



Ohio Revised Code

Section 5816.03 Spendthrift Provisions.

Effective: March 27, 2013

Legislation: House Bill 479 - 129th General Assembly

(A) In addition to any other method allowed by law, the spendthrift provision of a legacy trust may be stated as provided in division (B) of section 5805.01 of the Revised Code.

(B) Except as otherwise provided in this section, the spendthrift provisions of a legacy trust shall restrain both voluntary and involuntary transfer of a transferor's interest in that trust. Any spendthrift provision in a legacy trust is enforceable under any applicable nonbankruptcy law within the meaning of section 541(c)(2) of the Bankruptcy Code regardless of whether or not the relevant legacy trust instrument makes any reference to that enforceability. In addition to the restraints required by this division, a legacy trust and its spendthrift provisions may provide for any other restraints on alienation that are permitted by any law of this state.

(C) Notwithstanding division (B) of this section or the terms of any spendthrift provision, but subject to divisions (D), (E), and (F) of this section, a transferor's interest in property that is the subject of a qualified disposition may be attached or otherwise involuntarily alienated in connection with any debt that the transferor owes pursuant to an agreement or court order for either of the following:

(1) The payment of child or spousal support or alimony to or for the transferor's spouse, former spouse, child, or children, or to any governmental agency that is designated by statute, rule, or regulation to be the payee of that child or spousal support or alimony;

(2) The division or distribution of property in favor of the transferor's spouse or former spouse.

(D) A transferor's interest in property that is transferred pursuant to a qualified disposition and the transferor's beneficial interest in a legacy trust shall not be subject to any claim for forced heirship or legitime.

(E) A transferor's interest in property that is transferred pursuant to a qualified disposition and the



transferor's beneficial interest in a legacy trust shall not be subject to a distributive award under section 3105.171 of the Revised Code or to any similar award under the law of another jurisdiction, to any person other than the transferor's spouse or former spouse. A court shall liberally construe and apply this provision in finding that such similarity exists.

(F) Nothing in this section shall deprive any beneficiary of any exemption rights that the beneficiary may have under any applicable law after the trust property is received by that beneficiary.