

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 2757

6 By: Cox

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to homestead and exemptions; amending  
9 Section 2, Chapter 509, O.S.L. 2004, as amended by  
10 Section 1, Chapter 438, O.S.L. 2005 (31 O.S. Supp.  
11 2007, Section 11), which relates to the Family Wealth  
12 Preservation Trust Act; providing for qualified  
13 intermediary as trustee or cotrustee; and providing  
14 an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY Section 2, Chapter 509, O.S.L.  
17 2004, as amended by Section 1, Chapter 438, O.S.L. 2005 (31 O.S.  
18 Supp. 2007, Section 11), is amended to read as follows:

19 Section 11. As used in the Family Wealth Preservation Trust  
20 Act:

21 1. "Grantor" means an individual, whether or not a resident of  
22 this state, establishing or creating a preservation trust;

23 2. "Oklahoma assets" includes:  
24

- 1 a. a stock, bond, debenture, membership interest,  
2 partnership interest, or other equity or debt interest  
3 issued by an Oklahoma-based company,
- 4 b. a bond or other obligation issued by this state or an  
5 Oklahoma governmental agency,
- 6 c. a bond or other obligation issued by a county of this  
7 state, by a municipal government located in this  
8 state, by a school district located in this state or  
9 by any public trust for the benefit of either this  
10 state or one or more political subdivisions of this  
11 state,
- 12 d. an account in an Oklahoma-based bank. As used in this  
13 subparagraph, "account" means a demand, time, savings  
14 or passbook type of account or a certificate of  
15 deposit type of account,
- 16 e. real or tangible personal property, or any interest  
17 therein, having a situs in this state, which shall  
18 include, but not be limited to:
- 19 (1) mineral interests, or  
20 (2) promissory notes secured primarily by real or  
21 tangible personal property or both,
- 22 f. any security backed exclusively by promissory notes,  
23 if at least a majority in value of such promissory  
24

1 notes are secured by real or tangible personal  
2 property having a situs in this state or both, and  
3 g. mutual funds, as defined pursuant to The Investment  
4 Company Act of 1940, 15 U.S.C., Section 80a-1 et seq.  
5 and The Securities Act of 1933, 15 U.S.C., Section 77a  
6 et seq., and common trust funds, as defined pursuant  
7 to Section 1010 of Title 6 of the Oklahoma Statutes,  
8 to the extent the assets within such funds meet one or  
9 more of the requirements listed in subparagraphs a  
10 through f of this paragraph;

11 3. a. "Oklahoma-based bank" means a bank, savings  
12 association or credit union which both:

13 (1) takes deposits insured by the Federal Deposit  
14 Insurance Corporation or the National Credit  
15 Union Administration, and

16 (2) has a place of business in Oklahoma, which shall  
17 be a physical location, and

18 b. "Oklahoma-based trust company" means a trust company  
19 chartered under the laws of this state or nationally  
20 chartered and having a place of business in Oklahoma,  
21 which shall be a physical location;

22 4. "Oklahoma-based company" means a corporation, limited  
23 liability company, limited partnership, limited liability  
24 partnership or other legal entity formed or qualified to do business

1 in this state and having its principal place of business in this  
2 state, which principal place of business shall be a physical  
3 location;

4 5. "Preservation trust" means a trust:

5 a. established by a grantor under Oklahoma law,

6 b. having at all times as a trustee or cotrustee an

7 Oklahoma-based bank that maintains a trust department

8 or an Oklahoma-based trust company, provided,

9 however, if a majority in value of the assets of the

10 trust consists of real property having a situs in this

11 state, the trust shall have as a trustee either:

12 (1) an Oklahoma-based bank that maintains a trust

13 department or an Oklahoma-based trust company, or

14 (2) any Oklahoma resident individual, Oklahoma-

15 chartered entity, or Oklahoma-domesticated entity

16 that is eligible to serve as a qualified

17 intermediary for the purpose of effecting a

18 Section 1031 exchange under the United States

19 Internal Revenue Service Code,

20 c. having as beneficiaries only qualified beneficiaries

21 or a qualified beneficiary,

22 d. having a majority in value of its assets comprised of

23 Oklahoma assets, except that if any asset which

24 qualifies, or is intended to qualify, as an Oklahoma

1           asset ceases or fails to qualify as an Oklahoma asset,  
2           the trustee shall have a reasonable period of time  
3           following discovery thereof to convert such  
4           nonqualifying asset into an Oklahoma asset, and

5           e.    reciting in its terms that the income generated from  
6           the corpus of the trust is subject to the income tax  
7           laws of this state; and

8       6.    "Qualified beneficiary" or "qualified beneficiaries" means:

9           a.    the lineal ancestors and lineal descendants of the  
10           grantor or the grantor's spouse, including adopted  
11           lineal descendants if they were under the age of  
12           eighteen (18) at the time of the adoption,

13           b.    the spouse of the grantor,

14           c.    a nonprofit organization qualified under the  
15           provisions of the Internal Revenue Code of 1986, 26  
16           U.S.C., Section 501(c)(3), or

17           d.    a trust settled for the sole benefit of one or more  
18           qualified beneficiaries.

19       SECTION 2.   This act shall become effective November 1, 2008.

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21       51-2-10143       MMP       02/19/08  
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