

SENATE FILE NO. SF0040

Uniform Trust Code-amendments.

Sponsored by: Senator(s) Ross and Representative(s) Brown

A BILL

for

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

7

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

9

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

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16 **4-10-504. Discretionary trusts; effect of standard.**

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1 (f) A discretionary trust created for the benefit of
2 a disabled person under 42 U.S.C. 1396p(d)(4)(A) and (C)
3 shall have the protection of discretionary trusts provided
4 under this section.

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6 **4-10-506. Creditor's claim against settlor.**

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

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

21
22 **4-10-510. Creation of qualified spendthrift trust.**

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

4
5 (iv) Is irrevocable, but a trust instrument may
6 not be deemed revocable on account of its inclusion of one
7 (1) or more of the following:

8
9 (M) The court's right to revoke a trust
10 created by a conservator for a ward under W.S. 3-3-607.

11
12 **4-10-523. Qualified transfer affidavit.**

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

16
17 (ix) The settlor has and shall maintain personal
18 liability insurance of at least one million dollars
19 (\$1,000,000.00) or shall provide coverage equal to the fair
20 market value of the settlor's total qualified transfers to
21 qualified spendthrift trusts, whichever is less. This
22 affidavit requirement shall not apply to a qualified
23 transfer to a trust created by a court order under W.S.

1 3-3-607 or an income assignment trust created under 42
2 U.S.C. 1396p(d)(4)(B).

3
4 **4-10-1103. Application to existing relationships.**

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

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

15
16 (iii) Any rule of administration, construction
17 or presumption provided in this act shall not apply to
18 trust instruments executed before July 1, 2003, unless
19 subsection (c) or (d) of this section is applicable;

20
21 ~~(iii)~~(iv) An action taken before July 1, 2003,
22 is not affected by this act and any review of actions taken
23 before July 1, 2003 by a trustee or other person shall be
24 reviewed under the law and standards applicable at the time

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

3

4 (c) This act applies to a trust created before July
5 1, 2003 if the settlor, if living, and all qualified
6 beneficiaries consent to the application. If the settlor is
7 not living, this act may apply to a trust created before
8 July 1, 2003 if all qualified beneficiaries and the trustee
9 consent to the application. If all of the qualified
10 beneficiaries do not consent to a proposed application of
11 this act to the trust, the court may apply this act to the
12 trust after determining that the interests of the
13 nonconsenting qualified beneficiary will be adequately
14 protected.

15

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

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(END)