

# 1998 SESSION

INTRODUCED

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## HOUSE BILL NO. 760

Offered January 23, 1998

*A BILL to amend and reenact § 55-254 of the Code of Virginia, relating to the Uniform Principal and Income Act.*

Patron—McClure

Referred to Committee on Corporations, Insurance and Banking

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-254 of the Code of Virginia is amended and reenacted as follows:**

§ 55-254. Application of article; powers of settlor; trustee discretion in investments.

A. This article shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen, in all cases when a principal has been established with or, unless otherwise stated hereinafter, without the interposition of a trust; except that in the establishment of the principal, provision may be made touching all matters covered by this article, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, when not otherwise contrary to law, shall control notwithstanding this article.

B. If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal, or partly to each, no presumption of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to the provisions of this article.

C. *A trustee shall have the discretion to invest funds in consideration of the combined total return of income and growth of principal. In a trust whose assets may be distributed over more than one generation, the trustee may invest the trust funds for a total return of income and growth of principal and to balance the needs of a present generation for income and the needs of a subsequent generation for growth and principal. In exercising the trustee's discretion under this section, no presumption of imprudence or partiality shall arise from the fact that the trustee has invested funds in consideration of a total return on income and growth of principal.*

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