



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBa1319/1
KMS:wlj

**ASSEMBLY AMENDMENT 1,
TO SENATE BILL 667**

February 22, 2024 – Offered by Representative O’CONNOR.

1 At the locations indicated, amend the bill, as shown by senate substitute
2 amendment 1, as follows:

3 **1.** Page 1, line 2: delete “protection” and substitute “preservation”.

4 **2.** Page 2, line 2: delete “LEGACY” and substitute “DOMESTIC ASSET
5 PRESERVATION”.

6 **3.** Page 2, line 4: on lines 4, 6 and 8, delete “legacy” and substitute “domestic
7 asset preservation”.

8 **4.** Page 2, line 18: delete “nonlegacy trust to a legacy trust” and substitute
9 “nondomestic asset preservation trust to a domestic asset preservation trust”.

10 **5.** Page 2, line 20: delete “nonlegacy trust” and substitute “nondomestic asset
11 preservation trust”.

12 **6.** Page 3, line 10: after that line insert:

1 “(6m) “Domestic asset preservation trust” means a trust created by a written
2 instrument, the terms of which do all of the following:

3 (a) Appoint at least one qualified trustee to accept property that is the subject
4 of a disposition, regardless of whether the terms of the trust also appoint a
5 nonqualified trustee.

6 (b) Expressly designate the laws of this state to govern the meaning and effect
7 of the terms of the trust, in whole or in part.

8 (c) Expressly provide that the trust is irrevocable.

9 (d) Include a spendthrift provision that applies to an interest of a beneficiary
10 in trust property, including an interest of a transferor who is a beneficiary.”.

11 **7.** Page 3, line 14: delete lines 14 to 23.

12 **8.** Page 3, line 25: delete “Nonlegacy” and substitute “Nondomestic asset
13 preservation”.

14 **9.** Page 3, line 25: delete “a legacy” and substitute “a domestic asset
15 preservation”.

16 **10.** Page 4, line 1: after that line insert:

17 “(11m) “Qualified affidavit” means an affidavit that meets all of the
18 requirements of s. 701.1312 (2).”.

19 **11.** Page 4, line 3: on lines 3, 12, 14 and 16, delete “legacy” and substitute
20 “domestic asset preservation”.

21 **12.** Page 4, line 9: after “state,” insert “the trust company or bank is subject
22 to supervision by the department of financial institutions, the federal deposit
23 insurance corporation, the U.S. comptroller of the currency, or a successor of any of
24 them,”.

1 **13.** Page 4, line 23: delete lines 23 to 25 and substitute:

2 “(d) A qualified trustee of the domestic asset preservation trust has the power
3 to maintain records for the trust on an exclusive or nonexclusive basis, prepare or
4 arrange for the preparation of fiduciary income tax returns for the trust, and
5 maintain or arrange for custody in this state of some or all of the property that is the
6 subject of a qualified disposition, and a material portion of the administration of the
7 trust is performed in this state.”.

8 **14.** Page 6, line 10: on lines 10, 17, 19, 21, 22, 24 and 25, delete “legacy” and
9 substitute “domestic asset preservation”.

10 **15.** Page 6, line 11: before that line insert:

11 “5. The notice is considered provided to a spouse if one of the following
12 requirements is met:

13 a. The notice is delivered to the spouse via certified mail, with a return receipt
14 requested.

15 b. The notice is given to the spouse in-person and the spouse acknowledges the
16 receipt of the notice in a signed and notarized document.”.

17 **16.** Page 6, line 16: delete “**legacy**” and substitute “**domestic asset**
18 **preservation**”.

19 **17.** Page 7, line 3: on lines 3, 5, 11, 12, 14, 18, 19, 20 and 25, delete “legacy”
20 and substitute “domestic asset preservation”.

21 **18.** Page 7, line 9: delete “**legacy**” and substitute “**domestic asset**
22 **preservation**”.

1 **19.** Page 8, line 1: on lines 1, 4, 5, 8, 14, 17, 18 and 21, delete “legacy” and
2 substitute “domestic asset preservation”.

3 **20.** Page 8, line 11: delete “legacy trust unless the terms of the legacy trust”
4 and substitute “domestic asset preservation trust unless the terms of the domestic
5 asset preservation trust”.

6 **21.** Page 9, line 2: on lines 2, 3, 5, 11, 12, 17 and 22, delete “legacy” and
7 substitute “domestic asset preservation”.

8 **22.** Page 10, line 22: on lines 22 and 24, delete “legacy” and substitute
9 “domestic asset preservation”.

10 **23.** Page 11, line 20: on lines 20 and 24, delete “legacy” and substitute
11 “domestic asset preservation”.

12 **24.** Page 12, line 3: on lines 3, 4, 14, 16, 17 and 22, delete “legacy” and
13 substitute “domestic asset preservation”.

14 **25.** Page 13, line 5: on lines 5, 7, 11, 14 and 20, delete “legacy” and substitute
15 “domestic asset preservation”.

16 **26.** Page 13, line 21: delete “legacy trust and the legacy” and substitute
17 “domestic asset preservation trust and the domestic asset preservation”.

18 **27.** Page 14, line 11: on lines 11, 12 and 22, delete “legacy” and substitute
19 “domestic asset preservation”.

20 **28.** Page 15, line 5: on lines 5, 6, 9, 15 and 18, delete “legacy” and substitute
21 “domestic asset preservation”.

1 **29.** Page 15, line 11: delete “legacy trust, each trustee and each advisor of the
2 legacy trust” and substitute “domestic asset preservation trust, each trustee and
3 each advisor of the domestic asset preservation trust”.

4 **30.** Page 15, line 25: delete “(8)” and substitute “(6m)”.

5 **31.** Page 16, line 1: on lines 1, 5, 11 and 21, delete “legacy” and substitute
6 “domestic asset preservation”.

7 **32.** Page 16, line 3: delete “nonlegacy” and substitute “nondomestic asset
8 preservation”.

9 **33.** Page 16, line 21: after that line insert:

10 “(6) Subsection (1) and ss. 701.1302, 701.1306, 701.1307, and 701.1310 do not
11 apply to the collection of taxes and debts owed to or being collected by the department
12 of revenue.

13 **701.1312 Transferor’s affidavit required.** (1) Except as provided in sub.
14 (4), a transferor shall sign a qualified affidavit before or substantially
15 contemporaneously with making a qualified disposition.

16 (2) A qualified affidavit shall be notarized and shall contain all of the following
17 statements under oath:

18 (a) The property being transferred to the domestic asset preservation trust was
19 not derived from unlawful activities.

20 (b) The transferor has full right, title, and authority to transfer the property
21 to the domestic asset preservation trust.

22 (c) The transferor will not be rendered insolvent immediately after the transfer
23 of the property to the domestic asset preservation trust.

1 (d) The transferor does not intend to defraud any creditor by transferring the
2 property to the domestic asset preservation trust.

3 (e) There are no pending or threatened court actions against the transferor,
4 except for any court action identified by the affidavit or an attachment to the
5 affidavit.

6 (f) The transferor is not involved in any administrative proceeding, except for
7 any proceeding identified by the affidavit or an attachment to the affidavit.

8 (g) The transferor does not contemplate at the time of the transfer the filing for
9 relief under the federal bankruptcy code.

10 **(3)** A qualified affidavit is considered defective if it materially fails to meet the
11 requirements set forth in sub. (2), but a qualified affidavit is not considered defective
12 due to any of the following:

13 (a) Any nonsubstantive variances from the language set forth in sub. (2).

14 (b) Any statements or representations in addition to those set forth in sub. (2)
15 if the statements or representations do not materially contradict the statements or
16 representations required by that subsection.

17 (c) Any technical errors in the form, substance, or method of administering an
18 oath if those errors were not the fault of the affiant, and the affiant reasonably relied
19 upon another person to prepare or administer the oath.

20 **(4)** (a) A qualified affidavit is not required from a transferor who is not a
21 beneficiary of the legacy trust that receives the disposition.

22 (b) A subsequent qualified affidavit is not required in connection with any
23 qualified disposition made after the execution of an earlier qualified affidavit if that
24 disposition is a part of, is required by, or is the direct result of a prior qualified
25 disposition that was made in connection with that earlier qualified affidavit.

(5) If a qualified affidavit is required under this section and a transferor fails to timely sign a qualified affidavit or signs a defective qualified affidavit, then, subject to the normal rules of evidence, that failure or defect may be considered as evidence in any proceeding commenced pursuant to s. 701.1306, but the domestic asset preservation trust or the validity of any attempted qualified disposition shall not be affected in any other way due to that failure or defect.

SECTION 1m. Nonstatutory provisions.

(1) RECONCILIATION PROVISIONS.

(a) If 2023 Wisconsin Act ... (Senate Bill 759) creates s. 702.102 (11), the language “special power of appointment” in ss. 701.1301 (6) (b) and 701.1304 (2) of this act is changed to “nongeneral power of appointment.” If 2023 Wisconsin Act ... (Senate Bill 759) does not create s. 702.102 (11), the language “special power of appointment” in ss. 701.1301 (6) (b) and 701.1304 (2) of this act is unchanged.

(b) If 2023 Wisconsin Act ... (Senate Bill 759) creates s. 702.102 (11), the language “, as defined in s. 702.02 (7),” in s. 701.1304 (2) of this act is void. If 2023 Wisconsin Act ... (Senate Bill 759) does not create s. 702.102 (11), the language “, as defined in s. 702.02 (7),” in s. 701.1304 (2) of this act is not void.”.

34. Page 16, line 24: after that line insert:

“SECTION 3. Effective date.

(1) This act takes effect on July 1, 2025.”.

(END)