

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. WEPRIN -- Multi-Sponsored by -- M. of A. BRENNAN,
COLTON, ORTIZ, STEVENSON, WEISENBERG -- read once and referred to the
Committee on Judiciary

AN ACT to amend the estates, powers and trusts law and the civil prac-
tice law and rules, in relation to clarifying and declaring as the
existing law of the state of New York the provisions of rules relating
to the lapse of a power of withdrawal over the income or principal of
a trust

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of section 7-3.1 of the estates, powers and
2 trusts law, as amended by chapter 108 of the laws of 1987, is amended to
3 read as follows:

4 (a) A disposition in trust for the use of the creator is void as
5 against the existing or subsequent creditors of the creator. NO INDIVID-
6 UAL SHALL BE TREATED FOR PURPOSES OF THIS SECTION AS HAVING MADE A
7 DISPOSITION IN TRUST FOR THE USE OF THAT INDIVIDUAL BY REASON OF A LAPSE
8 OF A POWER OF WITHDRAWAL OVER THE INCOME OR CORPUS OF A TRUST CREATED BY
9 ANOTHER PERSON.

10 S 2. Paragraph 1 of subdivision (c) of section 5205 of the civil prac-
11 tice law and rules, as amended by chapter 93 of the laws of 1995, is
12 amended to read as follows:

13 1. Except as provided in paragraphs four and five of this subdivision,
14 all property while held in trust for a judgment debtor, where the trust
15 has been created by, or the fund so held in trust has proceeded from, a
16 person other than the judgment debtor, is exempt from application to the
17 satisfaction of a money judgment. FOR PURPOSES OF THIS SECTION, A JUDG-
18 MENT DEBTOR SHALL NOT BE TREATED AS CREATING OR FUNDING A TRUST BY
19 REASON OF THE LAPSE OF A POWER OF WITHDRAWAL OVER THE INCOME OR PRINCI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD02907-01-3

1 PAL OF A TRUST CREATED AND FUNDED BY A PERSON OR PERSONS OTHER THAN THE
2 JUDGMENT DEBTOR.

3 S 3. This act shall take effect immediately and shall be enforceable
4 as to all trusts created under New York law, regardless of when created,
5 as it is declaratory of existing New York law.