

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Bill No. 500, Page 1, in the Title, Line 3, by deleting the words "no-contest
2 clauses" and inserting in lieu thereof the words "trust instruments"; and
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4 Further amend said bill and said page, Section A, Line 3, by inserting immediately after said line the
5 following:
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7 "456.950. 1. As used in this section, "qualified spousal trust" means a trust:

8 (1) The settlors of which are husband and wife at the time of the creation of the trust; and

9 (2) The terms of which provide that during the joint lives of the settlors all property or
10 interests in property transferred to, or held by, the trustee are:

11 (a) Held and administered in one trust for the benefit of both settlors, revocable by either or
12 both settlors acting together while either or both are alive, and each settlor having the right to receive
13 distributions of income or principal, whether mandatory or within the discretion of the trustee, from
14 the entire trust for the joint lives of the settlors and for the survivor's life; or

15 (b) Held and administered in two separate shares of one trust for the benefit of each of the
16 settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that
17 trust without the participation or consent of the other settlor, and each settlor having the right to
18 receive distributions of income or principal, whether mandatory or within the discretion of the
19 trustee, from that settlor's separate share for that settlor's life; or

20 (c) Held and administered under the terms and conditions contained in paragraphs (a) and (b)
21 of this subdivision.

22 2. A qualified spousal trust may contain any other trust terms that are not inconsistent with
23 the provisions of this section.

24 3. Any property or interests in property [held as tenants by the entirety by a husband and
25 wife] that is at any time transferred to the trustee of a qualified spousal trust of which the husband
26 and wife are the settlors, shall thereafter be [held and] administered as provided by the trust terms in
27 accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this section[, and all
28 such]. All trust property and interests in property that is deemed for purposes of this section to be
29 held as tenants by the entirety, including the proceeds thereof, the income thereon, and any property
30 into which such property, proceeds, or income may be converted, shall [thereafter] have the same
31 immunity from the claims of the separate creditors of the settlors as would have existed if the settlors
32 had continued to hold that property as husband and wife as tenants by the entirety. Property or
33 interest in property held by a husband and wife as tenants by the entirety or as joint tenants or other
34 form of joint ownership with right of survivorship shall be conclusively deemed for purposes of this
35 section to be held as tenants by the entirety upon its transfer to the qualified spousal trust. All such
36 transfers shall retain said immunity, so long as:

Action Taken _____ Date _____

1 (1) Both settlors are alive and remain married; and

2 (2) The property, proceeds, or income continue to be held in trust by the trustee of the
3 qualified spousal trust.

4 4. Property or interests in property held by a husband and wife or held in the sole name of a
5 husband or wife that is not held as tenants by the entirety or deemed held as tenants by the entirety
6 for purposes of this section and is transferred to a qualified spousal trust shall be held as directed in
7 the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of
8 any claimant to any interest in that property shall not be affected by this section. 5. Upon the death
9 of each settlor, all property and interests in property held by the trustee of the qualified spousal trust
10 shall be distributed as directed by the then current terms of the governing instrument of such trust.
11 Upon the death of the first settlor to die, if immediately prior to death the predeceased settlor's
12 interest in the qualified spousal trust was then held in such settlor's separate share, the property or
13 interests in property in such settlor's separate share may pass into an irrevocable trust for the benefit
14 of the surviving settlor upon such terms as the governing instrument shall direct, including without
15 limitation a spendthrift provision as provided in section 456.5-502.

16 6. No transfer by a husband and wife as settlors to a qualified spousal trust shall affect or
17 change either settlor's marital property rights to the transferred property or interest therein
18 immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both
19 spouses otherwise expressly agree in writing.

20 7. This section shall apply to all trusts which fulfill the criteria set forth in this section for a
21 qualified spousal trust regardless of whether such trust was created before or after August 28, 2011.

22 456.2-205. 1. Subject to the exception in subsection 2 of this section, a provision in a trust
23 instrument requiring the mediation or arbitration of disputes between or among the beneficiaries, a
24 fiduciary, a person granted nonfiduciary powers under the trust instrument, or any combination of
25 such persons is enforceable.

26 2. A provision in a trust instrument requiring the mediation or arbitration of disputes relating
27 to the validity of a trust is not enforceable unless all interested persons with regard to the dispute
28 consent to the mediation or arbitration of the dispute."; and

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30 Further amend said bill by amending the title, enacting clause, and intersectional references
31 accordingly.
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