

REFERENCE TITLE: **qualified spendthrift trusts**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1207

Introduced by
Senators Pace: Livingston; Representative Weninger

AN ACT

AMENDING SECTION 14-10505, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 11, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-10508; RELATING TO TRUSTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The article heading of title 14, chapter 11, article 5, Arizona
4 Revised Statutes, is changed from "CREDITOR'S CLAIMS; SPENDTHRIFT AND
5 DISCRETIONARY TRUSTS" to "CREDITOR'S CLAIMS; SPENDTHRIFT, DISCRETIONARY
6 AND QUALIFIED SPENDTHRIFT TRUSTS".

7 Sec. 2. Section 14-10505, Arizona Revised Statutes, is amended to
8 read:

9 14-10505. Creditor's claim against settlor

10 A. Whether or not the terms of a trust contain a spendthrift
11 provision, the following rules apply:

12 1. During the lifetime of the settlor, the property of a revocable
13 trust is subject to claims of the settlor's creditors. If a trust has
14 more than one settlor or contributor, the amount the creditor or assignee
15 of a particular settlor may reach may not exceed the settlor's interest in
16 the portion of the trust attributable to that settlor's contribution.
17 This paragraph does not abrogate otherwise applicable laws relating to
18 community property.

19 2. Subject to the requirements of this section, with respect to an
20 irrevocable trust, OTHER THAN AN IRREVOCABLE TRUST THAT MEETS THE
21 REQUIREMENTS OF SECTION 14-10508, a creditor or assignee of the settlor
22 may reach the maximum amount that can be distributed to or for the
23 settlor's benefit. If a trust has more than one settlor, the amount the
24 creditor or assignee of a particular settlor may reach may not exceed the
25 settlor's interest in the portion of the trust attributable to that
26 settlor's contribution. This paragraph does not apply to any trust from
27 which any distribution to the settlor can be made pursuant to the exercise
28 of a power of appointment held by a third party or abrogate otherwise
29 applicable laws relating to community property. A creditor of a settlor:

30 (a) Shall not reach any trust property based on a trustee's, trust
31 protector's or third party's power, whether or not discretionary, to pay
32 or reimburse the settlor for any income tax on trust income or trust
33 principal that is payable by the settlor under the law imposing the tax or
34 to pay the tax directly to any taxing authority.

35 (b) Is not entitled to any payment or reimbursement that is to be
36 made directly to any taxing authority.

37 (c) Shall not reach or compel distributions to or for the benefit
38 of the beneficiary of a special needs trust.

39 3. After the death of a settlor, and subject to the settlor's right
40 to direct the source from which liabilities will be paid, the property of
41 a trust that was revocable at the settlor's death is subject to claims of
42 the settlor's creditors, costs of administration of the settlor's estate,
43 the expenses of the settlor's funeral and disposal of remains and
44 statutory allowances to a surviving spouse and children to the extent the
45 settlor's probate estate is inadequate to satisfy those claims, costs,

1 expenses and allowances, except to the extent that state or federal law
2 exempts any property of the trust from these claims, costs, expenses or
3 allowances. If a trust has more than one settlor or contributor, the
4 amount the creditor or assignee of a particular settlor may reach may not
5 exceed the settlor's interest in the portion of the trust attributable to
6 that settlor's contribution. This paragraph does not abrogate otherwise
7 applicable laws relating to community property.

8 B. For the purposes of this section:

9 1. During the period the power may be exercised, the holder of a
10 power of withdrawal is treated in the same manner as the settlor of a
11 revocable trust to the extent of the property subject to the power.

12 2. On the lapse, release or waiver of a power of withdrawal, the
13 holder is not, by reason of any such power of withdrawal, treated as the
14 settlor of the trust.

15 C. For the purposes of this section, a trust settled or established
16 by a corporation, professional corporation, partnership, limited liability
17 company, governmental entity, trust, foundation or other entity is not
18 deemed to be settled or established by its directors, officers,
19 shareholders, partners, members, managers, employees, beneficiaries or
20 agents.

21 D. For the purposes of this section, amounts contributed to a trust
22 by a corporation, professional corporation, partnership, limited liability
23 company, governmental entity, trust, foundation or other entity are not
24 deemed to have been contributed by its directors, officers, shareholders,
25 partners, employees, beneficiaries or agents. Powers, duties or
26 responsibilities granted to or reserved by the settlor pursuant to the
27 trust and any actions or omissions taken pursuant to the trust are deemed
28 to be the powers, responsibilities, duties, actions or omissions of the
29 settlor and not those of its directors, officers, shareholders, partners,
30 members, managers, employees, beneficiaries or agents.

31 E. For the purposes of this section, amounts and property
32 contributed to the following trusts are not deemed to have been
33 contributed by the settlor, and a person who would otherwise be treated as
34 a settlor or a deemed settlor of the following trusts shall not be treated
35 as a settlor:

36 1. An irrevocable inter vivos marital trust that is treated as
37 qualified terminable interest property under section 2523(f) of the
38 internal revenue code if the settlor is a beneficiary of the trust after
39 the death of the settlor's spouse.

40 2. An irrevocable inter vivos marital trust that is treated as a
41 general power of appointment trust under section 2523(e) of the internal
42 revenue code if the settlor is a beneficiary of the trust after the death
43 of the settlor's spouse.

1 3. An irrevocable inter vivos trust for the settlor's spouse if the
2 settlor is a beneficiary of the trust after the death of the settlor's
3 spouse.

4 4. An irrevocable trust for the benefit of a person, the settlor of
5 which is the person's spouse, regardless of whether or when the person was
6 the settlor of an irrevocable trust for the benefit of that spouse.

7 5. An irrevocable trust for the benefit of a person to the extent
8 that the property of the trust was subject to a general power of
9 appointment in another person.

10 F. For the purposes of subsection E **OF THIS SECTION**, a person is a
11 beneficiary whether so named under the initial trust instrument or through
12 the exercise by that person's spouse or by another person of a limited or
13 general power of appointment.

14 G. Subsections C and D **OF THIS SECTION** do not apply to:

15 1. A trust that has no valid business purpose and that has as its
16 principal purpose the evasion of the claims of the creditors of the
17 persons or entities listed in those subsections.

18 2. A trust that would be treated as a grantor trust pursuant to
19 sections 671 through 679 of the internal revenue code. This paragraph
20 does not apply to a qualified subchapter S trust that is treated as a
21 grantor trust solely by application of section 1361(d) of the internal
22 revenue code.

23 Sec. 3. Title 14, chapter 11, article 5, Arizona Revised Statutes,
24 is amended by adding section 14-10508, to read:

25 14-10508. Qualified spendthrift trusts; definitions

26 A. A CREDITOR OF THE SETTLOR OF A QUALIFIED SPENDTHRIFT TRUST MAY
27 NOT DO ANY OF THE FOLLOWING:

28 1. SATISFY A CLAIM OR LIABILITY OF THE SETTLOR IN EITHER LAW OR
29 EQUITY OUT OF THE SETTLOR'S TRANSFER TO A QUALIFIED SPENDTHRIFT TRUST OR
30 THE SETTLOR'S BENEFICIAL INTEREST IN A QUALIFIED SPENDTHRIFT TRUST.

31 2. REQUIRE THE TRUSTEE TO MAKE A DISTRIBUTION TO THE SETTLOR, AS
32 BENEFICIARY.

33 3. REQUIRE THE TRUSTEE TO PAY ANY DISTRIBUTION DIRECTLY TO THE
34 CREDITOR OR TO OTHERWISE ATTACH THE DISTRIBUTION BEFORE IT HAS BEEN PAID
35 OR DELIVERED BY THE TRUSTEE TO THE SETTLOR, AS BENEFICIARY.

36 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THIS SECTION DOES
37 NOT:

38 1. PROHIBIT A CREDITOR FROM SATISFYING A CLAIM OR LIABILITY FROM
39 THE DISTRIBUTION ONCE THE TRUSTEE HAS PAID OR DELIVERED THE DISTRIBUTION
40 TO, AND THE DISTRIBUTION HAS BEEN RECEIVED BY, THE SETTLOR, AS
41 BENEFICIARY.

42 2. NULLIFY OR IMPAIR A SECURITY INTEREST THAT A SETTLOR OR A
43 TRUSTEE GRANTED WITH RESPECT TO PROPERTY THAT IS TRANSFERRED TO THE
44 QUALIFIED SPENDTHRIFT TRUST.

1 C. SUBSECTION A OF THIS SECTION APPLIES ONLY IF THE QUALIFIED
2 SPENDTHRIFT TRUST SATISFIES THE FOLLOWING CONDITIONS:

3 1. THE TRUST INSTRUMENT PROVIDES THAT THE TRUST IS GOVERNED BY
4 ARIZONA LAW AND IS ESTABLISHED PURSUANT TO THIS SECTION.

5 2. THE TRUST INSTRUMENT REQUIRES THAT AT ALL TIMES AT LEAST ONE
6 TRUSTEE SHALL BE A QUALIFIED TRUSTEE.

7 3. THE TRUST INSTRUMENT PROVIDES THAT NEITHER THE INTEREST OF THE
8 SETTLOR, AS BENEFICIARY, NOR THE INCOME OR PRINCIPAL OF THE TRUST MAY BE
9 VOLUNTARILY OR INVOLUNTARILY TRANSFERRED BY THE SETTLOR, AS BENEFICIARY.
10 THIS PROVISION SHALL BE CONSIDERED TO BE A RESTRICTION ON THE TRANSFER OF
11 THE SETTLOR'S BENEFICIAL INTEREST IN THE TRUST THAT IS ENFORCEABLE UNDER
12 APPLICABLE NONBANKRUPTCY LAW WITHIN THE MEANING OF 11 UNITED STATES CODE
13 SECTION 541(c)(2).

14 4. THE SETTLOR MAY NOT HAVE THE ABILITY UNDER THE TRUST INSTRUMENT,
15 WITHOUT THE EXPRESS WRITTEN CONSENT OF A PERSON WHO HAS A SUBSTANTIAL
16 BENEFICIAL INTEREST IN THE TRUST AND WHICH INTEREST WOULD BE ADVERSELY
17 AFFECTED BY THE EXERCISE OF THE POWER HELD BY THE SETTLOR, TO DO ANY OF
18 THE FOLLOWING:

19 (a) REVOKE, AMEND OR TERMINATE ALL OR ANY PART OF THE TRUST, OTHER
20 THAN TO AMEND THE TRUST TO COMPLY WITH THE REQUIREMENTS OF THIS
21 SUBSECTION.

22 (b) WITHDRAW ANY PROPERTY FROM THE TRUST, EXCEPT THAT THE TRUST
23 INSTRUMENT MAY PROVIDE THAT THE SETTLOR, WITHOUT THE APPROVAL OR CONSENT
24 OF ANY PERSON, MAY SUBSTITUTE ASSETS OF SUBSTANTIALLY EQUIVALENT VALUE
25 PURSUANT TO SECTION 675(4)(C) OF THE INTERNAL REVENUE CODE OR ANY
26 SUCCESSOR PROVISION.

27 5. THE TRUST INSTRUMENT MAY NOT PROVIDE FOR ANY MANDATORY
28 DISTRIBUTIONS OF EITHER INCOME OR PRINCIPAL TO THE SETTLOR, AS
29 BENEFICIARY, EXCEPT AS PROVIDED IN SUBSECTION F, PARAGRAPH 4 OF THIS
30 SECTION.

31 6. THE FOLLOWING NOTICE OF DISTRIBUTION REQUIREMENTS APPLY:

32 (a) THE TRUST INSTRUMENT REQUIRES THAT, AT LEAST THIRTY DAYS BEFORE
33 PAYING AND DELIVERING ANY DISTRIBUTION TO THE SETTLOR, AS BENEFICIARY, THE
34 TRUSTEE NOTIFY IN WRITING EVERY PERSON WHO HAS A SPECIFIED DOMESTIC
35 OBLIGATION AGAINST THE SETTLOR.

36 (b) THE TRUST INSTRUMENT REQUIRES THAT THE NOTICE STATE THE
37 EARLIEST DATE THE DISTRIBUTION WILL BE PAID AND DELIVERED AND THE AMOUNT
38 OF THE DISTRIBUTION.

39 7. AT THE TIME THAT THE SETTLOR TRANSFERS ANY ASSETS TO THE TRUST,
40 THE SETTLOR MAY NOT BE IN DEFAULT OF MAKING A PAYMENT DUE UNDER A
41 SPECIFIED DOMESTIC OBLIGATION, EXCEPT THAT THIS PARAGRAPH DOES NOT APPLY
42 IF THE PAYMENT IS MADE WITHIN THIRTY DAYS AFTER RECEIPT OF WRITTEN NOTICE
43 BY THE SETTLOR THAT THE PAYMENT IS PAST DUE AND THE THIRD-PARTY PAYEE IS
44 BROUGHT CURRENT, INCLUDING ANY APPLICABLE INTEREST OR RELATED CHARGES.

1 8. A TRANSFER OF ASSETS TO THE TRUST MAY NOT RENDER THE SETTLOR
2 INSOLVENT.

3 9. AT THE TIME THE SETTLOR TRANSFERS ANY ASSETS TO THE TRUST, THE
4 SETTLOR MAY NOT INTEND TO HINDER, DELAY OR DEFRAUD A KNOWN CREDITOR BY
5 TRANSFERRING THE ASSETS TO THE TRUST. A SETTLOR'S EXPRESSED OR
6 UNEXPRESSED INTENTION TO PROTECT TRUST ASSETS FROM THE SETTLOR'S POTENTIAL
7 FUTURE CREDITORS IS NOT EVIDENCE OF AN INTENT TO HINDER, DELAY OR DEFRAUD
8 A KNOWN CREDITOR.

9 10. ASSETS TRANSFERRED TO THE TRUST MAY NOT BE DERIVED FROM
10 ACTIVITIES THAT ARE UNLAWFUL UNDER APPLICABLE STATE LAW.

11 11. WITH RESPECT TO EACH TRANSFER OF ASSETS TO THE TRUST, THE
12 SETTLOR SIGNS A SUBSTANTIALLY CONTEMPORANEOUS SWORN AND ACKNOWLEDGED
13 AFFIDAVIT STATING THAT AT THE TIME OF THE TRANSFER OF THE ASSETS TO THE
14 TRUST:

15 (a) THE SETTLOR HAS FULL RIGHT, TITLE AND AUTHORITY TO TRANSFER THE
16 ASSETS TO THE TRUST.

17 (b) THE TRANSFER OF THE ASSETS TO THE TRUST WILL NOT RENDER THE
18 SETTLOR INSOLVENT.

19 (c) THE SETTLOR DOES NOT INTEND TO HINDER, DELAY OR DEFRAUD A KNOWN
20 CURRENT CREDITOR BY TRANSFERRING THE ASSETS TO THE TRUST.

21 (d) THERE IS NO PENDING OR THREATENED ARBITRATION PROCEEDING OR
22 COURT ACTION AGAINST THE SETTLOR, EXCEPT FOR PENDING OR THREATENED COURT
23 ACTIONS AND PROCEEDINGS IDENTIFIED BY THE SETTLOR ON AN ATTACHMENT TO THE
24 AFFIDAVIT.

25 (e) THE SETTLOR IS NOT INVOLVED IN AN ADMINISTRATIVE PROCEEDING
26 THAT IS REASONABLY EXPECTED TO HAVE A MATERIAL ADVERSE EFFECT ON THE
27 FINANCIAL CONDITION OF THE SETTLOR, EXCEPT AN ADMINISTRATIVE PROCEEDING
28 IDENTIFIED ON AN ATTACHMENT TO THE AFFIDAVIT.

29 (f) AT THE TIME OF THE TRANSFER OF THE ASSETS TO THE TRUST, THE
30 SETTLOR IS NOT IN DEFAULT OF A SPECIFIED DOMESTIC OBLIGATION.

31 (g) THE SETTLOR IS NOT CURRENTLY CONTEMPLATING FILING FOR RELIEF AS
32 A DEBTOR UNDER TITLE 11 OF THE UNITED STATES CODE.

33 (h) THE ASSETS BEING TRANSFERRED TO THE TRUST WERE NOT DERIVED FROM
34 ACTIVITIES THAT ARE UNLAWFUL UNDER APPLICABLE STATE LAW.

35 D. IF SUBSECTION C OF THIS SECTION REQUIRES THAT A PROVISION BE
36 INCLUDED IN THE TRUST INSTRUMENT OF A QUALIFIED SPENDTHRIFT TRUST, NO
37 PARTICULAR LANGUAGE MUST BE USED IN THE TRUST INSTRUMENT IF THE MEANING OF
38 THE TRUST INSTRUMENT OTHERWISE COMPLIES WITH SUBSECTION C OF THIS SECTION.

39 E. THE FOLLOWING APPLY TO A TRUST INSTRUMENT THAT DOES NOT SATISFY
40 THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION:

41 1. IF ANY OF THE REQUIREMENTS UNDER SUBSECTION C, PARAGRAPHS 1, 2,
42 3, 4, 5 AND 6 OF THIS SECTION ARE NOT SATISFIED, NONE OF THE PROPERTY HELD
43 IN THE QUALIFIED SPENDTHRIFT TRUST WILL AT ANY TIME HAVE THE BENEFIT OF
44 THE PROTECTIONS DESCRIBED IN SUBSECTION A OF THIS SECTION, UNLESS THE
45 FAILURE TO COMPLY IS REMEDIED BY THE SETTLOR OR A TRUST PROTECTOR

1 APPOINTED PURSUANT TO SECTION 14-10818 WITHIN A REASONABLE TIME AFTER
2 DISCOVERY AND THE CLAIMANT WAS NOT HARMED BY THE FAILURE AFTER THE REMEDY.

3 2. IF THE TRUSTEE DOES NOT SEND THE NOTICE REQUIRED UNDER
4 SUBSECTION C, PARAGRAPH 6 OF THIS SECTION, THE COURT MAY AUTHORIZE ANY
5 PERSON WITH A SPECIFIED DOMESTIC OBLIGATION AGAINST THE SETTLOR TO WHOM
6 NOTICE WAS NOT SENT TO ATTACH THE DISTRIBUTION OR FUTURE DISTRIBUTIONS,
7 BUT THE PERSON MAY NOT DO EITHER OF THE FOLLOWING:

8 (a) SATISFY THE SPECIFIED DOMESTIC OBLIGATION OUT OF THE SETTLOR'S
9 TRANSFER TO THE QUALIFIED SPENDTHRIFT TRUST OR THE SETTLOR'S BENEFICIAL
10 INTEREST IN THE QUALIFIED SPENDTHRIFT TRUST.

11 (b) REQUIRE THE TRUSTEE TO MAKE A DISTRIBUTION TO THE SETTLOR, AS
12 BENEFICIARY.

13 3. IF THE REQUIREMENT DESCRIBED IN SUBSECTION C, PARAGRAPH 7 OF
14 THIS SECTION IS NOT SATISFIED, THE PROPERTY THAT IS TRANSFERRED TO THE
15 QUALIFIED SPENDTHRIFT TRUST AND THAT DOES NOT SATISFY THE REQUIREMENT DOES
16 NOT HAVE THE BENEFIT OF THE PROTECTIONS DESCRIBED IN SUBSECTION A OF THIS
17 SECTION WITH RESPECT TO ANY PERSON WITH A SPECIFIED DOMESTIC OBLIGATION.

18 4. IF ANY OF THE REQUIREMENTS DESCRIBED IN SUBSECTION C, PARAGRAPHS
19 8, 9, 10 AND 11 OF THIS SECTION ARE NOT SATISFIED, THE PROPERTY THAT IS
20 TRANSFERRED TO THE QUALIFIED SPENDTHRIFT TRUST AND THAT DOES NOT SATISFY
21 THESE REQUIREMENTS DOES NOT HAVE THE BENEFIT OF THE PROTECTIONS DESCRIBED
22 IN SUBSECTION A OF THIS SECTION. WITH RESPECT TO SUBSECTION C, PARAGRAPH
23 11, SUBDIVISION (f) OF THIS SECTION, IF THE DEFAULT IS CURED PURSUANT TO
24 SUBSECTION C, PARAGRAPH 7 OF THIS SECTION, THE REQUIREMENT IS SATISFIED.

25 5. A CREDITOR OF THE SETTLOR HAS THE BURDEN OF PROVING THAT THE
26 REQUIREMENT DESCRIBED IN SUBSECTION C, PARAGRAPH 8 OR 9 OF THIS SECTION IS
27 NOT SATISFIED BY CLEAR AND CONVINCING EVIDENCE.

28 F. SUBSECTION A OF THIS SECTION MAY APPLY TO A QUALIFIED
29 SPENDTHRIFT TRUST EVEN IF ONE OF THE FOLLOWING APPLIES:

30 1. THE SETTLOR OF THE QUALIFIED SPENDTHRIFT TRUST HOLDS OTHER
31 POWERS UNDER THE QUALIFIED SPENDTHRIFT TRUST, WHETHER OR NOT THE SETTLOR
32 IS A COTRUSTEE, INCLUDING, WITHOUT LIMITATION, THE POWER TO REMOVE AND
33 REPLACE A TRUSTEE OR TRUST PROTECTOR, REMOVE AND REPLACE AN ADVISOR,
34 DIRECT TRUST INVESTMENTS AND EXECUTE OTHER MANAGEMENT POWERS.

35 2. THE TRUST INSTRUMENT GIVES THE SETTLOR THE POWER TO CONSENT TO
36 OR VETO A DISTRIBUTION FROM THE QUALIFIED SPENDTHRIFT TRUST.

37 3. THE TRUST INSTRUMENT GIVES THE SETTLOR A SPECIAL LIFETIME OR
38 TESTAMENTARY POWER OF APPOINTMENT THAT CANNOT BE EXERCISED IN FAVOR OF THE
39 SETTLOR, THE SETTLOR'S ESTATE, A CREDITOR OF THE SETTLOR OR A CREDITOR OF
40 THE SETTLOR'S ESTATE, AS DEFINED IN SECTION 2041 OF THE INTERNAL REVENUE
41 CODE.

42 4. THE TRUST INSTRUMENT GIVES THE SETTLOR THE POTENTIAL OR ACTUAL
43 RIGHT TO RECEIVE THE FOLLOWING TYPES OF DISTRIBUTIONS:

44 (a) INCOME OR PRINCIPAL FROM THE QUALIFIED SPENDTHRIFT TRUST, BUT
45 ONLY SUBJECT TO THE DISCRETION OF ANOTHER PERSON.

1 (b) INCOME OR PRINCIPAL FROM A CHARITABLE REMAINDER UNITRUST OR
2 CHARITABLE REMAINDER ANNUITY TRUST AS THOSE TERMS ARE DEFINED IN SECTION
3 664 OF THE INTERNAL REVENUE CODE AND THE SETTLOR'S RIGHT, AT ANY TIME BY
4 WRITTEN INSTRUMENT DELIVERED TO THE TRUSTEE, TO RELEASE THE SETTLOR'S
5 INTEREST IN THE QUALIFIED SPENDTHRIFT TRUST, IN WHOLE OR IN PART, IN FAVOR
6 OF A CHARITABLE ORGANIZATION THAT HAS OR CHARITABLE ORGANIZATIONS THAT
7 HAVE A SUCCEEDING REMAINDER BENEFICIAL INTEREST IN THE QUALIFIED
8 SPENDTHRIFT TRUST.

9 (c) INCOME OR PRINCIPAL FROM A GRANTOR RETAINED ANNUITY TRUST OR
10 GRANTOR RETAINED UNITRUST AS THOSE TERMS ARE DESCRIBED IN SECTION 2702 OF
11 THE INTERNAL REVENUE CODE OR THE SETTLOR'S RECEIPT EACH YEAR OF A
12 PERCENTAGE, AS PROVIDED IN THE TRUST INSTRUMENT, OF THE INITIAL VALUE OF
13 THE TRUST PROPERTY, WHICH VALUE MAY BE DESCRIBED EITHER AS A PERCENTAGE OR
14 A FIXED AMOUNT OR DETERMINED FROM TIME TO TIME UNDER THE TRUST INSTRUMENT.

15 (d) THE SETTLOR'S POTENTIAL OR ACTUAL USE OF REAL PROPERTY HELD
16 UNDER A QUALIFIED PERSONAL RESIDENCE TRUST WITHIN THE MEANING OF THAT TERM
17 AS DESCRIBED IN SECTION 2702(c) OF THE INTERNAL REVENUE CODE, AND
18 REGULATIONS ADOPTED THEREUNDER, OR THE SETTLOR'S POSSESSION AND ENJOYMENT
19 OF A QUALIFIED ANNUITY INTEREST AS DEFINED IN THE INTERNAL REVENUE CODE OR
20 THE TREASURY REGULATIONS ADOPTED THEREUNDER.

21 (e) INCOME OR PRINCIPAL TO PAY, IN WHOLE OR IN PART, INCOME TAXES
22 DUE ON INCOME OF THE QUALIFIED SPENDTHRIFT TRUST IF THE POTENTIAL OR
23 ACTUAL RECEIPT OF INCOME OR PRINCIPAL IS UNDER A PROVISION IN THE TRUST
24 INSTRUMENT THAT EXPRESSLY PROVIDES FOR THE PAYMENT OF THOSE TAXES AND IF
25 THE POTENTIAL OR ACTUAL RECEIPT OF INCOME OR PRINCIPAL WOULD BE THE RESULT
26 OF A QUALIFIED TRUSTEE'S OR QUALIFIED TRUSTEES' ACTING IN ANY OF THE
27 FOLLOWING WAYS:

28 (i) IN THE QUALIFIED TRUSTEE'S OR QUALIFIED TRUSTEES' DISCRETION OR
29 UNDER A MANDATORY DIRECTION IN THE TRUST INSTRUMENT.

30 (ii) AT THE DIRECTION OF AN ADVISOR WHO IS ACTING IN THE ADVISOR'S
31 DISCRETION.

32 (f) AFTER THE SETTLOR'S DEATH, WITHOUT REGARD TO THE SOURCE OF
33 PAYMENT, THE PAYMENT OF THE SETTLOR'S DEBTS, THE PAYMENT OF THE EXPENSES
34 OF ADMINISTERING THE SETTLOR'S ESTATE OR THE PAYMENT OF ANY ESTATE OR
35 INHERITANCE TAX IMPOSED ON OR WITH RESPECT TO THE SETTLOR'S ESTATE,
36 PURSUANT TO THE POWER OF A QUALIFIED TRUSTEE.

37 (g) THE MINIMUM REQUIRED DISTRIBUTION AS DEFINED IN SECTION 4974(b)
38 OF THE INTERNAL REVENUE CODE WITH RESPECT TO A RETIREMENT BENEFIT.

39 5. THE TRUST INSTRUMENT AUTHORIZES THE SETTLOR TO USE REAL OR
40 PERSONAL PROPERTY OWNED BY THE QUALIFIED SPENDTHRIFT TRUST.

41 6. WITH RESPECT TO THE PROPERTY HELD IN THE QUALIFIED SPENDTHRIFT
42 TRUST, THE SETTLOR MAY:

43 (a) GIVE A PERSONAL GUARANTEE ON A DEBT OR OBLIGATION SECURED BY
44 THE PROPERTY.

1 (b) MAKE PAYMENTS, DIRECTLY OR INDIRECTLY, ON A DEBT OR OBLIGATION
2 SECURED BY THE PROPERTY.

3 (c) PAY PROPERTY TAXES, CASUALTY AND LIABILITY INSURANCE PREMIUMS,
4 HOMEOWNER ASSOCIATION DUES, MAINTENANCE EXPENSES OR OTHER SIMILAR EXPENSES
5 ON THE PROPERTY.

6 (d) PAY INCOME TAX ON INCOME ATTRIBUTABLE TO THE PORTION OF THE
7 PROPERTY HELD IN THE QUALIFIED SPENDTHRIFT TRUST, OF WHICH THE SETTLOR IS
8 CONSIDERED TO BE THE OWNER UNDER SECTIONS 671 THROUGH 678 OF THE INTERNAL
9 REVENUE CODE. THESE PAYMENTS WILL NOT BE CONSIDERED ADDITIONAL TRANSFERS
10 TO THE QUALIFIED SPENDTHRIFT TRUST FOR PURPOSES OF THIS SECTION.

11 G. IF A TRUST INSTRUMENT CONTAINS THE PROVISIONS DESCRIBED IN
12 SUBSECTION E, PARAGRAPHS 1, 2, 3, 4, 5 AND 6 OF THIS SECTION, A CREDITOR
13 OR OTHER PERSON MAY ASSERT A CAUSE OF ACTION AGAINST AND HAVE RECOURSE
14 FROM ONLY THE FOLLOWING:

15 1. THE TRUSTEE OF THE QUALIFIED SPENDTHRIFT TRUST FOR PURPOSES OF
16 BINDING THE TRUST AND THE ASSETS OF THE QUALIFIED SPENDTHRIFT TRUST.

17 2. THE SETTLOR, TO THE EXTENT OTHERWISE ALLOWED IN THIS SECTION.
18 THE CREDITOR OR OTHER PERSON DOES NOT HAVE A CAUSE OF ACTION OR CLAIM FOR
19 RELIEF AGAINST A TRUSTEE PERSONALLY OR AGAINST AN ADVISOR FOR THE SETTLOR,
20 INCLUDING OTHERS INVOLVED IN THE COUNSELING, DRAFTING, PREPARATION,
21 EXECUTION OR FUNDING OF THE QUALIFIED SPENDTHRIFT TRUST, FOR, AMONG OTHER
22 THINGS, CONSPIRACY TO COMMIT FRAUDULENT CONVEYANCE OR ANY OTHER VOIDABLE
23 TRANSFER, AIDING AND ABETTING A FRAUDULENT CONVEYANCE OR ANY OTHER
24 VOIDABLE TRANSFER, PARTICIPATING IN THE QUALIFIED SPENDTHRIFT TRUST
25 TRANSACTION OR ANY OTHER SIMILAR CAUSE OF ACTION OR CLAIM FOR RELIEF. THE
26 CREDITOR OR OTHER PERSON WHO IS PREVENTED FROM ASSERTING A CAUSE OF ACTION
27 OR CLAIM FOR RELIEF UNDER THIS SUBSECTION, INCLUDING A CLAIM AGAINST AN
28 ADVISOR, MAY ASSERT A CAUSE OF ACTION AGAINST, AND IS LIMITED TO RECOURSE
29 AGAINST, ONLY THE QUALIFIED SPENDTHRIFT TRUST AND THE TRUST ASSETS AND THE
30 SETTLOR, TO THE EXTENT OTHERWISE ALLOWED IN THIS SECTION. FOR THE
31 PURPOSES OF THIS PARAGRAPH, "COUNSELING, DRAFTING, PREPARATION, EXECUTION
32 OR FUNDING OF THE QUALIFIED SPENDTHRIFT TRUST" INCLUDES THE PREPARATION
33 AND FUNDING OF A LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY OR ANY
34 OTHER ENTITY IF INTERESTS IN THE ENTITY ARE SUBSEQUENTLY TRANSFERRED TO
35 THE QUALIFIED SPENDTHRIFT TRUST.

36 H. THE FOLLOWING RULES APPLY TO A CAUSE OF ACTION OR A CLAIM FOR
37 RELIEF UNDER THIS SECTION:

38 1. A CAUSE OF ACTION OR CLAIM FOR RELIEF UNDER SUBSECTION E,
39 PARAGRAPH 8 OR 9 IS A CAUSE OF ACTION OR CLAIM FOR RELIEF UNDER SECTION
40 44-1004 OR 44-1005.

41 2. EXCEPT AS PROVIDED IN PARAGRAPH 1 OF THIS SUBSECTION, A CAUSE OF
42 ACTION OR CLAIM FOR RELIEF PURSUANT TO THIS SUBSECTION IS NOT A CAUSE OF
43 ACTION OR CLAIM FOR RELIEF UNDER TITLE 44, CHAPTER 8, ARTICLE 1.

44 3. NOTWITHSTANDING SECTION 44-1009 AND IN ADDITION TO MEETING THE
45 REQUIREMENTS OF PARAGRAPH 4 OF THIS SUBSECTION, A CREDITOR'S CAUSE OF

1 ACTION OR CLAIM FOR RELIEF REGARDING A FRAUDULENT CONVEYANCE OR OTHER
2 VOIDABLE TRANSFER OF A SETTLOR'S ASSETS UNDER THIS SECTION, IF NOT BARRED
3 EARLIER BY ANY OTHER STATUTE OF LIMITATIONS OR NONCLAIM STATUTE, IS BARRED
4 AGAINST THE SETTLOR AND THE QUALIFIED SPENDTHRIFT TRUST UNLESS THE
5 CREDITOR'S CAUSE OF ACTION OR CLAIM FOR RELIEF IS BROUGHT WITHIN THE
6 EARLIEST OF THE APPLICABLE TIME PERIODS AS FOLLOWS:

7 (a) IN THE CASE OF A CREDITOR WHOSE CAUSE OF ACTION OR CLAIM FOR
8 RELIEF AROSE BEFORE THE TRANSFER, THE LATER OF FOUR YEARS AFTER THE DATE
9 OF THE TRANSFER OR ONE YEAR AFTER THE TRANSFER IS OR REASONABLY COULD HAVE
10 BEEN DISCOVERED THROUGH THE EXERCISE OF REASONABLE DILIGENCE BY THE
11 CREDITOR.

12 (b) IN THE CASE OF A CREDITOR WHOSE CAUSE OF ACTION OR CLAIM FOR
13 RELIEF AROSE CONCURRENT WITH OR AFTER THE TRANSFER, THE LATER OF TWO YEARS
14 AFTER THE TRANSFER IS MADE OR SIX MONTHS AFTER THE TRANSFER IS OR
15 REASONABLY COULD HAVE BEEN DISCOVERED THROUGH THE EXERCISE OF REASONABLE
16 DILIGENCE BY THE CREDITOR.

17 (c) IN THE CASE OF A CREDITOR KNOWN TO THE SETTLOR WHO IS GIVEN
18 NOTICE AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, WITHIN SIX MONTHS
19 FROM THE MAILING OF THE NOTICE.

20 (d) IN THE CASE OF ANY OTHER CREDITOR, FOUR YEARS AFTER THE DATE OF
21 THE FIRST PUBLICATION OF THE NOTICE PROVIDED IN PARAGRAPH 6 OF THIS
22 SUBSECTION.

23 4. A CREDITOR MUST PROVE BY CLEAR AND CONVINCING EVIDENCE:

24 (a) THE CREDITOR'S CAUSE OF ACTION OR CLAIM FOR RELIEF UNDER THIS
25 SUBSECTION.

26 (b) FOR PURPOSES OF DETERMINING THE APPLICABLE PERIOD OF
27 LIMITATIONS UNDER THIS SUBSECTION, WHETHER THE CAUSE OF ACTION OR CLAIM
28 FOR RELIEF AROSE BEFORE, CONCURRENT WITH OR AFTER THE TRANSFER.

29 5. A SETTLOR MAY GIVE WRITTEN NOTICE BY MAIL OR OTHER REASONABLE
30 MANNER OF DELIVERY TO A CREDITOR KNOWN TO THE SETTLOR. THE NOTICE SHALL:

31 (a) STATE THE NAME AND ADDRESS OF THE SETTLOR OR THE SETTLOR'S
32 REPRESENTATIVE.

33 (b) STATE THE NAME AND ADDRESS OF THE TRUSTEE OR THE TRUSTEE'S
34 REPRESENTATIVE.

35 (c) DESCRIBE THE ASSETS THAT WERE TRANSFERRED AND THE VALUE OF
36 CASH, CASH EQUIVALENT AND READILY MARKETABLE SECURITIES.

37 (d) INFORM THE CREDITOR THAT THE CREDITOR IS REQUIRED TO BRING THE
38 CREDITOR'S CAUSE OF ACTION OR CLAIM FOR RELIEF AGAINST THE SETTLOR, THE
39 QUALIFIED SPENDTHRIFT TRUST OR THE TRUSTEE OF THE TRUST, OR ANY
40 COMBINATION, WITHIN SIX MONTHS AFTER THE MAILING OF THE NOTICE OR BE
41 FOREVER BARRED.

42 6. A SETTLOR MAY PUBLISH NOTICE IN A NEWSPAPER OF GENERAL
43 CIRCULATION IN THE COUNTY IN WHICH THE SETTLOR THEN RESIDES OR IN MARICOPA
44 COUNTY OR PIMA COUNTY IF THE SETTLOR IS A NONRESIDENT. THE NOTICE:

1 (a) SHALL STATE THE NAME AND ADDRESS OF THE SETTLOR OR THE
2 SETTLOR'S REPRESENTATIVE.

3 (b) SHALL STATE THE NAME AND ADDRESS OF THE TRUSTEE OR THE
4 TRUSTEE'S REPRESENTATIVE.

5 (c) SHALL DESCRIBE THE ASSETS THAT WERE TRANSFERRED AND THE VALUE
6 OF CASH, CASH EQUIVALENT AND READILY MARKETABLE SECURITIES.

7 (d) SHALL INFORM THE CREDITOR WHOSE CLAIM ARISES BEFORE THE DATE OF
8 THE FIRST PUBLICATION THAT THE CREDITOR IS REQUIRED TO BRING THE
9 CREDITOR'S CAUSE OF ACTION OR CLAIM FOR RELIEF AGAINST THE SETTLOR, THE
10 QUALIFIED SPENDTHRIFT TRUST OR THE TRUSTEE OF THE QUALIFIED SPENDTHRIFT
11 TRUST, OR ANY COMBINATION, WITHIN FOUR YEARS AFTER THE DATE OF THE FIRST
12 PUBLICATION OF THE NOTICE OR BE FOREVER BARRED.

13 (e) MAY BE PUBLISHED MORE THAN ONCE, AND THE PUBLICATION OF A
14 SUBSEQUENT NOTICE DOES NOT EXTEND THE PERIOD OF TIME PROVIDED IN THIS
15 SUBSECTION WITH RESPECT TO CREDITORS WHOSE CLAIMS AROSE BEFORE THE DATE OF
16 THE FIRST PUBLICATION OF ANY PRIOR NOTICE.

17 (f) SHALL BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS.

18 7. THE FAILURE TO GIVE THE NOTICE PRESCRIBED IN PARAGRAPH 5 OR 6 OF
19 THIS SUBSECTION TO A CREDITOR DOES NOT PREVENT THE SHORTENING OF THE
20 LIMITATIONS PERIOD UNDER THIS SUBSECTION WITH RESPECT TO ANOTHER CREDITOR
21 WHO PROPERLY RECEIVED NOTICE UNDER PARAGRAPH 5 OR 6 OF THIS SUBSECTION.

22 8. A CREDITOR IS DEEMED TO HAVE DISCOVERED A TRANSFER BEGINNING ON
23 THE DATE OF THE FIRST PUBLICATION OF NOTICE AS PROVIDED IN PARAGRAPH 6 OF
24 THIS SUBSECTION THAT OCCURS AFTER THE DATE ON WHICH THE CREDITOR'S CLAIM
25 ARISES.

26 9. IF MORE THAN ONE TRANSFER IS MADE TO THE SAME QUALIFIED
27 SPENDTHRIFT TRUST:

28 (a) THE MAKING OF A SUBSEQUENT TRANSFER TO THE QUALIFIED
29 SPENDTHRIFT TRUST IS DISREGARDED WHEN DETERMINING THE CREDITOR'S RIGHTS
30 WITH RESPECT TO A PRIOR TRANSFER.

31 (b) ANY DISTRIBUTION TO A BENEFICIARY IS CONSIDERED TO HAVE BEEN
32 MADE FROM THE LATEST TRANSFER TO THE QUALIFIED SPENDTHRIFT TRUST.

33 I. A QUALIFIED SPENDTHRIFT TRUST IS SUBJECT TO THIS SECTION IF IT
34 IS GOVERNED BY ARIZONA LAW PURSUANT TO SECTION 14-10107 AND IF IT
35 OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

36 J. A COURT OF THIS STATE HAS EXCLUSIVE JURISDICTION OVER AN ACTION
37 OR CLAIM FOR RELIEF THAT IS BASED ON ANY ASPECT OF, OR A TRANSFER OF,
38 PROPERTY TO A QUALIFIED SPENDTHRIFT TRUST THAT IS THE SUBJECT OF THIS
39 SECTION.

40 K. WITH RESPECT TO A QUALIFIED SPENDTHRIFT TRUST THAT IS SUBJECT TO
41 THIS SECTION, A CLAIM BROUGHT BY A CREDITOR OF A BENEFICIARY WHO IS NOT
42 THE SETTLOR IS SUBJECT TO THIS ARTICLE.

43 L. WITH RESPECT TO AN IRREVOCABLE TRUST THAT IS NOT SUBJECT TO THIS
44 SECTION, A CLAIM BROUGHT BY A CREDITOR OF A BENEFICIARY WHO IS THE SETTLOR
45 IS SUBJECT TO SECTION 14-10505, SUBSECTION A, PARAGRAPH 2.

1 M. IF A PROVISION OF THIS SECTION CONFLICTS WITH A PROVISION IN
2 TITLE 44, CHAPTER 8, ARTICLE 1, THE PROVISION OF THIS SECTION SUPERSEDES
3 THE CONFLICTING PROVISION IN TITLE 44, CHAPTER 8, ARTICLE 1.

4 N. AN AGREEMENT OR UNDERSTANDING, EXPRESS OR IMPLIED, BETWEEN THE
5 SETTLOR AND THE TRUSTEE THAT ATTEMPTS TO GRANT OR ALLOW THE RETENTION BY
6 THE SETTLOR OF GREATER RIGHTS OR AUTHORITY THAN IS STATED IN THE TRUST
7 INSTRUMENT IS VOID.

8 O. THIS SECTION DOES NOT ALTER RIGHTS VESTED OR ESTABLISHED UNDER
9 THIS SECTION BEFORE THE EFFECTIVE DATE OF THIS SECTION.

10 P. THIS SECTION MAY NOT BE INTERPRETED OR APPLIED IN A MANNER THAT
11 REDUCES PROTECTIONS THAT ARE OTHERWISE AFFORDED A SETTLOR UNDER SECTION
12 14-10505.

13 Q. FOR THE PURPOSES OF THIS SECTION:

14 1. "ADVISOR":

15 (a) MEANS:

16 (i) A PERSON, INCLUDING AN ACCOUNTANT, ATTORNEY AND FINANCIAL OR
17 INVESTMENT ADVISOR, WHO GIVES ADVICE CONCERNING OR WHO IS INVOLVED IN THE
18 DRAFTING OR CREATION OF, TRANSFER OF PROPERTY TO, OR ADMINISTRATION OF A
19 QUALIFIED SPENDTHRIFT TRUST.

20 (ii) A PERSON WHO PARTICIPATES IN PREPARING ACCOUNTINGS, TAX
21 RETURNS OR OTHER REPORTS RELATED TO A QUALIFIED SPENDTHRIFT TRUST.

22 (iii) A PERSON WHO IS GIVEN AUTHORITY BY THE TERMS OF A TRUST
23 INSTRUMENT TO REMOVE, APPOINT OR BOTH REMOVE AND APPOINT ONE OR MORE
24 TRUSTEES OR TO DIRECT, CONSENT TO, APPROVE OR VETO A TRUSTEE'S ACTUAL OR
25 PROPOSED INVESTMENT OR DISTRIBUTION DECISIONS, WHETHER OR NOT SUCH PERSON
26 IS A FIDUCIARY UNDER APPLICABLE STATE LAW.

27 (b) INCLUDES A PERSON WHO IS CONSIDERED TO BE AN ADVISOR EVEN IF
28 THE PERSON IS DENOMINATED BY ANOTHER TITLE AND WHETHER OR NOT SUCH PERSON
29 IS A FIDUCIARY UNDER APPLICABLE STATE LAW.

30 2. "CREDITOR" MEANS:

31 (a) A PERSON HOLDING OR HAVING RIGHTS IN OR TO A CLAIM AGAINST THE
32 SETTLOR, OR SOME OTHER RIGHT TO PAYMENT FROM THE SETTLOR, WHETHER OR NOT
33 THE CLAIM OR INDEBTEDNESS IS ANY OF THE FOLLOWING:

34 (i) FOUNDED ON CONTRACT, TORT OR OTHER LEGAL BASIS, OR IN LAW OR IN
35 EQUITY.

36 (ii) REDUCED TO JUDGMENT OR OTHER COURT OR ADJUDICATIVE ORDER,
37 AWARDED OR CONFIRMED.

38 (iii) LIQUIDATED OR UNLIQUIDATED, FIXED, CONTINGENT, MATURED,
39 UNMATURED, DISPUTED OR UNDISPUTED.

40 (iv) SECURED OR UNSECURED.

41 (b) A PERSON WHOSE CLAIM OR RIGHTS AGAINST THE SETTLOR AROSE OR
42 EXISTED, IN WHOLE OR IN PART, BEFORE THE ASSETS WERE TRANSFERRED TO A
43 QUALIFIED SPENDTHRIFT TRUST TO OR AGAINST WHICH A CLAIM IS MADE.

44 (c) A PERSON WHOSE CLAIM OR RIGHTS AGAINST THE SETTLOR AROSE
45 CONCURRENT WITH OR SUBSEQUENT TO SUCH TRANSFER.

- 1 3. "INSOLVENT" MEANS:
2 (a) HAVING CEASED TO PAY DEBTS IN THE ORDINARY COURSE OF BUSINESS
3 OTHER THAN AS A RESULT OF A BONA FIDE DISPUTE.
4 (b) BEING UNABLE TO PAY DEBTS AS THEY BECOME DUE.
5 (c) BEING INSOLVENT WITHIN THE MEANING OF FEDERAL BANKRUPTCY LAW.
6 4. "PAID AND DELIVERED" DOES NOT INCLUDE:
7 (a) THE SETTLOR'S USE OR OCCUPANCY OF REAL PROPERTY OR PERSONAL
8 PROPERTY OWNED BY A QUALIFIED SPENDTHRIFT TRUST, IF THE USE OR OCCUPANCY
9 IS IN ACCORDANCE WITH THE TRUSTEE'S DISCRETIONARY AUTHORITY UNDER THE
10 TRUST INSTRUMENT.
11 (b) PAYMENT FOR THE BENEFIT OF THE SETTLOR TO THIRD PARTIES WHERE
12 AUTHORIZED BY THE TRUST INSTRUMENT.
13 5. "QUALIFIED SPENDTHRIFT TRUST" MEANS A TRUST THAT SATISFIES THE
14 REQUIREMENTS OF SUBSECTION C OF THIS SECTION.
15 6. "QUALIFIED TRUSTEE" MEANS A PERSON, OTHER THAN THE SETTLOR, THAT
16 MEETS THE FOLLOWING REQUIREMENTS:
17 (a) THE TRUSTEE IS ONE OF THE FOLLOWING:
18 (i) FOR AN INDIVIDUAL, A RESIDENT OF THIS STATE.
19 (ii) AUTHORIZED TO ACT AS A TRUSTEE PURSUANT TO SECTION 6-851,
20 SUBSECTION A, PARAGRAPH 2 OR SECTION 14-5651, SUBSECTION K, PARAGRAPH 2.
21 (iii) A PRIVATE FIDUCIARY LICENSED BY THE SUPREME COURT AS PROVIDED
22 IN SECTION 14-5651, SUBSECTION A.
23 (b) THE TRUSTEE MAINTAINS OR ARRANGES FOR CUSTODY IN THIS STATE OF
24 SOME OR ALL OF THE PROPERTY THAT IS THE SUBJECT OF A QUALIFIED SPENDTHRIFT
25 TRUST AND ADMINISTERS ALL OR PART OF THE QUALIFIED SPENDTHRIFT TRUST IN
26 THIS STATE.
27 (c) THE TRUSTEE'S USUAL PLACE OF BUSINESS WHERE SOME OR ALL OF THE
28 RECORDS PERTAINING TO THE QUALIFIED SPENDTHRIFT TRUST ARE KEPT IS LOCATED
29 IN THIS STATE. IF THE TRUSTEE DOES NOT HAVE SUCH A PLACE OF BUSINESS, THE
30 TRUSTEE'S RESIDENCE IS IN THIS STATE. IF THE TRUSTEE IS A CORPORATE
31 TRUSTEE, THE USUAL PLACE OF BUSINESS IS THE BUSINESS LOCATION OF THE TRUST
32 OFFICER WITH PRIMARY RESPONSIBILITY FOR ADMINISTERING THE QUALIFIED
33 SPENDTHRIFT TRUST.
34 7. "SPECIFIED DOMESTIC OBLIGATION" MEANS:
35 (a) A CHILD SUPPORT JUDGMENT OR ORDER.
36 (b) AN UNSATISFIED CLAIM ARISING FROM A PROPERTY DIVISION IN A
37 DIVORCE PROCEEDING, INCLUDING LEGAL SEPARATION AND ANNULMENT, IF THE
38 FORMER SPOUSE WAS MARRIED TO THE SETTLOR BEFORE OR ON THE DATE OF TRANSFER
39 OF ASSETS TO THE QUALIFIED SPENDTHRIFT TRUST.
40 8. "TRANSFER" MEANS ANY FORM OF PROPERTY TRANSFER, INCLUDING
41 GRATUITOUS TRANSFERS, WHETHER BY DEED, CONVEYANCE, OR ASSIGNMENT.