

ASSEMBLY BILL NO. 378—ASSEMBLYMEN DONDERO LOOP,
FRIERSON; AND BUSTAMANTE ADAMS

MARCH 18, 2013

JOINT SPONSOR: SENATOR SEGERBLOM

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing spendthrift trusts.
(BDR 13-656)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to spendthrift trusts; prohibiting certain persons from being a distribution trustee of a spendthrift trust; repealing certain provisions governing the powers of a settlor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person to create a spendthrift trust, which is a trust the terms of which provide that the interest of a beneficiary may not be transferred voluntarily or involuntarily to another person. (NRS 166.020, 166.040) Under existing law, a beneficiary of a spendthrift trust may not transfer his or her interest in the trust and a creditor of the beneficiary may not satisfy the creditor's claim from the beneficiary's interest in the trust. (NRS 166.120) Existing law further authorizes the creation of self-settled spendthrift trusts, which are spendthrift trusts in which the settlor is a beneficiary. Under existing law, a self-settled spendthrift trust may be created only if the trust is irrevocable, does not require any part of the income or principal to be distributed to the settlor and is not be intended to hinder, delay or defraud known creditors. (NRS 166.040) **Section 1** of this bill prohibits the settlor, certain relatives and employees of the settlor, and a business entity in which the settlor holds at least 30 percent of the total voting power of all interests entitled to vote, from being a distribution trustee of a self-settled spendthrift trust.

Section 2 of this bill repeals a provision of existing law which provides that any agreement or understanding between the settlor of a spendthrift trust and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.



* A B 3 7 8 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 166.015 is hereby amended to read as follows:

2 166.015 1. Unless the writing declares to the contrary,
3 expressly, this chapter governs the construction, operation and
4 enforcement, in this State, of all spendthrift trusts created in or
5 outside this State if:

6 (a) All or part of the land, rents, issues or profits affected are in
7 this State;

8 (b) All or part of the personal property, interest of money,
9 dividends upon stock and other produce thereof, affected, are in this
10 State;

11 (c) The declared domicile of the creator of a spendthrift trust
12 affecting personal property is in this State; or

13 (d) At least one trustee qualified under subsection 2 has powers
14 that include maintaining records and preparing income tax returns
15 for the trust, and all or part of the administration of the trust is
16 performed in this State.

17 2. If the settlor is a beneficiary of the trust ~~1-a)~~ :

18 ~~(a)~~ **(1)** At least one trustee of a spendthrift trust must be:

19 ~~(a)~~ **(I)** A natural person who resides and has his or her
20 domicile in this State;

21 ~~(b)~~ **(2)** A trust company that:

22 ~~(1)~~ **(I)** Is organized under federal law or under the laws of
23 this State or another state; and

24 ~~(2)~~ **(II)** Maintains an office in this State for the transaction
25 of business; or

26 ~~(c)~~ **(3)** A bank that:

27 ~~(1)~~ **(I)** Is organized under federal law or under the laws of
28 this State or another state;

29 ~~(2)~~ **(II)** Maintains an office in this State for the transaction
30 of business; and

31 ~~(3)~~ **(III)** Possesses and exercises trust powers.

32 ***(b) The following persons may not be a distribution trustee:***

33 ***(1) The settlor;***

34 ***(2) The spouse or domestic partner of the settlor;***

35 ***(3) Any person related to the settlor by blood, adoption or***
36 ***marriage within the second degree of consanguinity or affinity;***

37 ***(4) An employee of the settlor;***

38 ***(5) A subordinate employee of the settlor or of a business***
39 ***entity in which the settlor is an executive; or***

40 ***(6) A business entity in which the settlor holds at least 30***
41 ***percent of the total voting power of all interests entitled to vote.***



- 1 **3. As used in this section, “domestic partner” has the**
2 **meaning ascribed to it in NRS 122A.030.**
3 **Sec. 2.** NRS 166.045 is hereby repealed.

TEXT OF REPEALED SECTION

166.045 Powers of settlor. The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.

