An Act

ENROLLED SENATE
BILL NO. 1904

By: Sykes and Ivester of the Senate

and

McDaniel (Randy) of the House

An Act relating to the Family Wealth Preservation Trust Act; amending 31 O.S. 2011, Sections 11 and 12, which relate to definitions and exemption from attachment; modifying definition; removing certain exception; and providing an effective date.

SUBJECT: Family wealth preservation trust requirements

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 31 O.S. 2011, Section 11, is amended to read as follows:

Section 11. As used in the Family Wealth Preservation Trust Act:

1. "Grantor" means an individual, whether or not a resident of this state, establishing or creating a preservation trust;

2. "Oklahoma assets" includes:

a. a stock, bond, debenture, membership interest, partnership interest, or other equity or debt interest issued by an Oklahoma-based company, <u>without reference to assets owned by the Oklahoma-based company,</u>

b. a bond or other obligation issued by this state or an Oklahoma governmental agency,

c. a bond or other obligation issued by a county of this state, by a municipal government located in this state, by a school district located in this state or by any public trust for the benefit of either this state or one or more political subdivisions of this state,

d. an account in an Oklahoma-based bank. As used in this subparagraph, "account" means a demand, time, savings or passbook type of account or a certificate of deposit type of account,

e. real or tangible personal property, or any interest therein, having a situs in this state, which shall include, but not be limited to:

(1) mineral interests, or

(2) promissory notes secured primarily by real or tangible personal property or both,

f. any security backed exclusively by promissory notes, if at least a majority in value of such promissory notes are secured by real or tangible personal property having a situs in this state or both, and

g. mutual funds, as defined pursuant to The Investment Company Act of 1940, 15 U.S.C., Section 80a-1 et seq. and The Securities Act of 1933, 15 U.S.C., Section 77a et seq., and common trust funds, as defined pursuant to Section 1010 of Title 6 of the Oklahoma Statutes, to the extent the assets within such funds meet one or more of the requirements listed in subparagraphs a through f of this paragraph;

3. a. "Oklahoma-based bank" means a bank, savings association or credit union which both:

(1) takes deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and

(2) has a place of business in Oklahoma, which shall be a physical location, and

b. "Oklahoma-based trust company" means a trust company chartered under the laws of this state or nationally chartered and having a place of business in Oklahoma, which shall be a physical location;

4. "Oklahoma-based company" means a corporation, limited liability company, limited partnership, limited liability partnership or other legal entity formed or qualified to do business in this state and having its principal place of business in this state, which principal place of business shall be a physical location;

5. "Preservation trust" means a trust:

a. established by a grantor under Oklahoma law,

b. having at all times as a trustee or cotrustee an Oklahoma-based bank that maintains a trust department or an Oklahoma-based trust company,

c. having as beneficiaries only qualified beneficiaries or a qualified beneficiary,

d. having a majority in value of its assets comprised of Oklahoma assets, except that if any asset which qualifies, or is intended to qualify, as an Oklahoma asset ceases or fails to qualify as an Oklahoma asset, the trustee shall have a reasonable period of time following discovery thereof to convert such nonqualifying asset into an Oklahoma asset, and

e. reciting in its terms that the income generated from the corpus of the trust is subject to the income tax laws of this state; and

6. "Qualified beneficiary" or "qualified beneficiaries" means:

a. the lineal ancestors and lineal descendants of the grantor or the grantor's spouse, including adopted lineal descendants if they were under the age of eighteen (18) at the time of the adoption,

b. the spouse of the grantor,

c. a nonprofit organization qualified under the provisions of the Internal Revenue Code of 1986, 26 U.S.C., Section 501(c)(3), or

d. a trust settled for the sole benefit of one or more qualified beneficiaries.

SECTION 2. AMENDATORY 31 O.S. 2011, Section 12, is amended to read as follows:

Section 12. Notwithstanding Section 3 of this title and Section 299.15 of Title 60 of the Oklahoma Statutes, the corpus and income of a preservation trust shall be exempt from attachment or execution and every other species of forced sale and no judgment, decree, or execution can be a lien on the trust for the payment of debts of a grantor, except a child support judgment~~, except for any additional property contributed to the preservation trust by the grantor having an aggregate fair market value, determined as of the date of each contribution, minus liabilities to which the property is subject, in excess of One Million Dollars ($1,000,000.00)~~. Any incremental growth derived from income or an increase in value of the corpus of a preservation trust shall also be considered protected by this section. Transfer of an asset to a preservation trust does not affect any mortgage, security interest or lien to which that asset is subject.

SECTION 3. This act shall become effective November 1, 2014.

Passed the Senate the 27th day of February, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2014.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th

day of April, 20 14, at 3:46 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 21st

day of April, 20 14, at 2:55 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st

day of April, 20 14, at 5:40 o'clock P. M.

By: Chris Benge