new subsection (h), 2-3-826(a), 2-3-827(a)(i), (ii) and (iv), 2-3-831(a)(intro) and 2-3-909(a)(i) are amended to read:

2-3-804. Trustee's power to adjust; liability of trustee.

(h) If a trustee elects to exercise the power to adjust under this statute, the trustee may, on an annual basis, include net realized capital gains in determining trust income and section 643(a) of the Internal Revenue Code distributable net income, if the allocation is reasonable and impartial.

2-3-826. Disbursements from income.

(a) A trustee shall make the following disbursements from income to the extent that they are not disbursements to which W.S. 2-3-806(a)(ii)(B) or (C) applies:

(i) ~~One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee~~ Interest, except interest on taxes as provided in W.S. 2-3-827(a)(vi);

(ii) ~~One-half (1/2) of all expenses for accountings, judicial proceedings or other matters that involve both the income and remainder interests~~ Ordinary repairs and maintenance of real estate;

(iii) ~~All of 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,~~ Real estate taxes and other regularly recurring taxes assessed against principal; and ~~expenses of a proceeding or other matter that concerns primarily the income interest; and~~

2-3-827. Disbursements from principal.

(a) A trustee shall make the following disbursements from principal:

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(i) ~~The remaining one-half (1/2) of the disbursements described in W.S. 2-3-826(a)(i) and (ii)~~ Extraordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income;

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

(iv) Expenses ~~of a proceeding that concerns primarily principal, including a proceeding to construe~~ in connection with accountings and judicial or other proceedings to construe, modify or reform the trust or to protect the trust or its property;

2-3-831. Adjustments between principal and income.

(a) ~~A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:~~ Subject to W.S. 2-3-826 and 2-3-827, a trustee may, in the discretion of the trustee, allocate to income, principal or partly to each, the ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income including the compensation of the trustee and of agents hired by the trustee including investment advisors, custodians or income tax preparation services.

2-3-909. Treatment and allocation of income.

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(a) Following the conversion of an income trust to a total return unitrust or upon creation of a total return unitrust by a settlor, the trustee:

(i) Shall treat the unitrust amount as ~~if it were~~ net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust; and

Section 3. W.S. 2-3-827(a)(iii) and 2-3-831(a)(i) through (iii) are repealed.

Section 4. This act is effective July 1, 2015.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _________

DATE APPROVED: _________

I hereby certify that this act originated in the House.

Chief Clerk