

HOUSE BILL NO. HB0104

Uniform Trust Code-amendments.

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

A BILL

for

1 AN ACT relating to trusts; amending default and mandatory
2 rules for trusts; providing for the enforcement of foreign
3 judgments as specified; making conforming amendments;
4 amending provisions related to the duty of loyalty of
5 trustees; specifying applicability of the act to existing
6 trust relationships and the principal places of
7 administration; amending requirements for directed trusts;
8 and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 4-10-507.1 is created to read:

13

14 **4-10-507.1. Enforcement of foreign judgments;**
15 **liability for compliance.**

1

2 (a) Notwithstanding any other provision of law, no
3 judgment, decree or order of a court of the United States,
4 a court of another state or any other court other than a
5 Wyoming court shall be enforced against the property of any
6 trust governed by the laws of this state unless a court of
7 competent jurisdiction in Wyoming determines that the time,
8 manner and mechanism for enforcing the judgment, decree or
9 order is consistent with the restrictions and limitations
10 imposed under this article for the enforcement of the
11 claims of any creditor and is consistent with the terms of
12 the trust.

13

14 (b) A trustee, trust protector, trust advisor or
15 other fiduciary of a trust, whether acting in a fiduciary
16 capacity or not, shall not be liable for failing to comply
17 with any judgment, decree or order of a court of the United
18 States, a court of another state or any other court other
19 than a Wyoming court that the trustee, trust protector or
20 trust advisor believes in good faith to be inconsistent
21 with the restrictions and limitations imposed under the
22 terms of the trust or by this act.

23

1 **Section 2.** W.S. 4-10-105(b)(iii), (xi) and by
2 creating a new paragraph (xiii), 4-10-107(c)(i), (ii) and
3 by creating a new paragraph (iii), 4-10-108 by creating a
4 new subsection (f), 4-10-718(a) through (c), 4-10-802(a),
5 4-10-814 by creating a new subsection (f) and
6 4-10-1103(a)(intro), (iii), (iv) and by creating a new
7 subsection (e) are amended to read:

8

9 **4-10-105. Default and mandatory rules.**

10

11 (b) The terms of a trust shall prevail over any
12 provision of this act except:

13

14 (iii) The requirement that a trust and ~~its~~the
15 terms of that trust be for the benefit of its beneficiaries
16 as their interests are defined under the terms of that
17 trust, and that the trust have a purpose that is lawful,
18 not contrary to public policy, and possible to achieve;

19

20 (xi) The power of the court to take such action
21 and exercise such jurisdiction as may be necessary in the
22 interests of justice; ~~and~~

23

1 (xiii) Trust protectors as provided under W.S.
2 4-10-710 and trust advisors as provided under W.S. 4-10-712
3 shall be a fiduciary as to the powers, duties and
4 discretions granted to the trust protector or trust advisor
5 if the trustee is an excluded fiduciary as to the powers,
6 duties and discretions granted to the trust protector or
7 the trust advisor.

8
9 **4-10-107. Governing law.**

10
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
16 not be void, voidable, set aside or deemed defective in any
17 manner for any reason including:

18
19 (i) That the law of a foreign jurisdiction
20 prohibits or does not recognize the ~~concept of a trust; or~~

21
22 (ii) That the trust, transfer of property by a
23 settlor to the trust, or disposition made subject to the

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

4
5 (iii) That the law or public policy of a foreign
6 jurisdiction does not recognize or limits the validity or
7 enforceability of any or all of the terms of the trust if
8 the terms are valid and enforceable under the laws and
9 public policy of this state.

10
11 **4-10-108. Principal place of administration;**
12 **governing law for administering trusts.**

13
14 (f) The laws of this state shall govern the
15 administration of any trust:

16
17 (i) For which the principal place of
18 administration of the trust is Wyoming;

19
20 (ii) Whose principal place of administration has
21 been changed to Wyoming;

22

1 (iii) Of which a trustee's principal place of
2 business is located in, or a trustee is a resident of,
3 Wyoming, provided that a majority of the trustees select
4 the laws of this state to govern the administration of the
5 trust through a signed, written instrument, unless the
6 terms of the trust:

7
8 (A) Specify that the law of the principal
9 place of administration, which is a jurisdiction other than
10 Wyoming, governs the administration of the trust;

11
12 (B) Expressly prohibit a change in the
13 choice of law for the administration of the trust; and

14
15 (C) Expressly state that a change in the
16 choice of law for the administration of the trust is
17 prohibited, even if a trustee from another jurisdiction
18 becomes a trustee of the trust.

19
20 **4-10-718. Directed trusts.**

21
22 (a) If a trust instrument provides that ~~a~~the
23 fiduciary duties of a trustee or other fiduciary are to be

1 performed by a trust protector or a trust advisor or that a
2 trustee or other fiduciary is to follow the direction of a
3 trust protector or a trust ~~adviser~~advisor with respect to
4 the performance of fiduciary duties and the trustee or
5 other fiduciary acts in accordance with such direction, the
6 trustee or other fiduciary shall be treated as an excluded
7 fiduciary under the provisions of W.S. 4-10-715 and
8 4-10-717 with respect to the fiduciary duties performed by
9 or directed by the trust protector or trust advisor and the
10 trust protector or trust advisor performing or directing
11 the fiduciary duties and shall become the fiduciary in
12 place of the excluded fiduciary.

13

14 (b) Where one (1) or more persons are given authority
15 by a trust instrument or court order ~~to either appoint a~~
16 ~~trust protector or~~ to direct, consent to or disapprove a
17 fiduciary's actual or proposed distribution decisions or
18 other noninvestment decisions of the fiduciary, the persons
19 ~~or the persons appointed by them~~given the authority shall
20 be considered to be trust protectors under W.S.
21 4-10-103(a)(xxiii) and where one (1) or more persons are
22 given the authority to appoint a trust protector, the

1 appointed persons shall be considered to be trust
2 protectors under W.S. 4-10-103(a)(xxiii).

3

4 (c) Where one (1) or more persons are given authority
5 by a trust instrument or court order ~~to either appoint a~~
6 ~~trust advisor or~~ to direct, consent to or disapprove a
7 fiduciary's actual or proposed investment decisions, the
8 persons ~~or the persons appointed by them~~ given the
9 authority shall be considered to be trust advisors under
10 W.S. 4-10-103(a)(xxii) and where one (1) or more persons
11 are given the authority to appoint a trust advisor, the
12 appointed persons shall be considered to be trust advisors
13 under W.S. 4-10-103(a)(xxii).

14

15 **4-10-802. Duty of loyalty.**

16

17 (a) A trustee shall administer the trust solely in
18 the interests of the beneficiaries as their interests are
19 defined under the terms of the trust.

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21 **4-10-814. Discretionary powers; tax savings;**
22 **distribution limitations.**

23

1 (f) Except as otherwise provided in the terms of a
2 trust, the trustee shall not consider the assets or
3 resources of a beneficiary in determining whether to make a
4 distribution of trust income or principal.

5
6 **4-10-1103. Application to existing relationships.**

7
8 (a) Except as otherwise provided in this act and
9 subsections (c) ~~and (d)~~ through (e) of this section, on
10 July 1, 2003:

11
12 (iii) Any rule of administration, construction
13 or presumption provided in this act shall not apply to
14 trust instruments executed before July 1, 2003, unless
15 subsection (c) ~~, or (d)~~ or (e) of this section is
16 applicable;

17
18 (iv) An action taken before July 1, 2003, is not
19 affected by this act and any review of actions taken before
20 July 1, 2003 by a trustee or other person shall be reviewed
21 under the law and standards applicable at the time the
22 action was taken unless subsection (c) ~~, or (d)~~ or (e) of
23 this ~~act-section~~ is applicable.

1

2 (e) This act shall apply to a trust created before
3 July 1, 2003 if the principal place of administration of
4 the trust is changed from a jurisdiction other than Wyoming
5 to Wyoming on or after July 1, 2003 or if on or after July
6 1, 2003, a person whose principal place of business is
7 located in, or who is a resident of, Wyoming becomes a
8 trustee of the trust or a trustee moves the trustee's
9 principal place of business to, or becomes a resident of,
10 Wyoming.

11

12 **Section 3.** This act is effective July 1, 2021.

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14

(END)