

No. 7. An act relating to the transfer of property to a trust.

(S.3)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 14A V.S.A. § 505 is amended to read:

§ 505. CREDITOR'S CLAIM AGAINST SETTLOR

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

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

(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach shall not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution. This subdivision shall not apply to an irrevocable "special needs trust" established for a disabled person as described in 42 U.S.C. § 1396p(d)(4) or similar federal law governing the transfer to such a trust.

(3) 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 was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse

and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

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(c)(1) Property held by spouses as tenants by the entirety that is conveyed to the spouses' jointly or separately held revocable or irrevocable trusts, and any proceeds of the sale or disposition of the property, shall be immune from the claims of the spouses' separate creditors to the same extent as the property would have been if it had remained held by the spouses as tenants by the entirety if the following apply:

(A) the spouses are married to each other;

(B) the property is held in the trust or trusts or has been deeded out of the trust to the spouses as tenants by the entirety;

(C) if the trust is a joint trust, the trust may be revoked by either spouse acting alone but may be amended only by action of both spouses;

(D) the property is the spouses' property; and

(E)(i) both spouses are current beneficiaries of one joint trust that holds the entire property; or

(ii) each spouse is a current beneficiary of a separate trust and the two separate trusts, together, hold the entire property, whether or not other persons are also current or future beneficiaries of the trust or trusts.

(2)(A) Property at any time held in a tenants by the entirety trust shall have the same immunity from the claims of a separate creditor of either settlor

as the property would have if it were held outside the trust by the settlors as tenants by the entirety unless otherwise provided in writing by the settlor or settlors who transferred the property to the trust. The property shall be treated in all respects as tenants by the entirety property, including for purposes of federal and state bankruptcy laws.

(B) Property held in a tenants by the entirety trust shall cease to receive immunity from the claims of creditors upon the dissolution of the settlors' marriage by a court.

(3) Except as otherwise provided in this title, on the effective date of this subsection:

(A) notwithstanding 1 V.S.A. § 214, this subsection (c) applies to all trusts created before, on, or after the effective date of this subsection and to property held by spouses as tenants by the entirety that is conveyed before, on, or after the effective date of this subsection;

(B) this subsection (c) applies to all judicial proceedings concerning trusts commenced on or after the effective date of this subsection.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: April 24, 2025