



Michigan Authorizes New Asset Protection Trusts

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Governor Rick Snyder signed into law two bills, Public Acts 330 and 331, that modernize Michigan's trust laws by allowing domestic asset protection trusts ("DAPTs") for the first time in the state. With its adoption of the Qualified Dispositions in Trusts Act (the "Act"), Michigan joined 16 other states that allow for the creation of DAPTs. The new laws go into effect on March 8, 2017.

A DAPT is an irrevocable trust that allows individuals to create and fund the trust, receive benefits, and also shield the trust assets from creditors. An individual, rather than an entity, that is not related or subordinate to the transferor can be appointed trustee.

The bills give Michigan residents, and asset and estate planning attorneys, another arrow in their quiver for transferring and protecting assets from creditors. However, DAPTs will not protect assets from creditors in all instances. For example, assets transferred into a DAPT are not shielded from creditors until they have been in the trust for two years. Also, assets transferred with the intent to "hinder, delay or defraud" a creditor are also not protected.

DAPTs are an important new tool in Michigan, but they're not for everyone. It's important to keep in mind that, because a DAPT is irrevocable, once the trust is funded there's no way to get the assets back. Therefore, consideration of a DAPT should be part of a broader asset and estate planning discussion. To learn more, contact Scott Chernich at schernich@fosterswift.com.

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