

SENATE BILL 3045

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 32  
and Title 35, relative to wills and trusts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 32, Chapter 3, is amended by adding the following language as a new section:

§ 32-3-113.

(a) A will or trust of a decedent, who dies after December 31, 2009 but before January 1, 2011, that contains a formula referring to the “unified credit,” “estate tax exemption,” “applicable exemption amount,” “applicable credit amount,” “applicable exclusion amount,” “generation-skipping transfer tax exemption,” “GST exemption,” “marital deduction,” “maximum marital deduction,” or “unlimited marital deduction,” or that measures a share of an estate or trust based on the amount that can pass free of Federal estate taxes or the amount that can pass free of Federal generation-skipping transfer taxes, or that is otherwise based on a similar provision of Federal estate tax or generation-skipping transfer tax law, shall be deemed to refer to the Federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009. The reference to January 1, 2011 in this subsection shall, if the Federal estate and generation-skipping transfer tax becomes effective before that date, refer instead to the first date on which such tax shall become legally effective.

(b) The provisions of subsection (a) shall not apply with respect to a will or trust that is executed or amended after December 31, 2009, or that manifests an intent that a

contrary rule shall apply if the decedent dies on a date on which there is no then-applicable Federal estate or generation-skipping transfer tax.

(c) The personal representative, or any affected beneficiary under the will or other instrument, may bring a proceeding to determine whether the decedent intended that the references under subsection (a) be construed with respect to the law as it existed after December 31, 2009. Such a proceeding must be commenced within twelve (12) months following the death of the testator or grantor, and not thereafter.

Section 2. This act shall take effect upon becoming a law, the public welfare requiring it.