

Committee on Judiciary

CS/CS/CS/SB 540 — Estates

by Rules Committee; Banking and Insurance Committee; Judiciary Committee; and Senator Hukill

This bill revises the statutes governing the use of trust assets to pay the trustee's attorney fees incurred in defending against a breach of trust claim. These changes clarify that the statutes giving broad authority to a trustee to incur attorney fees do not apply when the trustee is defending against a breach of trust claim.

The bill also provides that Florida law determines the validity and effect of the disposition of real property located in this state. Finally, the bill provides that a surviving spouse's claim of an elective share does not reduce what the spouse would receive if the election had not been made and that the spouse is not to be treated as having predeceased the decedent. In other words, the bill clarifies that an elective share is a floor, not a ceiling, on the amount of assets which the surviving spouse may receive from the decedent's estate.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 114-1