

Sec. 45a-486. Termination of inter vivos trust when settlor or spouse is an applicant for or recipient of medical assistance. (a) The provisions of this section shall apply to an inter vivos trust (1) established or funded on or after October 1, 1992; (2) established or funded within the same period of time prior to application for public assistance or Medicaid as is specified in Section 1917(c) of the Social Security Act or in a waiver approved by the Secretary of Health and Human Services concerning the disposal of assets for less than fair market value<sup>1</sup>; and (3) in which the settlor or the settlor's spouse is a beneficiary.

(b) Upon the application of the Department of Social Services, the Superior Court shall terminate an inter vivos trust established by a person or the person's spouse when the person or the person's spouse becomes an applicant for or recipient of public assistance or Medicaid. The Superior Court shall order that the principal and any undistributed income shall be distributed to the settlor of the trust. This section shall not apply if the settlor, the settlor's spouse, a conservator or other legal representative of the settlor or the settlor's spouse, or any other person having a beneficial interest in the trust, establishes by clear and convincing evidence that not one of the principal purposes of the trust was the current or future qualification of the settlor or the settlor's spouse for benefits under Title XIX of the Social Security Act (42 USC 1396 et seq.).

(c) On or after October 1, 1992, the provisions of this section shall not apply to charitable remainder trusts, as defined in Section 664(d) of the Internal Revenue Code of 1986, or any corresponding internal revenue code of the United States, as from time to time amended, nor to transfers which are deductible pursuant to Section 170(f)(2)(B), 2055(e)(2) or 2522(c)(2) of said code, nor to any trust in which the settlor or the settlor's spouse has not retained any interest, other than reversionary interest of five per cent or less.

(P.A. 92-233, S. 3; P.A. 93-262, S. 1, 87; P.A. 96-255, S. 2; June 18 Sp. Sess. P.A. 97-2, S. 102, 165.)

History: P.A. 93-262 authorized substitution of commissioner and department of social services for commissioner and department of income maintenance, effective July 1, 1993; P.A. 96-255 amended Subsec. (b) by deleting "a person, his conservator or legal representative or" after "application" and provided that section shall not apply if it is established that not one of principal purposes of trust was qualification for benefits under Social Security Act, and added Subsec. (c) which provides that section is not applicable to certain specified charitable remainder trusts, certain transfers which are deductible under the Internal Revenue Code nor to any trust in which settlor or settlor's spouse has retained any interest, other than reversionary interest of 5% or less, on or after October 1, 1992; June 18 Sp. Sess. P.A. 97-2 made technical and conforming changes in Subsecs. (a) and (b) re references to public assistance and Medicaid, effective July 1, 1997.

Language as of 8/5/2016 taken from

[https://www.cga.ct.gov/current/pub/chap\\_802c.htm#sec\\_45a-486](https://www.cga.ct.gov/current/pub/chap_802c.htm#sec_45a-486)

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<sup>1</sup> Referring to the look back period.