

Requirements for a Trust to be Protected from the Claims of Creditors

UNDER THE ALASKA TRUST ACT...

1. The transfer to the trust cannot have been a fraudulent conveyance
 - A. The transfer can not render the Grantor insolvent i.e. unable to pay obligations.
 - B. The transfer can not be intended to remove assets from the reach of a specifically known, or anticipated, creditor.
 - C. Alaska statute of limitations to commence a suit that the transfer is a fraudulent conveyance is (4) four years. (note: it is possible that the statute of limitations of the Grantor's "home" state would apply, which might be longer).
2. The Grantor cannot have been in default by more than (30) thirty days on child support payments.
3. The Grantor cannot retain the power to revoke the trust. (note: the Grantor can retain the power to veto distributions to other beneficiaries and a testamentary special power of appointment. These powers will render the gift to the trust incomplete for federal gift and estate tax purposes.)
4. The Grantor cannot retain entitlement to income or principal of the trust but can only be eligible in the discretion of a trustee, other than the grantor, to receive distributions.