

NEWS / TRUSTS

Nevada Trust Community Rallies To Fight Stealth Attack on Asset Protection

June 9, 2013

By [admin](#), Contributor

Legislative push to let family courts pierce the state's uniquely impervious trusts got local attorneys circling the defensive wagons. But with the threat averted and Nevada's competitive edge secure, a few are weighing the cost.

It was all hands on deck in Nevada over the last few months as local trust advisors throughout the state tabled press calls to concentrate on a do-or-die project that nobody expected on the calendar at all.



At the time, they said they couldn't talk about it. Now it turns out that they were working overtime to make sure a bill introduced without fanfare back in mid-March didn't inadvertently wreck one of their main advantages in the increasingly competitive world of asset protection trusts.

After years of the Nevada state assembly doing what it could to nurture the local trust industry, the pendulum had somehow swung and the once-solid promise that the state would shield their clients even from the family court was in urgent need of shoring up.

"When I first read the proposed legislation, my initial thought was that it must have been sponsored by one of our competitor first-tier jurisdictions. It was so anti-Nevada," says Las Vegas attorney Steve Oshins.

The bullet and how they dodged it

Nevada Assembly Bill 378 was introduced with good intentions — protecting the interests of local women and children — but as amendments accumulated, it became clear that the bedrock of the state's asset protection doctrine was in danger of eroding.

Nevada is famously the only top-tier asset protection jurisdiction that refuses to assign any class of creditor special privileges when it comes to piercing a properly constructed and seasoned trust.

Spouses and non-custodial children are not exempt. If they didn't have an outstanding alimony or child support order in hand by the time the trust was seasoned, the assets are safe.

But by the time AB 378 passed a vote in the lower state house 39-0, the bill had acquired new language that opened up Nevada trusts to future claims from spouses, domestic partners and children.

Since unbeatable protection for generations to come is one of the main planks on which Nevada trusts compete for out-of-state assets, the prospect of reverting to equal footing with states like Delaware sent a chill through the local community.

Featured Contributors

Dynastic Gamesmanship: Did David Rockefeller's Crafty Trust Work Leave the IRS Holding the Bag?

By [Scott Martin](#), Contributor

March 27, 2017

One of the legendary fortunes just moved one generation farther from the source. The next few years will determine whether dynastic planning has hit its ultimate limit or truly run forever. The Rockefeller family helped write the book on long-term estate planning eight decades ago. Now we'll see how the latest chapters build on the [...]

Jennifer Garner May Be Too Expensive For Ben Affleck To Quit: HNW Divorce Planning Evolves

By [Scott Martin](#), Contributor

March 13, 2017

"Soft split" has now stretched deep into its second year with no papers actually being served or assets divided. And it may be one of the smartest moves Affleck's advisors have ever made. Depending on the rumor you believe, Ben Affleck and Jennifer Garner are either getting back together or still on the road to [...]

Obama \$65M Book Deal Juices Otherwise Dry Presidential Estate Plan

By [Scott Martin](#), Contributor

March 6, 2017

After the White House, the really big paychecks come from publishing and public appearances. But unless the Obamas have been concealing a lot of both cash and ambition, they're going to need a lot of time to catch up with the Bushes and Clintons alike. Barack and Michelle Obama left the White House with matching [...]

Demi Moore Pool Death Puts Asset Protection To The Test

By [Scott Martin](#), Contributor

March 2, 2017

Staff taking responsibility for after-hours guest drowning takes the legal pressure off the star and her family, but the owner of the premises

And as word spread, a lot of attorneys, accountants, bankers, trust officers, investment managers and bookkeepers throughout the state mobilized to protect their edge and let lawmakers know just how much state revenue was at stake.

“Officials publically stated that said they had rarely seen such a large response from a variety of professionals,” says Greg Crawford, who co-manages Reno-based Alliance Trust.

“It definitely had an impact.”

Crawford says one of the key exhibits that impressed state senators was a paper from Northwestern University law professor Max Schanzenbach, familiar to Trust Advisor readers for his studies of the economic impact of trust-friendly statutes in states like Delaware.

Schanzenbach has estimated that a full 2% of Delaware’s GDP – at least \$600 million a year – derives from out-of-state trusts and the “substantial” administrative cash flow they generate.

Given Nevada’s efforts to diversify its still-recovering economy away from mining and tourism, the unintended cost of establishing the moral superiority of blood over estate planning evidently seemed to be too high.

In conversation after conversation, Republican officials come up as the industry’s biggest allies against the bill’s overt family agenda.

Sources who declined to be named singled out Mark Hutchison and Greg Brower as especially eager to educate themselves and their colleagues, while Democratic Secretary of State Ross Miller’s awareness of the economic impact of sitting on the sidelines raised a few eyebrows.

The long-term heavy lifting begins

With the bill now essentially dead in committee, the people who helped kill it are now moving past damage control to focus on ensuring that nothing like this happens again.

Several of the key players declined to have their names associated with the story at all, seeing the entire question of family values versus asset protection as unfortunate.

Others don’t want to make lasting enemies on either side.

“I know my colleagues were mindful of the importance of protecting spouses and children,” says Las Vegas attorney Matthew Saltzman.

“But we did not believe that amending Nevada’s asset protection laws in the manner proposed was an effective way to address those issues.”

Since Saltzman believes the state’s existing trust code already makes it clearly impossible for a rogue spouse or parent to renege on existing alimony or support obligations, he says the bill would have done more harm than good.

Steve Oshins agrees that establishing a family creditor exception would have pushed his native Nevada down the list of attractive asset protection jurisdictions.

“Had it passed as originally drafted, AB 378 would have dropped Nevada from No. 1 to No. 2 in the DAPT rankings,” he notes.

Nobody in the industry wanted that to happen, so they put aside their differences and worked together against a common threat to their common interest.

And having dodged the bullet once, they’re all going to be a lot more careful to work with lawmakers to make sure everyone remains aware how much money

still shares the financial liability if wrongful death lawsuit succeeds. Like a lot of ultra-high-net-worth people in less glamorous walks of life, Demi Moore doesn’t really need to worry about wealth creation [...]

Trump’s Newest Ban: Implementing the DOL Fiduciary Rule



By [Jennifer Kelly](#), Contributor

February 24, 2017

It looks like the best the White House can do is keep kicking the regulatory ball down the road, leaving the fiduciary standard in limbo. The DOL won’t enforce the new rules, but they aren’t going away any time soon either. The DOL fiduciary rule, which requires financial advisors to make sure that all decisions [...]

Most Popular Stories

[Goldman Sachs Hiring Developer to Work on New Robo-Advisor](#)

[Jennifer Garner May Be Too Expensive For Ben Affleck To Quit: HNW Divorce Planning Evolves](#)

[Dynastic Gamesmanship: Did David Rockefeller’s Crafty Trust Work Leave the IRS Holding the Bag?](#)

[Do You Still Need An Estate Plan If There Isn’t An Estate Tax?](#)

[Why Gross Says Global Investors Will Rush Toward US Treasuries](#)

Recent Comments



[Gloria Schwope Foote](#)

Never a positive word . . . Let’s see just how negative we can get - again.

[10 Reasons To Be Cautious As Stock Markets Lose ‘Trump Trade’ Mojo](#) · 4 days ago



[Wolf Barone](#)

The Fiduciary Rule is a Red Herring. The DOL has no Enforcement Capabilities except Class Action Lawsuits. The reason for the Rule is to push as many...

