

SENATE BILL 713

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 35,
relative to fiduciaries and trust estates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 35-15-103(17), is amended by deleting the subdivision in its entirety and substituting instead the following:

(17) "State" means the state of Tennessee, any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state;

SECTION 2. Tennessee Code Annotated, Section 35-15-105, is amended by adding the following new subsection (c):

(c) Any purpose enunciated as a material purpose of the trust in the governing instrument shall be treated as a material purpose of the trust for all purposes of this chapter.

SECTION 3. Tennessee Code Annotated, Section 35-15-505, is amended by adding the following new subsections (e) and (f):

(e) For purposes of subdivision (a)(2), a person who becomes a beneficiary of a trust due to the exercise of a power of appointment by someone other than such person shall not be considered a settlor of the trust.

(f) Notwithstanding § 66-3-310, if the settlor is not a beneficiary of the trust, the property of the trust shall not be subject to the claims of the settlor's creditors unless the creditor proves by clear and convincing evidence that the settlor's transfer to the trust was made with the intent to defraud that specific creditor and the creditor brings the

action within two (2) years after the transfer is made. A creditor whose claim arose before the transfer may bring an action within the later of such two-year time period, or six (6) months after the transfer was or could reasonably have been discovered by the creditor.

SECTION 4. Tennessee Code Annotated, Section 35-15-816(b)(19), is amended by deleting the phrase “provided, however, that this power shall not apply to any beneficiary’s interest that is subject to a spendthrift provision; ”.

SECTION 5. Tennessee Code Annotated, Section 35-16-104, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Notwithstanding § 66-3-310, a creditor's claim under subsection (a) shall be extinguished unless the creditor proves by clear and convincing evidence that the qualified disposition was made with the intent to defraud that specific creditor and the creditor brings the action within two (2) years after the qualified disposition is made. A creditor whose claim arose before the qualified disposition may bring an action within the later of such two-year time period, or six (6) months after the transfer was or could reasonably have been discovered by the creditor.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.