

Committee on Judiciary

CS/HB 1089 — Trusts

by Civil Justice Subcommittee and Rep. Caruso (CS/SB 1366 by Judiciary Committee and Senator Gruters)

The bill grants a trustee of a “grantor trust” sole discretion to use trust assets to pay the settlor’s (grantor’s) taxes on trust income. A grantor trust is one in which the grantor retains certain rights or powers over the trust such that federal tax law treats the grantor and the trust as one entity, thus making the grantor tax-liable for trust income.

Under current law, a trustee may pay the grantor’s trust-income taxes only if the trust instrument authorizes it. Under the bill, the trustee generally may pay these taxes unless the trust instrument prohibits it or the trustee is:

- A beneficiary of the trust;
- Treated as the owner of part or all of the trust under federal or state tax law; or
- A “related or subordinate party” with respect to:
 - o A person treated as the owner of all or part of the trust under federal or state tax law;
 - or
 - o A beneficiary of the trust.

Moreover, the bill specifies that a life insurance policy held in the trust, the policy’s cash value, or a loan secured by the policy may not be used to pay the grantor’s income taxes.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 39-0; House 118-0