

# State of Wisconsin



2023 Senate Bill 667

Date of enactment:  
Date of publication\*:

## 2023 WISCONSIN ACT

AN ACT *to create* subchapter XIII of chapter 701 [precedes 701.1301] of the statutes; **relating to:** domestic asset preservation trusts.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Subchapter XIII of chapter 701 [precedes 701.1301] of the statutes is created to read:

### CHAPTER 701 SUBCHAPTER XIII DOMESTIC ASSET PRESERVATION TRUSTS

**701.1301 Definitions.** In this subchapter:

(1) "Advisor" means a person who, under the terms of a domestic asset preservation trust, is granted the power to do any of the following:

(a) Remove or appoint a trustee of the domestic asset preservation trust.

(b) Direct, consent to, or disapprove a trustee's actual or proposed investment, distribution, or any other action related to assets of the domestic asset preservation trust.

(2) "Asset" means property of a transferor but does not include any of the following:

(a) Property to the extent it is encumbered by a valid lien.

(b) Property to the extent it is generally exempt under nonbankruptcy law at the time of a qualified disposition.

(c) Property held as marital property with rights of survivorship to the extent that under the law governing the marital property at the time of a qualified disposition

the property is not subject to process by a creditor holding a claim against only one spouse.

(d) Property transferred from a nondomestic asset preservation trust to a domestic asset preservation trust to the extent that the property would not be subject to attachment under applicable nonbankruptcy law that governs the nondomestic asset preservation trust.

(3) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) "Creditor" means a person who has a claim against a transferor and includes any transferee of, assignee of, or successor to the claim.

(5) "Debt" means liability on a claim.

(6) "Disposition" means a transfer, conveyance, or assignment of a property interest, including a partial, contingent, undivided, or co-ownership property interest. "Disposition" includes an exercise of a general power of appointment that results in a transfer of property to a trustee but does not include any of the following:

(a) The release or relinquishment of a property interest that is subject to a qualified disposition until the release or relinquishment.

(b) The exercise of a special power of appointment that results in a transfer of property to a trustee.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(c) A disclaimer under s. 700.27 or 854.13.

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

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

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

(c) Expressly provide that the trust is irrevocable.

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

**(7)** “Investment decision” means a decision regarding the retention, purchase, sale, exchange, tender, or other action affecting the ownership of or rights in an investment.

**(9)** “Lien” has the meaning given in s. 242.01 (8).

**(10)** “Nondomestic asset preservation trust” means a trust that is not a domestic asset preservation trust.

**(11)** “Nonqualified trustee” means a trustee who is not a qualified trustee.

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

**(12)** “Qualified disposition” means a disposition by a transferor to any trustee of a domestic asset preservation trust.

**(13)** “Qualified trustee” means a trustee who is not a transferor and to whom one of the following applies:

(a) If the trustee is an individual, the individual resides and is domiciled in this state.

(b) If the trustee is a trust company or a bank, the trust company or bank is organized under federal law, state law, or the laws of another state, the trust company or bank is subject to supervision by the department of financial institutions, the federal deposit insurance corporation, the U.S. comptroller of the currency, or a successor of any of them, and the trust company or bank maintains an office in this state.

**(14)** “Transferor” means a person who directly or indirectly makes a disposition to a domestic asset preservation trust, including a settlor, as defined in s. 701.0103 (23).

**(15)** “Valid lien” has the meaning given in s. 242.01 (13).

**701.1302 Applicability.** (1) Unless the terms of a domestic asset preservation trust provide otherwise, this subchapter governs the construction, operation, and enforcement in this state of a domestic asset preservation trust, whether created in this state or any other state, if any of the following applies:

(a) Any of the land, rents, issues, or profits that are the subject of a qualified disposition are located in this state.

(b) Any portion of personal property, interest of money, or dividends of stock that is the subject of a qualified disposition is located in this state.

(c) The transferor’s legal residence is in this state.

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

**(2)(a)** If the transferor is married at the time of a qualified disposition, this subchapter applies to the following:

1. Any of the transferor’s individual property that is the subject of the qualified disposition.

2. Any marital property that is the subject of the qualified disposition if the transferor’s spouse at the time of the disposition was provided with notice of the qualified disposition as provided in par. (b) or executed a written consent to the qualified disposition after being provided the information set forth in the notice.

(b) All of the following apply to a notice of a qualified disposition under this subchapter:

1. The notice shall contain the following language, in capital letters, at or near the top of the notice:

YOUR SPOUSE OR FORMER SPOUSE IS CREATING A PERMANENT TRUST INTO WHICH PROPERTY IS BEING TRANSFERRED.

YOUR RIGHTS TO THIS PROPERTY MAY BE AFFECTED DURING YOUR MARRIAGE, UPON DIVORCE (INCLUDING THE PAYMENT OF CHILD SUPPORT OR ALIMONY OR A DIVISION OR DISTRIBUTION OF PROPERTY IN A DIVORCE), OR AT THE DEATH OF YOUR SPOUSE OR FORMER SPOUSE.

YOU HAVE A VERY LIMITED PERIOD OF TIME TO OBJECT TO THE TRANSFER OF PROPERTY INTO THIS TRUST.

YOU MAY, UPON REQUEST TO THE TRUSTEE AT THE ADDRESS BELOW, BE FURNISHED A COPY OF THE TRUST DOCUMENT.

IF YOU HAVE ANY QUESTIONS, YOU SHOULD IMMEDIATELY SEEK INDEPENDENT LEGAL ADVICE.

IF YOU FAIL TO OBJECT WITHIN 30 DAYS, YOU WILL HAVE CONSENTED TO THE TRANSFER OF PROPERTY INTO THIS TRUST.

.... (address)

2. The notice shall contain a description of the property that is the subject of the qualified disposition.

3. The notice may require that any person who is eligible to receive information under this subsection be bound by the duty of confidentiality that binds the trustee before receiving such information from the trustee.

4. The notice shall be provided by the transferor, the transferor's agent, the trustee, or another fiduciary of the domestic asset preservation trust.

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

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

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

(c) If a notice is provided under this subsection before the qualified disposition, the period to commence an action under s. 701.1306 (3) begins to run on the date the notice is provided. The period to commence an action to challenge a qualified disposition under this subsection and s. 701.1306 (3) may not exceed the period set forth in s. 893.425.

**701.1303 Spendthrift provision; domestic asset preservation trust.** (1) Notwithstanding s. 701.0502 (1), a spendthrift provision of a domestic asset preservation trust is not invalid because a transferor or a person who is treated as a settlor under s. 701.0505 (2) is also a beneficiary of the domestic asset preservation trust.

(2) Except as otherwise provided in this section, a spendthrift provision in a domestic asset preservation trust restrains both voluntary and involuntary transfers of a transferor's interest in the domestic asset preservation trust. A spendthrift provision in a domestic asset preservation trust is enforceable under any applicable nonbankruptcy law within the meaning of 11 USC 541 (c) (2) regardless of whether the domestic asset preservation trust instrument makes any reference to that enforceability. The terms of a domestic asset preservation trust, including in a spendthrift provision, may provide for any other restraint of alienation that are permitted under the laws of this state.

(3) Section 701.0503 (2) does not apply to a spendthrift provision in a domestic asset preservation trust.

(4) Section 701.0505 (1) (a) 2. does not apply to a domestic asset preservation trust.

(5) Nothing in this section may deprive a beneficiary of any exemption right that the beneficiary has under any applicable law after the trust property is received by the beneficiary.

**701.1304 Implied power to revoke or to transfer an interest in a domestic asset preservation trust.** None of the following is considered to be, including in combination, a power to revoke a domestic asset preservation trust or to voluntarily or involuntarily transfer an interest in the domestic asset preservation trust:

(1) A transferor's power to veto a distribution of income or principal from the domestic asset preservation trust.

(2) A special power of appointment, as defined in s. 702.02 (7), exercisable by a transferor by will or another

written document that is effective during the lifetime of the transferor or upon the death of the transferor.

(3) The right of a transferor to receive income from the domestic asset preservation trust in accordance with the terms of the domestic asset preservation trust.

(4) That a transferor is a beneficiary of the domestic asset preservation trust regardless of whether the trust qualifies as a charitable remainder annuity trust under 26 USC 664 (d) (1) or as a charitable remainder unitrust under 26 USC 664 (d) (2), even if the transferor has the right to release the transferor's retained interest, in whole or in part, in the charitable remainder annuity trust or charitable remainder unitrust at any time in favor of one or more of the remainder beneficiaries of the domestic asset preservation trust.

(5) A transferor's annual receipt of a percentage of the value of the domestic asset preservation trust assets, as determined in accordance with the terms of the trust, as long as the amount the transferor receives in a year is not more than the amount defined as the income of the domestic asset preservation trust under 26 USC 643 (b) or, for any qualified retirement plan or eligible deferred compensation plan that is an asset of the domestic asset preservation trust, the minimum required distribution, as defined in 26 USC 4974 (b).

(6) A transferor's potential or actual receipt or use of principal or income of the domestic asset preservation trust if the potential or actual receipt or use is the result of any of the following:

(a) A qualified trustee's discretion. For purposes of this paragraph, a qualified trustee has discretion with respect to the distribution and use of the principal and income of a domestic asset preservation trust unless the terms of the domestic asset preservation trust expressly provide otherwise.

(b) A qualified trustee applying a standard that governs the distribution or use of principal or income of the domestic asset preservation trust.

(c) A qualified trustee acting at the direction of an advisor if the advisor's direction is discretionary or pursuant to a standard that governs the distribution or use of principal or income under the terms of the domestic asset preservation trust. For purposes of this paragraph, an advisor's direction is discretionary unless the terms of the domestic asset preservation trust expressly provide otherwise.

(7) A transferor's potential or actual right to use real or tangible personal property owned by the domestic asset preservation trust.

(8) A transferor's right to possess and enjoy a qualified interest, as defined in 26 USC 2702 (b), or property held under a qualified personal residence trust, as described in 26 USC 2702 (c).

(9) A qualified trustee's mandatory or discretionary power to use the income or principal of the domestic asset

preservation trust to pay, in whole or in part, income taxes due on the income of the domestic asset preservation trust.

(10) That a qualified trustee, whether pursuant to the qualified trustee's discretion, the terms of the domestic asset preservation trust, or the direction of an advisor pays any of the following:

(a) A transferor's debt that is outstanding at the time of the transferor's death.

(b) The expenses of administering the transferor's estate.

(c) Any estate, gift, generation-skipping transfer, or inheritance tax on behalf of the transferor or the transferor's estate.

(11) A provision in the domestic asset preservation trust that transfers all or part of the trust assets to the transferor's estate or revocable trust.

(12) A transferor is a beneficiary of the domestic asset preservation trust and is authorized to receive a payment of income or principal from a qualified annuity interest, as defined in 26 CFR 25.2702-3 (b), or a qualified unitrust interest, as defined in 26 CFR 25.2702-3 (c).

**701.1305 Transferor's powers.** (1) A transferor of a domestic asset preservation trust has only the powers and rights that are granted to the transferor by the trust instrument. An agreement or understanding, express or implied, between the transferor and a trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.

(2) Notwithstanding s. 701.1304, the terms of a domestic asset preservation trust may grant a transferor, whether or not the transferor is a trustee, the power to do any of the following:

(a) Remove and replace a trustee.

(b) Remove and replace an advisor.

(c) Direct trust investments.

(d) Execute any other managerial duties.

**701.1306 Limitations on actions, remedies, and claims.** (1) In this section:

(a) "Cash" means the coins or currency of the United States or any other nation.

(b) "Cash equivalent" means a monetary instrument or device that is commonly or routinely accepted instead of cash, including a certified or uncertified check; money order; bank draft; electronic transfer of funds; negotiable instrument or an instrument endorsed in blank or in bearer form; securities issued or guaranteed by the United States, a state, or a state or federal agency; funds on deposit in a savings or checking account or any similar account; funds on deposit in a money market account or similar account; or demand deposit account, time deposit account, or savings deposit account at any bank, savings and loan association, brokerage house, or similar institution.

(c) "Fungible asset" means an asset other than money that is interchangeable for commercial purposes and the properties of which are essentially identical.

(d) "Money" means cash or a cash equivalent.

(2) Subject to sub. (3) and s. 701.1311 (4), a creditor may not bring an action of any kind, including an action to enforce a judgment, an action at law or in equity, or an action for an attachment or other final or provisional remedy, against a person who made or received a qualified disposition, against a trustee of a domestic asset preservation trust, or against or involving any property that is the subject of a qualified disposition or is otherwise held by a domestic asset preservation trust, except that, subject to s. 701.1307, a creditor may bring an action against a qualified disposition of an asset if the transferor made the qualified disposition with the intent to hinder, delay, or defraud the creditor.

(3) A creditor may bring an action against a qualified disposition under sub. (2) only if the creditor satisfies one of the following:

(a) The creditor was a creditor of the transferor when the qualified disposition was made and the creditor commences the action within the later of the following:

1. Eighteen months after the qualified disposition.

2. Six months after the creditor discovers or reasonably should have discovered the qualified disposition. For purposes of this subdivision, a creditor is considered to have discovered a transfer at the time a public record is made of the transfer.

(b) The creditor becomes a creditor after the qualified disposition is made, and the creditor commences the action no later than 18 months after the qualified disposition.

(4) In an action against a qualified disposition under sub. (2), each creditor has the burden of proving by clear and convincing evidence that the transferor made the qualified disposition with the intent to hinder, delay, or defraud the creditor. Proof by one creditor that a transferor made a qualified disposition with the intent to hinder, delay, or defraud that creditor is not proof that the transferor made a qualified disposition with the intent to hinder, delay, or defraud any other creditor and does not invalidate any other transfer of property to the domestic asset preservation trust.

(5) Subject to s. 701.1311 (4), with respect to a qualified disposition, a creditor has only the rights and remedies that are provided in this section and s. 701.1307.

(6) Subject to sub. (8), an advisor may not be found liable for damages a person suffers in connection with a domestic asset preservation trust unless the person demonstrates by clear and convincing evidence that the advisor's actions violated the laws of this state, that the advisor acted knowingly and in bad faith, and that the

advisor's actions directly caused the damages suffered by the person.

(7) Subject to sub. (8), a trustee of a domestic asset preservation trust may not be found liable to a person who is not a beneficiary or a transferor of the domestic asset preservation trust unless the person demonstrates by clear and convincing evidence that the trustee's actions violated the laws of this state, that the trustee acted knowingly and in bad faith, and that the trustee's actions directly caused the damages suffered by the person.

(8) (a) Subject to s. 701.1311 (4), no person may bring an action of any kind related to a qualified disposition if the period under sub. (3) in which a creditor may bring an action against the qualified disposition that is the basis of the action has expired.

(b) An action barred under par. (a) includes an action to enforce a judgment entered by a court or other authorized adjudicative body, in law or equity, against a trustee or advisor of a domestic asset preservation trust or against any person involved in the counseling in connection with, or the drafting, preparation, execution, administration, or funding of a domestic asset preservation trust. For purposes of this paragraph, "counseling in connection with, or the drafting, preparation, execution, administration, or funding of a domestic asset preservation trust" includes any of those actions related to any limited partnership, limited liability company, corporation, or similar entity if the limited partnership interests, limited liability company interests, stock, or other similar ownership interests in the relevant entity are subsequently the subject of a qualified disposition.

(9) If more than one qualified disposition is made to a domestic asset preservation trust, all of the following apply:

(a) For purposes of determining whether a creditor's claim against a qualified disposition is barred under sub. (3), each qualified disposition shall be evaluated individually without regard to any subsequent qualified disposition.

(b) For purposes of determining the order in which property is paid, applied, or distributed from a domestic asset preservation trust, all of the following apply:

1. A payment, application, or distribution of money is considered to be made from or with the money most recently received or acquired by any trustee of a domestic asset preservation trust except to the extent that it is proven otherwise beyond a reasonable doubt.

2. A payment, application, or distribution of a fungible asset is considered to be made from or with the fungible asset most recently received or acquired by any trustee of a domestic asset preservation trust except to the extent that it is proven otherwise by clear and convincing evidence.

(c) A distribution to a beneficiary is considered to have been made from the most recent transfer to the domestic asset preservation trust.

**701.1307 Creditor claims against qualified dispositions.** (1) If a creditor's claim against a qualified disposition under s. 701.1306 is successful, in whole or in part, all of the following apply:

(a) The creditor may recover damages from trust assets only to the extent necessary to satisfy a transferor's debt to the creditor and any part of the qualified disposition that is not used to satisfy the debt remains subject to the domestic asset preservation trust.

(b) Any other qualified disposition to a trustee of the domestic asset preservation trust and the domestic asset preservation trust remain valid, including a qualified disposition of a partial, co-ownership, or undivided interest in property by a transferor whose transfer was the subject of a creditor claim under s. 701.1306.

(c) If a court is satisfied that the trustee did not act in bad faith in accepting or administering the property that was the subject of the claim under s. 701.1306, all of the following apply:

1. The trustee has a first lien against the property that was the subject of the claim under s. 701.1306 in an amount equal to the entire cost, including attorney fees, properly incurred by the trustee in defense of the action or proceedings against the qualified disposition.

2. Any recovery for damages under par. (a) is subject to the fees, costs, and preexisting rights, claims, and interests of the trustee and of any predecessor trustee that has not acted in bad faith.

(d) If a court is satisfied that a beneficiary of the domestic asset preservation trust did not act in bad faith in receiving a distribution from the domestic asset preservation trust, the creditor's recovery of the qualified disposition is subject to the right of the beneficiary to retain that distribution if the distribution was the result of an exercise of a trust power or of discretion vested in a trustee or advisor and that power or discretion was exercised before the creditor commenced the action against the qualified disposition.

(e) 1. For purposes of par. (c), a trustee is not considered to have acted in bad faith solely because the trustee accepted the property that is the subject of the recoverable qualified disposition.

2. For purposes of par. (d), a beneficiary, including a beneficiary who is a transferor, is not considered to have acted in bad faith solely because the beneficiary accepted a distribution made in accordance with the terms of the domestic asset preservation trust.

3. For purposes of pars. (c) and (d), a creditor has the burden of proving by clear and convincing evidence that a trustee or a beneficiary acted in bad faith.

(2) A court shall award costs and reasonable attorney fees to a prevailing party in a final judgment in an action that is wholly or partially brought under this section or s. 701.1306.

**701.1308 Trust advisors; eligibility; default fiduciary status.** (1) Except as provided in sub. (2), any per-

son is eligible to serve as an advisor of a domestic asset preservation trust.

(2) A transferor of a domestic asset preservation trust may serve as an advisor only in connection with investment decisions related to trust assets.

(3) Notwithstanding s. 701.0818 (2), an advisor is a fiduciary unless the terms of a domestic asset preservation trust expressly provide otherwise.

**701.1309 Rules regarding discretion.** Except as otherwise provided under the terms of a domestic asset preservation trust, each trustee and each advisor of the domestic asset preservation trust has the greatest discretion permitted by law in connection with all matters of trust administration, trust distributions, and any other trustee or advisor decision.

**701.1310 Discretionary interest not property of a beneficiary.** No person, including a beneficiary, has a property interest in property of a domestic asset preservation trust to the extent that the distribution of that property is subject to the discretion of a qualified trustee or advisor, whether acting alone or in conjunction with another person, including a person authorized to veto a distribution from the domestic asset preservation trust.

**701.1311 Miscellaneous provisions.** (1) If there is a conflict between a provision of this subchapter and s. 242.07, the provision of this subchapter shall control.

(2) A statement in a trust instrument that the trust is governed by “the laws of this state” or a statement to similar effect is considered to expressly designate the laws of this state to govern the validity, construction, and administration of the trust and satisfies s. 701.1301 (6m) (b).

(3) A disposition by a nonqualified trustee to a qualified trustee of a domestic asset preservation trust is not disqualified from being a qualified disposition on the sole basis that the nonqualified trustee is a trustee of a trust that is a nondomestic asset preservation trust.

(4) A valid lien that is attached to property before the property is the subject of a qualified disposition survives the disposition, and the trustee of the domestic asset preservation trust takes the property subject to the lien and subject to any agreements that created or perfected the lien. Nothing in this subchapter may be construed to authorize any disposition that is prohibited by the terms of an agreement, note, guaranty, mortgage, indenture, instrument, undertaking, or other document.

(5) A trust administered under the laws of another state or a foreign jurisdiction is considered to be a domestic asset preservation trust if all of the following apply:

(a) The trustee of the trust complies with the requirements in the trust instrument and any applicable requirements under the laws of the state or foreign jurisdiction in which the trust is being administered.

(b) 1. The trustee or other person having the power to transfer the domicile of the trust declares in writing that the trustee or other person intends to transfer the domicile of the trust to this state.

2. If the person making the declaration under subd. 1. is a person other than the trustee, the declaration is delivered to the trustee.

(c) At the time of or immediately following the transfer of the trustee to this state, the trust satisfies the definition of a domestic asset preservation trust under this subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (a) A qualified affidavit is not required from a transferor who is not a beneficiary of the domestic asset preservation trust that receives the disposition.

(b) A subsequent qualified affidavit is not required in connection with any qualified disposition made after the execution of an earlier qualified affidavit if that disposition is a part of, is required by, or is the direct result of a prior qualified 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 Senate Bill 759 is enacted into law and 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 Senate Bill 759 is not enacted into law, the language “special power of appointment” in ss. 701.1301 (6) (b) and 701.1304 (2) of this act is unchanged.

(b) If 2023 Senate Bill 759 is enacted into law and creates s. 702.102 (11), the language “, as defined in s. 702.02 (7),” in s. 701.1304 (2) of this act is void and is deleted. If 2023 Senate Bill 759 is not enacted into law, the language “, as defined in s. 702.02 (7),” in s. 701.1304 (2) of this act is not void and is retained.

**SECTION 2. Initial applicability.**

(1) This act first applies to qualified dispositions made on the effective date of this subsection.

**SECTION 3. Effective date.**

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

