1

9

10

11

12

13

14

15

16

17

18

19

20

_	ГО	Т	Ή	$\mathbf{E}$	Н	(	<b>N</b>	J	$\cap$	R	2 /	١,	R	L	$\mathbf{E}$	S	$\mathbf{E}$	N	JΔ	ι٦	$^{\circ}$ E	•

- The Committee on Judiciary to which was referred Senate Bill No. 3

  entitled "An act relating to the transfer of property to a trust" respectfully

  reports that it has considered the same and recommends that the bill be

  amended by striking out all after the enacting clause and inserting in lieu

  thereof the following:
- 7 Sec. 1. 14A V.S.A. § 505 is amended to read:
- 8 § 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.

1	(3) After the death of a settlor, and subject to the settlor's right to direct
2	the source from which liabilities will be paid, the property of a trust that was
3	revocable at the settlor's death is subject to claims of the settlor's creditors,
4	costs of administration of the settlor's estate, the expenses of the settlor's
5	funeral and disposal of remains, and statutory allowances to a surviving spouse
6	and children to the extent the settlor's probate estate is inadequate to satisfy
7	those claims, costs, expenses, and allowances.
8	* * *
9	(c)(1) Property held by spouses as tenants by the entirety that is conveyed
10	to the spouses' jointly or separately held revocable or irrevocable trusts, and
11	any proceeds of the sale or disposition of the property, shall be immune from
12	the claims of the spouses' separate creditors to the same extent as the property
13	would have been if it had remained held by the spouses as tenants by the
14	entirety if the following apply:
15	(A) the spouses are married to each other;
16	(B) the property is held in the trust or trusts, or has been deeded out
17	of the trust to the spouses as tenants by the entirety;
18	(C) if the trust is a joint trust, the trust may be revoked by either
19	spouse acting alone but may be amended only by action of both spouses; and
20	(D) the property is the spouses' property; including if and

1	(E)(i) both spouses are current beneficiaries of one joint trust that
2	holds the entire property; or
3	(ii) each spouse is a current beneficiary of a separate trust and the
4	two separate trusts, together, hold the entire property, whether or not other
5	persons are also current or future beneficiaries of the trust or trusts.
6	(2)(A) Property at any time held in a tenants by the entirety trust shall
7	have the same immunity from the claims of a separate creditor of either settlor
8	as the property would have if it were held outside the trust by the settlors as
9	tenants by the entirety unless otherwise provided in writing by the settlor or
10	settlors who transferred the property to the trust. The property shall be treated
11	in all respects as tenants by the entirety property, including for purposes of
12	federal and state bankruptcy laws.
13	(B) Property held in a tenants by the entirety trust shall cease to
14	receive immunity from the claims of creditors upon the dissolution of the
15	settlors' marriage by a court.
16	(3) Except as otherwise provided in this title, on the effective date of this
17	subsection:
18	(A) notwithstanding, 1 V.S.A. § 214, this subsection (c) applies to all
19	trusts created before, on, or after the effective date of this subsection, and to
20	property held by spouses as tenants by the entirety that is conveyed before, on,
21	or after the effective date of this subsection;

1	(B) this subsection (c) applies to all judicial proceedings concerning	
2	trusts commenced on or after the effective date of this subsection.	
3	Sec. 2. EFFECTIVE DATE	
4	This act shall take effect on passage.	
5		
6		
7		
8		
9		
10		
11	(Committee vote:)	
12		-
13	Senator	
14	FOR THE COMMITTEE	