

H.B. 318
DOMESTIC ASSET PROTECTION TRUST AMENDMENTS

Representative **Earl D. Tanner** proposes the following amendments:

1. *Page 4, Lines 95 through 100:*

95 (2) A registered trust may assert exemptions as set forth in this chapter against the
96 collection of the trust's obligations to pay creditors of the registered settlors of the trust. The
97 exemptions may only be asserted to prevent the taking of:

98 (a) contributions to the trust which were made at least four years prior to the date the
99 creditor's claim was first presented to the trust. {and}

100 (b) proceeds traceable to contributions described in Subsection (2)(a) ; and

(c) other trust assets when there is an agreement between the settlor and the creditor in which the creditor was advised in writing of the existence of the registered trust and relied upon a written disclosure of assets outside of the trust .

2. *Page 4, Line 115:*

115 (1) A trust registered under this chapter may assert {both} two of the following exemptions

3. *Page 5, Lines 127 through 138:*

127 (iii) the amount paid to the creditor on the claim by or for the settlor after the claim is
128 presented to the trust.

(c) The Contract Exemption is equal to the value of all assets in the registered trust less the Median Exemption. This exemption is an alternative to the 50% Exemption and may only be asserted when the claim against the registered settlor arises from an agreement between the settlor and the creditor in which the creditor was advised in writing of the existence of the registered trust and relied upon a written disclosure of assets outside of the trust.

(2) No exemption may be asserted to protect an asset or the proceeds of an asset that, prior to the date the claim is presented to the trust:

(a) was identified in writing by the settlor to the creditor as being outside the registered trust; and

(b) was relied upon by the creditor in entering into an agreement with the settlor which agreement has a material, equitable connection to the claim.

129 ~~{(2)}~~ (3) No exemption is available to the trust against the creditors of a registered settlor
130 after the death of that settlor.

131 ~~{(3)}~~ (4) For purposes of determining these exemptions and the value of trust assets:

* * * *Some lines not shown* * * *

138 ~~{(4)}~~ (5) The burden shall be on the trust to prove by a preponderance of the evidence that