

## HOUSE BILL NO. HB0056

Uniform Trust Code amendments.

Sponsored by: Representative(s) Greear and Olsen and  
Senator(s) Nethercott

A BILL

for

1 AN ACT relating to the Uniform Trust Code; eliminating claims  
2 of forced heirship and legitime; providing a definition of  
3 legitime; clarifying discretionary distribution standards for  
4 a trustee; specifying review of discretionary powers of a  
5 trustee; and providing for an effective date.

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

8

9 **Section 1.** W.S. 4-10-103(a) by creating a new paragraph  
10 (xxxviii), 4-10-107 by creating a new subsection (c),  
11 4-10-504(b) and (g), 4-10-505(b) and by creating a new  
12 subsection (d), 4-10-506(a)(ii) and (c)(intro), 4-10-517 and  
13 4-10-814 by creating a new subsection (e) are amended to read:

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15 **4-10-103. Definitions.**

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2 (a) As used in this act:

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4 (xxxviii) "Legitime" means that portion of a  
5 testator's free movable property that the testator's children  
6 are legally entitled to regardless of the terms of the will  
7 or trust.

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9 **4-10-107. Governing law.**

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11 (c) If the law of this state governs the meaning and  
12 effect of the terms of a trust in accordance with paragraph  
13 (a)(i) or subsection (b) of this section, the trust and any  
14 transfer of property by a settlor to the trust, or any  
15 disposition made subject to the terms of the trust, shall not  
16 be void, voidable, set aside or deemed defective in any manner  
17 for any reason including:

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19 (i) That the law of a foreign jurisdiction  
20 prohibits or does not recognize the concept of a trust; or

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22 (ii) That the trust, transfer of property by a  
23 settlor to the trust, or disposition made subject to the terms

1 of the trust avoids or defeats any forced heirship or legitime  
2 right, claim or interest under the law of a foreign  
3 jurisdiction.

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5 **4-10-504. Discretionary trusts; effect of standard.**

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7 (b) When the terms of the trust provide that the trustee  
8 may only make discretionary distributions to a beneficiary,  
9 whether or not the trust contains a spendthrift provision, a  
10 creditor or assignee of the trust beneficiary, including a  
11 creditor bringing a claim for forced heirship or legitime,  
12 may not compel the trustee to distribute any income or  
13 principal, or both, from the trust or reach or attach the  
14 interest of the beneficiary unless and until a trust  
15 distribution is received by the beneficiary, even if:

16  
17 (g) Terms of a trust providing a trustee may make  
18 discretionary distributions to a beneficiary, whether or not  
19 the discretionary distributions are pursuant to a standard of  
20 distribution, shall not create ~~no~~any property interest in  
21 the beneficiary or any enforceable right to a distribution  
22 for the beneficiary.

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1           **4-10-505. Standards of distribution.**

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3           (b) Except as provided in subsection (a) of this  
4 section, a creditor or assignee of a beneficiary, including  
5 a creditor bringing any claim for forced heirship or legitime,  
6 may not compel distributions from the trust or attach  
7 distributions to be made to a beneficiary until the  
8 distributions are received by the beneficiary, if the terms  
9 of the trust limit the trustee's ability to make distributions  
10 by a standard of distribution, even when the beneficiary is  
11 also a trustee or cotrustee of the trust.

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13           (d) Except as otherwise provided in the terms of the  
14 trust, the trustee shall not consider the assets or resources  
15 of a beneficiary in determining whether to make a distribution  
16 of trust income or principal.

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18           **4-10-506. Creditor's claim against settlor.**

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

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1           (ii) Except for discretionary trusts created in  
2 accordance with W.S. 4-10-504(f) or irrevocable trusts  
3 providing that the trustee may only make discretionary  
4 distributions to the settlor, a creditor or assignee of the  
5 settlor of an irrevocable trust without a spendthrift  
6 provision, other than a creditor bringing any claim for forced  
7 heirship or legitime, may attach the maximum amount that can  
8 be distributed to or for the settlor's benefit. If a trust  
9 has more than one (1) settlor, the amount the creditor or  
10 assignee of a particular settlor may attach shall not exceed  
11 the settlor's interest in the portion of the trust  
12 attributable to that settlor's contribution.

13

14           (c) With respect to irrevocable trusts providing that  
15 the trustee may only make discretionary distributions to the  
16 settlor, a creditor or assignee of the right of a settlor,  
17 including a creditor bringing any claim for forced heirship  
18 or legitime, are limited by W.S. 4-10-504(b) if:

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20           **4-10-517. Rights of creditors or others with respect to**  
21 **qualified spendthrift trust.**

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1        (a) Notwithstanding any law to the contrary, a creditor  
2 or assignee of a settlor of a qualified spendthrift trust, or  
3 an agent of a creditor or settlor, has only those rights with  
4 respect to the qualified trust property as are provided in  
5 W.S. 4-10-514 through 4-10-523 and no creditor, assignee or  
6 agent may have any claim or cause of action against the  
7 trustee, trust protector, trust advisor or other fiduciary of  
8 the trust, or against any person involved in the counseling,  
9 drafting, administration, preparation, execution or funding  
10 of the trust unless the creditor, assignee or agent can prove  
11 by clear and convincing evidence that the transfer of property  
12 to the trust was a fraudulent transfer pursuant to the  
13 provisions of the Uniform Fraudulent Transfers Act. In the  
14 absence of clear and convincing proof, the property  
15 transferred is not subject to the claims of the creditor,  
16 assignee or agent. Proof by one (1) creditor, assignee or  
17 agent that a transfer of property to a qualified spendthrift  
18 trust was fraudulent or wrongful does not constitute proof as  
19 to any other creditor, assignee or agent and proof of a  
20 fraudulent or wrongful transfer of property as to one (1)  
21 creditor, assignee or agent shall not invalidate any other  
22 qualified transfer of property.

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1       (b) A creditor or assignee of a settlor of a trust or  
2 a beneficiary of a qualified spendthrift trust shall have no  
3 right to raise a claim for forced heirship or legitime. No  
4 creditor, assignee or agent shall have any claim or cause of  
5 action for forced heirship or legitime against the trustee,  
6 trust protector, trust advisor or other fiduciary of the  
7 qualified spendthrift trust or against any person involved in  
8 the counseling, drafting, administration, preparation,  
9 execution or funding of the trust. Any property transferred  
10 to the qualified spendthrift trust is not subject to the  
11 claims of a creditor, assignee or agent for forced heirship  
12 or legitime.

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14       **4-10-814. Discretionary powers; tax savings.**

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16       (e) A court may review a trustee's exercise of  
17 discretion concerning a discretionary distribution only if  
18 the trustee acts dishonestly, with improper motive or fails  
19 to use judgment.

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21       **Section 2.** This act is effective July 1, 2019.

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(END)