

THE HOUSE OF REPRESENTATIVES
Thursday, March 6, 2008

Committee Substitute for
House Bill No. 2757

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2757 - By: COX, ROAN AND SULLIVAN of the House.

An Act relating to homestead and exemptions; amending Sections 2 and 3, Chapter 509, O.S.L. 2004, as amended by Sections 1 and 2, Chapter 438, O.S.L. 2005 (31 O.S. Supp. 2007, Sections 11 and 12), which relate to the Family Wealth Preservation Trust Act; providing for certain individual as trustee; defining term; modifying aggregate fair market value limitation; and providing an effective date.

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

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

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

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

7 2. "Oklahoma assets" includes:

8 a. a stock, bond, debenture, membership interest, partnership interest, or
9 other equity or debt interest issued by an Oklahoma-based company,

1 extent the assets within such funds meet one or more of the
2 requirements listed in subparagraphs a through f of this paragraph;

3 3. a. “Oklahoma-based bank” means a bank, savings association or credit
4 union which both:

5 (1) takes deposits insured by the Federal Deposit Insurance
6 Corporation or the National Credit Union Administration, and
7 (2) has a place of business in Oklahoma, which shall be a physical
8 location, and

9 b. “Oklahoma-based trust company” means a trust company chartered
10 under the laws of this state or nationally chartered and having a place
11 of business in Oklahoma, which shall be a physical location;

12 4. “Oklahoma-based company” means a corporation, limited liability company,
13 limited partnership, limited liability partnership or other legal entity formed or qualified
14 to do business in this state and having its principal place of business in this state, which
15 principal place of business shall be a physical location;

16 5. “Preservation trust” means a trust:

17 a. established by a grantor under Oklahoma law,
18 b. having at all times:

19 (1) as a trustee or cotrustee an Oklahoma-based bank that
20 maintains a trust department or an Oklahoma-based trust
21 company, or

- 1 (2) as a trustee, an individual if a majority in value of the assets of
2 the trust consists of qualified property used in a family farm,
3 c. having as beneficiaries only qualified beneficiaries or a qualified
4 beneficiary,
5 d. having a majority in value of its assets comprised of Oklahoma assets,
6 except that if any asset which qualifies, or is intended to qualify, as an
7 Oklahoma asset ceases or fails to qualify as an Oklahoma asset, the
8 trustee shall have a reasonable period of time following discovery
9 thereof to convert such nonqualifying asset into an Oklahoma asset,
10 and
11 e. reciting in its terms that the income generated from the corpus of the
12 trust is subject to the income tax laws of this state; ~~and~~

13 6. “Qualified beneficiary” or “qualified beneficiaries” means:

- 14 a. the lineal ancestors and lineal descendants of the grantor or the
15 grantor’s spouse, including adopted lineal descendants if they were
16 under the age of eighteen (18) at the time of the adoption,
17 b. the spouse of the grantor,
18 c. a nonprofit organization qualified under the provisions of the Internal
19 Revenue Code of 1986, 26 U.S.C., Section 501(c)(3), or
20 d. a trust settled for the sole benefit of one or more qualified
21 beneficiaries; and

22 7. “Qualified property used in a family farm” means:

1 from attachment or execution and every other species of forced sale and no judgment,
2 decree, or execution can be a lien on the trust for the payment of debts of a grantor,
3 except a child support judgment, except for any additional property contributed to the
4 preservation trust by the grantor having an aggregate fair market value, determined as
5 of the date of each contribution, minus liabilities to which the property is subject, in
6 excess of ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00). Any
7 incremental growth derived from income or an increase in value of the corpus of a
8 preservation trust shall also be considered protected by this section. Transfer of an asset
9 to a preservation trust does not affect any mortgage, security interest or lien to which
10 that asset is subject.

11 SECTION 3. This act shall become effective November 1, 2008.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
13 dated 03-05-08 - DO PASS, As Amended and Coauthored.