

House Study Bill 46 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ANDERSON)

A BILL FOR

1 An Act relating to limitations on creditors' rights in
2 spendthrift trusts and discretionary trusts.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633A.2302, subsection 3, Code 2011, is
2 amended by striking the subsection.

3 Sec. 2. Section 633A.2305, Code 2011, is amended to read as
4 follows:

5 **633A.2305 Discretionary trusts — effect of standard.**

6 ~~1.~~ Whether or not a trust contains a spendthrift provision,
7 a creditor or assignee of a beneficiary shall not compel a
8 distribution that is subject to the trustee's discretion, even
9 if any of the following occur:

10 ~~a.~~ 1. The discretion is expressed in the form of a standard
11 of distribution.

12 ~~b.~~ 2. The trustee has abused its discretion.

13 ~~2. This section shall not apply to a creditor of a~~
14 ~~beneficiary or to a creditor of a deceased beneficiary~~
15 ~~enforcing an interest in a trust, if any, given to a~~
16 ~~beneficiary by the trust instrument.~~

17 Sec. 3. Section 633A.2306, Code 2011, is amended to read as
18 follows:

19 **633A.2306 Court action — trustee's discretion.**

20 ~~1.~~ If a trustee has discretion as to payments to a
21 beneficiary, and refuses to make payments or exercise its
22 discretion, the court shall neither order the trustee to
23 exercise its discretion nor order payment from any such trust,
24 if any such payment would inure, directly or indirectly, to the
25 benefit of a creditor of the beneficiary.

26 ~~2. Notwithstanding subsection 1, the court may order~~
27 ~~payment to a creditor of a beneficiary or to a creditor of a~~
28 ~~deceased beneficiary if the beneficiary has or had an interest~~
29 ~~in the trust.~~

30 EXPLANATION

31 This bill eliminates provisions in Code sections 633A.2302,
32 633A.2305, and 633A.2306 allowing a creditor to reach a
33 beneficiary's (including a deceased beneficiary) interest in
34 a spendthrift trust or a discretionary trust to satisfy an
35 enforceable claim against the beneficiary.