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Proposed Amendment to S.B. 196 – Substance requested by Nevada Bankers Association

Amend section 3, page 2, by inserting after line 7:

4. Except as otherwise expressly provided in the trust, in the decedent's will or in sections 2 to 44, inclusive, of this act, those sections apply to every trust or decedent's estate existing on or after October 1, 2003.

Amend the bill as a whole by adding new sections, designated as sections 17.3 and 17.6, following section 17, to read as follows:

Sec. 17.3. Sections 2 to 44, inclusive, of this act do not create or imply a duty to make an adjustment between principal and income, and a trustee is not liable for not considering whether to make an adjustment or for choosing not to make an adjustment.

Sec. 17.6. 1. As used in this section, "action" includes course of action and decision to take action.

2. **A trustee may give a notice of proposed action regarding a matter governed by sections 2 to 44, inclusive, of this act in the manner and with the consequences provided in this section.**
3. **The trustee shall mail notice of a proposed action to every adult beneficiary who receives, or is entitled to receive, income under the trust or would be entitled to receive a distribution of principal if the trust were terminated at the time notice is given. However, notice of the proposed action need not be given to a person who consents in writing to the proposed action. The consent may be executed before or after the proposed action is taken.**
4. **The notice must state that it is given pursuant to this section and state or contain:**
 - (a) **The name and mailing address of the trustee;**
 - (b) **The name and telephone number of a person with whom to communicate for additional information;**
 - (c) **A description of the proposed action and an explanation of the reason for taking it;**
 - (d) **The time within which objection may be made, which must be at least 30 days after the notice is mailed; and**
 - (e) **The date on or after which the proposed action is to be taken or is effective.**
5. **A beneficiary may object to the proposed action by mailing a written objection to the trustee at the address and within the time stated in the notice.**
6. **If no beneficiary entitled to notice objects to a proposed action pursuant to this section, and the other requirements of this section are satisfied, the trustee is not liable to any present or future beneficiary with respect to the proposed action.**
7. **If the trustee receives a written objection within the period specified in the notice, the trustee or a beneficiary may petition the court to order the action taken as proposed, taken with modification or denied. A beneficiary who**

has not objected is not estopped from opposing the proposed action. A beneficiary has the burden of proving that the proposed action should not be taken or should be modified.

8. *If the trustee decides not to take a proposed action of which notice has been given, he shall notify the beneficiaries of the decision and the reasons for it. A decision not to take a proposed action does not give rise to liability to any present or future beneficiary. A beneficiary may petition the court to order the action taken, and has the burden of proving that the action should be taken.*
9. *In a proceeding with respect to a trustee's exercise or nonexercise of the power to make an adjustment under section 18 of this act, the sole remedy is an order to make, not to make or to modify the adjustment.*

Amend section 18, page7, by deleting lines 21 and 22.