

HOUSE BILL No. 2148

AN ACT relating to trusts; providing for certification of trusts.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) A trustee may present a certification of trust to any person in lieu of a copy of any trust instrument to establish the existence or terms of the trust. The trustee may present the certification of trust voluntarily or at the request of the person with whom the trustee is dealing. Notwithstanding any provision of the Kansas uniform trustees' powers act to the contrary, no person is required to accept and rely solely on a certification of trust in lieu of a copy of, or excerpts from, the trust instrument itself.

(b) A certification of trust shall be in the form of an affidavit and signed and acknowledged by a corporate trustee, or one or more acting trustees of the trust.

Sec. 2. (a) A certification of trust may confirm the following facts or contain the following information:

(1) The existence of a trust and, for an inter vivos trust, the date of execution or, for a testamentary trust, the date of death of the decedent;

(2) the identity of the grantor, settlor or testator and each currently acting trustee;

(3) the powers of the trustee and any restrictions imposed upon the trustee in dealing with the assets of the trust;

(4) the name or method of choosing successor trustees;

(5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;

(6) if there is more than one trustee, whether all of the currently acting trustees must, or if less than all, may, act to exercise identified powers of the trustee;

(7) the identifying number of the trust and whether it is a social security number or an employer identification number;

(8) the name of each beneficiary and the relationship to the grantor, settlor or testator;

(9) the state or other jurisdiction under which the trust was established;

(10) the form in which title to the assets of the trust was established; and

(11) the form in which title to the assets of the trust is to be taken.

(b) The certification of trust shall contain a statement that the trust has not been revoked or amended to make any representations contained in the certification of trust incorrect and that the signature is that of the corporate trustee or the signature or signatures of one or more of the acting trustees.

Sec. 3. A certification of trust need not contain the dispositive provisions of the trust, but the person to whom the certification of trust is presented may require copies of or excerpts from, any trust instrument which designates the trustee or confers upon the trustee power to act in the pending transaction.

Sec. 4. A person who acts in reliance upon a certification of trust without any knowledge that the representations contained in the certification of trust are incorrect is not liable to any person for such actions. A person who does not know that the representations contained in the certification of trust are incorrect may assume without inquiry the existence of the representations contained in the certification of trust. Knowledge may not be inferred solely from the fact that a copy of all or part of a trust instrument is held by the person relying upon the certification of trust.

Sec. 5. A person's failure to demand a certification of trust, or a person's refusal to accept and rely solely on a certification of trust, shall not be considered an improper act, and no inference as to whether such person has acted in good faith shall be drawn from the failure to demand or the refusal to accept and rely upon, a certification of trust. This section creates no implication that a person is liable for acting in reliance upon a certification of trust under circumstances in which the requirements of sections 1 through 6, and amendments thereto, are not satisfied.

Sec. 6. Sections 1 through 5, and amendments thereto, apply to all trusts whether established pursuant to Kansas law or established pursuant to the law of another state or jurisdiction.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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*Speaker of the House.*

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*Chief Clerk of the House.*

Passed the SENATE \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*