

386B.5-040 Creditor's claim against settlor.

- (1) Subject to the statutory provisions of KRS Chapter 396 regarding claims against decedents' estates, whether or not the terms of a trust contain a spendthrift provision, the following rules apply:
 - (a) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors;
 - (b) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one (1) settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution; and
 - (c) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities shall be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances, but no property added to a revocable trust on account of the settlor's death from a source other than the settlor's estate or another revocable trust created by the settlor shall be subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children.
- (2) For purposes of this section:
 - (a) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and
 - (b) Upon the lapse, release, or waiver of the power, the holder is not treated as the settlor of the trust.

Effective: July 15, 2014

History: Created 2014 Ky. Acts ch. 25, sec. 43, effective July 15, 2014.