

HOUSE BILL NO. HB0159

Uniform Trust Code amendments.

Sponsored by: Representative(s) Brown, Gingery and Krone

A BILL

for

1 AN ACT relating to the Uniform Trust Code; providing for
2 attachment of property in a trust by creditors or assignees
3 of a holder of a power of appointment as specified;
4 amending when a creditor or assignee of a trust beneficiary
5 may reach or attach the interest of the beneficiary in a
6 trust; providing that a married person who created a trust
7 for his spouse shall not be treated as a settlor of the
8 trust upon the death of his or her spouse; providing that a
9 trust instrument may not be deemed revocable because of the
10 settlor's receipt each year of income or principal from a
11 grantor retained annuity trust or grantor retained unitrust
12 as specified; and providing for an effective date.

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

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16 **Section 1.** W.S. 4-10-505.1 is created to read:

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1 4-10-505.1. Power of appointment or withdrawal;
2 claims of power holder's creditors.

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4 (a) Property of a trust that the holder of a power of
5 appointment is authorized to appoint may not be reached or
6 attached by creditors or assignees of the power holder
7 except to the extent that the power holder:

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9 (i) Is authorized under the power to appoint the
10 property to himself, his creditors, his estate or the
11 creditors of his estate; and

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13 (ii) Exercises the power of appointment in favor
14 of himself, his creditors, his estate or the creditors of
15 his estate.

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17 (b) Property of a trust that may be withdrawn by a
18 person holding a power to withdraw from the trust may not
19 be reached or attached by creditors or assignees of the
20 power holder unless and until the power holder withdraws
21 the property from the trust.

1 **Section 2.** W.S. 4-10-504(b), 4-10-506 by creating a
2 new subsection (e) and 4-10-510(a)(iv) by creating a new
3 subparagraph (N) are amended to read:

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5 **4-10-504. Discretionary trusts; effect of standard.**
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7 (b) ~~Whether or not a trust contains a spendthrift~~
8 ~~provision, a creditor or assignee of a trust beneficiary~~
9 ~~may not attach the interest of the beneficiary or compel~~
10 ~~the trustee to distribute any income or principal, or both,~~
11 ~~from a trust~~ When the terms of the trust provide that the
12 trustee may only make discretionary distributions to a
13 beneficiary, whether or not the trust contains a
14 spendthrift provision, a creditor or assignee of the trust
15 beneficiary may not compel the trustee to distribute any
16 income or principal, or both, from the trust or reach or
17 attach the interest of the beneficiary unless and until a
18 trust distribution is received by the beneficiary, even if:

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20 (i) The trustee has discretion to make
21 distributions for purposes stated in a standard of
22 distribution;~~or~~

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24 (ii) The trustee has abused the discretion;~~;~~ or

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(iii) The trustee makes distributions direct to third parties for the benefit of the beneficiary in accordance with the terms of the trust.

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

(e) For purposes of this section, a person who created a trust for his or her spouse under section 2523(e) of the Internal Revenue Code, or for which the election in section 2523(f) of the Internal Revenue Code was made, shall not be treated as a settlor of the trust, upon the death of his or her spouse.

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:

1 (N) The settlor's receipt each year of
2 income or principal from a grantor retained annuity trust
3 or grantor retained unitrust that is allowed under section
4 2702 of the Internal Revenue Code.

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6 **Section 3.** This act is effective July 1, 2011.

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8 (END)