

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

PART 5

CREDITOR'S CLAIMS; SPENDTHRIFT, SUPPORT, AND DISCRETIONARY TRUSTS

700.7501 Application; purposes.

Sec. 7501. This part applies to a creditor's or transferee's claims with respect to spendthrift, support, and discretionary trusts.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7502 Spendthrift provision.

Sec. 7502. (1) A spendthrift provision is valid and enforceable.

(2) A term of a trust providing that the interest of a trust beneficiary is held subject to a "spendthrift trust," or words of similar import, restrains both voluntary and involuntary transfer of the trust beneficiary's interest.

(3) Except as provided in sections 7504, 7506, and 7507, the trust beneficiary's interest in a trust may not be transferred in violation of a valid spendthrift provision and trust property is not subject to enforcement of a judgment until distributed directly to the trust beneficiary.

(4) Notwithstanding the existence of a spendthrift provision in the terms of the trust, a trustee is not liable to the beneficiaries of the trust for making a distribution to which a trust beneficiary is otherwise entitled pursuant to the direction of the trust beneficiary.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7503 Trust for support.

Sec. 7503. (1) The interest of a trust beneficiary that is subject to a support provision may not be transferred and the trust property is not subject to the enforcement of a judgment until income or principal, or both, is distributed directly to the trust beneficiary. After a distribution to a trust beneficiary whose interest is subject to a support provision, the income and principal distributed are subject to the enforcement of a judgment only to the extent that the income or principal, or both, is not necessary for the health, education, support, or maintenance of the trust beneficiary.

(2) The use or enjoyment of trust property by a trust beneficiary whose interest is subject to a support provision may not be transferred and is not subject to the enforcement of a judgment against the trust beneficiary.

(3) Subsections (1) and (2) do not apply under circumstances described in section 7504, 7506, or 7507.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 177, Imd. Eff. June 20, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7504 Spendthrift provision or support provision; exceptions; "child" defined.

Sec. 7504. (1) The interest of a trust beneficiary that is subject to a spendthrift provision, a support provision, or both may be reached in satisfaction of an enforceable claim against the trust beneficiary by any of the following:

(a) A trust beneficiary's child or former spouse who has a judgment or court order against the trust beneficiary for support or maintenance.

(b) A judgment creditor who has provided services that enhance, preserve, or protect a trust beneficiary's interest in the trust.

(c) This state or the United States.

(2) The court shall order the trustee to satisfy all or part of a judgment described in subsection (1) only out of all or part of distributions of income or principal as they become due.

(3) Notwithstanding that the terms of the trust include a spendthrift provision, this section does not apply to the interest of a trust beneficiary that is subject to a discretionary trust provision.

(4) As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7505 Discretionary trust; effect of standard; right of transferee or creditor.

Sec. 7505. The transferee or creditor of the beneficiary of a discretionary trust provision does not have a right to any amount of trust income or principal that may be distributed only in the exercise of the trustee's discretion, and trust property is not subject to the enforcement of a judgment until income or principal, or both, is distributed directly to the trust beneficiary.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7506 Creditor's claim against settlor; "settlor" explained.

Sec. 7506. (1) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(a) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(b) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that at the settlor's death was revocable by the settlor, either alone or in conjunction with another person, is subject to expenses, claims, and allowances as provided in section 7605.

(c) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach no more than the lesser of the following:

(i) The claim of the creditor or assignee.

(ii) The maximum amount that can be distributed to or for the settlor's benefit exclusive of sums to pay the settlor's taxes during the settlor's lifetime.

(2) If a trust has more than 1 settlor, the amount a creditor or assignee of a particular settlor may reach under subsection (1)(c) must not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(3) A trust beneficiary is not considered a settlor merely because of a lapse, waiver, or release of a power of withdrawal over the trust property.

(4) An individual who creates a trust is not considered a settlor with regard to the individual's retained beneficial interest in the trust that follows the termination of the individual's spouse's prior beneficial interest in the trust if all of the following apply:

(a) During the lifetime of the individual's spouse, the only distributees or permissible distributees of the trust income or principal are either of the following:

(i) The individual's spouse.

(ii) The individual's spouse and either of the following:

(A) The individual's issue.

(B) The issue of the individual's spouse.

(b) The individual retains a beneficial interest in the trust income, trust principal, or both, which beneficial interest follows the termination of the individual's spouse's prior beneficial interest in the trust.

(5) An individual is not considered a settlor of a trust for the benefit of the individual:

(a) If the settlor is the individual's spouse, regardless of whether or when the individual was the settlor of a trust for the benefit of that spouse.

(b) To the extent that the property of trust was subject to a general power of appointment in another individual.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2024, Act 1, Imd. Eff. Feb. 21, 2024.

Popular name: EPIC

700.7507 Overdue distribution; "mandatory distribution" defined.

Sec. 7507. (1) Whether or not a trust contains a spendthrift provision, a creditor or assignee of a trust beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the trust beneficiary within a reasonable time after the designated distribution date.

(2) As used in this section, "mandatory distribution" means a distribution of income or principal that the trustee is required to make to a trust beneficiary under the terms of the trust, including a distribution upon termination of the trust. Mandatory distribution does not include a distribution subject to the exercise of the trustee's discretion even if either of the following applies:

(a) The direction is expressed in the form of a standard of distribution.

(b) The terms of the trust authorizing a distribution use language of discretion and language of direction.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7508 Personal obligations of trustee.

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Sec. 7508. Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 177, Imd. Eff. June 20, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7509-700.7511 Repealed. 2009, Act 46, Eff. Apr. 1, 2010.

Compiler's note: The repealed sections pertained to secured claims, claims not due, contingent claims, liquidated claims, and counterclaims.

Popular name: EPIC