

ENROLLED ACT NO. 53, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2008 BUDGET SESSION

AN ACT relating to the Uniform Trust Code; providing for discretionary trusts for the benefit of disabled persons; providing an exception to the irrevocability of a qualified spendthrift trust as specified; amending the applicability of the provisions of the Uniform Trust Code as specified; amending a definition; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 4-10-103(a)(xv), 4-10-504 by creating a new subsection (f), 4-10-506(a)(ii), 4-10-510(a)(iv) by creating a new subparagraph (M), 4-10-523(a)(ix) and 4-10-1103(a)(ii), by creating a new paragraph (iii), by amending and renumbering (iii) as (iv) and (c) are amended to read:

4-10-103. Definitions.

(a) As used in this act:

(xv) "Qualified beneficiary" means a beneficiary who is currently entitled to distributions of income or principal from the trust or has a vested remainder interest in the residuary of the trust which is not subject to divestment, provided, however, if a trust has no qualified beneficiary, "qualified beneficiary" shall mean a beneficiary currently eligible to receive distributions of income or principal from the trust. The department of health is a qualified beneficiary as the vested remainder beneficiary of trusts established pursuant to W.S. 42-2-403(f)(i), (ii) and (iii) and 42 U.S.C. 1396p(d)(4)(A), (B) and (C);

4-10-504. Discretionary trusts; effect of standard.

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(f) A discretionary trust created for the benefit of a disabled person under W.S. 42-2-403(f)(i) and (ii) and 42 U.S.C. 1396p(d)(4)(A) and (C) shall have the protection of discretionary trusts provided under this section and such protection shall apply regardless of the date the trust was created.

4-10-506. Creditor's claim against settlor.

(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(ii) Except for discretionary trusts created in accordance with W.S. 4-10-504(f), with respect to an irrevocable trust without a spendthrift provision, a creditor or assignee of the settlor may attach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one (1) settlor, the amount the creditor or assignee of a particular settlor may attach shall not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

4-10-510. Creation of qualified spendthrift trust.

(a) A settlor may create a qualified spendthrift trust with a trust instrument appointing a qualified trustee for qualified trust property, which instrument:

(iv) Is irrevocable, but a trust instrument may not be deemed revocable on account of its inclusion of one (1) or more of the following:

(M) The court's right to revoke a trust created by a conservator for a ward under W.S. 3-3-607.

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4-10-523. Qualified transfer affidavit.

(a) A qualified transfer affidavit shall be in writing, sworn to by the settlor, and shall state that:

(ix) The settlor has and shall maintain personal liability insurance of at least one million dollars (\$1,000,000.00) or shall provide coverage equal to the fair market value of the settlor's total qualified transfers to qualified spendthrift trusts, whichever is less. This affidavit requirement shall not apply to a qualified transfer to a trust created by a court order under W.S. 3-3-607 or an irrevocable income trust created under W.S. 42-2-403(f)(ii) and 42 U.S.C. 1396p(d)(4)(B).

4-10-1103. Application to existing relationships.

(a) Except as otherwise provided in this act and subsections (c) and (d) of this section, on July 1, 2003:

(ii) This act applies to all judicial proceedings concerning trusts ~~commenced~~ created on or after July 1, 2003, and to all judicial proceedings concerning trusts created before July 1, 2003 that have elected to be governed by this act as provided in subsection (c) of this section;

(iii) Any rule of administration, construction or presumption provided in this act shall not apply to trust instruments executed before July 1, 2003, unless subsection (c) or (d) of this section is applicable;

~~(iii)~~ (iv) An action taken before July 1, 2003, is not affected by this act and any review of actions taken before July 1, 2003 by a trustee or other person shall be reviewed under the law and standards applicable at the time

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the action was taken unless subsection (c) or (d) of this act is applicable.

(c) This act applies to a trust created before July 1, 2003 if the settlor, if living, and all qualified beneficiaries consent to the application. If the settlor is not living, this act may apply to a trust created before July 1, 2003 if all qualified beneficiaries and the trustee consent to the application. If all of the qualified beneficiaries do not consent to a proposed application of this act to the trust, the court may apply this act to the trust after determining that the interests of the nonconsenting qualified beneficiary will be adequately protected.

Section 2. This act is effective July 1, 2008.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk