

Spendthrift Trusts; HB 2444

HB 2444 amends the law concerning spendthrift provisions of a trust to more closely mirror uniform law provisions. Previously, the law stated that regardless of whether a trust contains a spendthrift provision, a creditor of a beneficiary cannot compel a distribution that is subject to the trustee's discretion, even if the discretion is expressed in the form of a standard for distribution or the trustee has abused discretion. The bill provides that a creditor may not compel a distribution even if both the standard of distribution is expressed in the form of a standard and the trustee has abused the trustee's discretion.

Additionally, the bill creates an exception to this prohibition for instances in which a beneficiary is serving as sole trustee. If a beneficiary is or was serving as sole trustee and the standard of distribution with respect to such beneficiary is not in the form of an ascertainable standard relating to such beneficiary's health, education, support, or maintenance, the bill allows a creditor to:

- Compel any distribution the beneficiary, while serving as sole trustee, either is presently authorized to make to such beneficiary or was authorized to make to such beneficiary and did not make; and
- Attach such beneficiary's beneficial interest in the trust with respect to any present or future discretionary distributions to such beneficiary, in the absence of a spendthrift provision precluding such attachment.