

HOUSE BILL 859

N2

3lr1932

By: **Delegate Waldstreicher**

Introduced and read first time: February 7, 2013

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2013

CHAPTER _____

1 AN ACT concerning

2 **Interests in Grantor and Qualified Terminable Interest Property Trusts**

3 FOR the purpose of providing that an individual who creates a certain trust may not
4 be considered the settlor of the trust under certain circumstances; providing
5 that a creditor of an individual who creates a certain trust may not compel
6 certain distributions; providing for the construction of this Act; and generally
7 relating to interests in certain trusts.

8 BY adding to

9 Article – Estates and Trusts

10 Section 14–116

11 Annotated Code of Maryland

12 (2011 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Estates and Trusts**

16 **14–116.**

17 **(A) AN INDIVIDUAL WHO CREATES A TRUST MAY NOT BE CONSIDERED**
18 **THE SETTLOR OF THAT TRUST WITH REGARD TO THE INDIVIDUAL’S INTEREST IN**
19 **THE TRUST IF:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **(1) THAT INTEREST IS THE AUTHORITY OF THE TRUSTEE UNDER**
2 **THE TRUST INSTRUMENT OR ANY OTHER PROVISION OF LAW TO PAY OR**
3 **REIMBURSE THE INDIVIDUAL FOR ANY TAX ON TRUST INCOME OR TRUST**
4 **PRINCIPAL THAT IS PAYABLE BY THE INDIVIDUAL UNDER THE LAW IMPOSING**
5 **THAT TAX; OR**

6 **(2) ALL OF THE FOLLOWING APPLY:**

7 **(I) THE INDIVIDUAL CREATES OR HAS CREATED THE TRUST**
8 **FOR THE BENEFIT OF THE INDIVIDUAL'S SPOUSE;**

9 **(II) THE TRUST IS TREATED AS QUALIFIED TERMINABLE**
10 **INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF**
11 **1986; AND**

12 **(III) THE INDIVIDUAL'S INTEREST IN THE TRUST INCOME,**
13 **TRUST PRINCIPAL, OR BOTH FOLLOWS THE TERMINATION OF THE SPOUSE'S**
14 **PRIOR INTEREST IN THE TRUST.**

15 **(B) A CREDITOR OF AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF**
16 **THIS SECTION MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE COMPEL**
17 **DISTRIBUTION OF:**

18 **(1) ANY PRINCIPAL OR INCOME OF THE TRUST;**

19 **(2) ANY PRINCIPAL OR INCOME OF ANY OTHER TRUST TO THE**
20 **EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO**
21 **A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION;**

22 **(3) THE INDIVIDUAL'S INTEREST IN THE TRUST; OR**

23 **(4) THE INDIVIDUAL'S INTEREST IN ANY OTHER TRUST TO THE**
24 **EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO**
25 **A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.**

26 **(C) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT ANY STATE LAW**
27 **WITH RESPECT TO A FRAUDULENT TRANSFER BY AN INDIVIDUAL TO A TRUSTEE.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2013.