

ASSEMBLY, No. 2644

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 19, 2000

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Protects "Roth" and "Education" IRA assets and distributions from creditors.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain individual retirement accounts and
2 amending R.S.25:2-1.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.25:2-1 is amended to read as follows:

8 25:2-1. Conveyances of personal property in trust for use of
9 persons making them void as to creditors. a. Except as provided in
10 subsection b. of this section, every deed of gift and every conveyance,
11 transfer and assignment of goods, chattels or things in action, made in
12 trust for the use of the person making the same, shall be void as
13 against creditors.

14 b. Notwithstanding the provisions of any other law to the contrary,
15 any property held in a qualifying trust and any distributions from a
16 qualifying trust, regardless of the distribution plan elected for the
17 qualifying trust, shall be exempt from all claims of creditors and shall
18 be excluded from an estate in bankruptcy, except that:

19 (1) no exemption shall be allowed for any preferences or fraudulent
20 conveyances made in violation of the "Uniform Fraudulent Transfer
21 Act," R.S.25:2-20 et seq., or any other State or federal law; and

22 (2) no qualifying trust shall be exempt from the claims under any
23 order for child support or spousal support or of an alternate payee
24 under a qualified domestic relations order. However, the interest of
25 any alternate payee under a qualified domestic relations order is
26 exempt from all claims of any creditor of the alternate payee. As used
27 in this paragraph, the terms "alternate payee" and "qualified domestic
28 relations order" have the meanings ascribed to them in section 414(p)
29 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.414(p)).

30 For purposes of this section, a "qualifying trust" means a trust
31 created or qualified and maintained pursuant to federal law, including,
32 but not limited to, section 401, 403, 408, [or section] 408A, 409 or
33 530 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401,
34 403, 408 [or] 408A, 409 or 530).

35 (cf: P.L.1993, c.177, s.1)

36

37 2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 STATEMENT

2

3 This bill protects "Roth" and "Education" individual retirement
4 account (IRA) assets and distributions from creditors, under
5 provisions of State bankruptcy law commonly known as "spendthrift"
6 provisions. The bill accomplishes this by including appropriate
7 Internal Revenue Code references to a Roth and an Education IRA
8 within the definition of "qualifying trust" under R.S.25:2-1.