HOUSE BILL NO. HB0146

Uniform Trust Code.

Sponsored by: Representative(s) Brown and Stubson and Senator(s) Nicholas, P., Perkins and Ross

A BILL

for

AN ACT relating to the Uniform Trust Code; providing protection against liability for a trustee who consents to a modification or termination of a trust in good faith; providing that a distribution from a discretionary trust to a beneficiary does not create an interest in property; amending creditor's claims against settlor as specified; amending powers of the trustee as specified; and providing for an effective date.

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

Section 1. W.S. 4-10-504 by creating a new subsection (g), 4-10-506(c), 4-10-816(a) by creating new paragraphs (xxix) through (xxxii), by creating a new subsection (b) and by renumbering (b) as (c) are amended to read:

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

(g) Terms of a trust providing a trustee may make discretionary distributions to a beneficiary, whether or not the discretionary distributions are pursuant to a standard of distribution, creates no property interest in the beneficiary.

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

(c) With respect to irrevocable trusts providing that the trustee may only make discretionary distributions to the settlor, a creditor or assignee of the right of a settlor are limited by W.S. 4-10-504(b) if:

(i) The transfer of property to the trust by the settlor was not in violation of the Uniform Fraudulent Transfers Act ~~and the trustee is a regulated financial institution qualified trustee.~~ by applying the same standard of proof as provided in W.S. 4-10-517;

(ii) At least one (1) trustee of the irrevocable trust is a qualified trustee; and

(iii) The trustee with authority to make distributions to the settlor is not a trust beneficiary, related to the settlor or subordinate to the settlor under Internal Revenue Code section 672(c).

4-10-816. Specific powers of trustee.

(a) Without limiting the authority conferred by W.S. 4-10-815, a trustee may:

(xxix) Make a distribution of trust income to or for the benefit of a beneficiary or pay trust expenses from a trust with two (2) or more subtrusts or shares for the beneficiary from any subtrust or share requiring or permitting income distributions to the beneficiary;

(xxx) Separate a trust for the benefit of more than one (1) beneficiary into separate trusts or shares for each beneficiary, unless the trust instrument requires the trust property to be held in one (1) trust for the beneficiaries;

(xxxi) Exercise elections with respect to federal, state and local taxes; and

(xxxii) Decide each trust taxable year whether principal distributions made from a trust to a beneficiary include net realized capital gains and losses in section 643(a) of the Internal Revenue Code distributable net income.

(b) The power provided in paragraph (a)(xxviii) of this section shall not be exercised in any manner that would prevent qualification for a federal estate or gift tax marital deduction, federal estate or gift tax charitable deduction, or other federal income, estate, gift or generation-skipping transfer tax benefit claimed for the trust from which the distribution in further trust is made. A trustee shall not be liable for exercising the power permitted under paragraph (a)(xxviii) of this section if the power is exercised in good faith.

~~(b)~~(c) This section may be cited as the Uniform Trustee Powers Act.

Section 2. This act is effective July 1, 2015.

(END)