

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

***** 700.7506.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2010 *****

700.7506.amended 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) shall 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 shall not be 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) The individual creates, or has created, the trust for the benefit of the individual's spouse.

(b) The trust is treated as qualified terminable interest property under section 2523(f) of the internal revenue code, 26 USC 2523.

(c) 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.

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

Popular name: EPIC