



SPONSOR: Sen. Adams & Rep. Stone;
Sens. Sharp, Sokola & Sorenson;
Reps. Spence, Carey, D. Ennis, Fallon,
Hudson, Miro, Valihura, Gilligan,
Houghton & Mulrooney

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 306

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO SECURED TRANSACTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 9-406(i), Article 9, Title 6 of the Delaware Code by deleting the word “or” at the end of
2 subsection 9-406(i)(2), and by deleting the period at the end of subsection 9-406(i)(3) after the words “as amended from
3 time to time” and by inserting in lieu thereof the following punctuation mark “;” and the word “or”.

4 Section 2. Amend § 9-406(i), Article 9, Title 6 of the Delaware Code by adding a new subsection (4), which
5 shall read as follows,

6 “(4) an interest in a trust, including any right or power of a beneficiary (including a settlor) or owner of
7 a trust, arising under a governing instrument (as defined in Section 3301(d) of Title 12), Title 12, or other
8 applicable law, to the extent that Delaware law governs such interest.”

9 Section 3. Amend § 9-408(e), Article 9, Title 6 of the Delaware Code by deleting the word “or” at the end of
10 subsection 9-408(e)(1), and by deleting the period at the end of subsection 9-408(e)(2) after the words “as amended from
11 time to time” and by inserting in lieu thereof the following punctuation mark “;” and the word “or”.

12 Section 4. Amend § 9-408(e), Article 9, Title 6 of the Delaware Code by adding a new subsection (3), which
13 shall read as follows,

14 “(3) an interest in a trust, including any right or power of a beneficiary (including the settlor) or owner
15 of a trust, arising under a governing instrument (as defined in Section 3301(d) of Title 12), Title 12, or other
16 applicable law, to the extent that Delaware law governs such interest.”

17 Section 5. The provisions of this Act are declared to be severable, and if any provision of this Act or the
18 application thereof to any person or circumstance is held invalid for any reason, all other provisions or applications that
19 can be given effect apart from any invalid provision shall be given such effect.

20 Section 6. This Act shall become effective as of July 1, 2001.

SYNOPSIS

Sections 9-406 and 9-408 of the revised Delaware Uniform Commercial Code provide, among other things, that certain restrictions on transfers or assignments of specified contract rights are invalid, except as reflected in a list of exemptions. This Act makes clear that an interest in a trust is within such list of exemptions and was not intended to be within Sections 9-406 and 9-408 of the revised Delaware Uniform Commercial Code. The intent of the Act is to assure that Article 9 of the revised Delaware Uniform Commercial Code does not alter longstanding Delaware law upholding anti-assignment restrictions with respect to trusts.

Author: Senator Adams