

SENATE BILL No. 478

By Committee on Judiciary

1-28

9 AN ACT relating to the uniform trust code; concerning irrevocable trust;
10 providing for discretionary acceleration of remainder interest.

11

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

13 Section 1. (a) During any period of time that this section applies to
14 an irrevocable trust, the trustee shall have the authority in its discretion
15 to distribute trust income or principal to a qualified remainder beneficiary
16 of the trust for the beneficiary's health, education, maintenance and sup-
17 port in such beneficiary's accustomed manner of living.

18 (b) For purposes of this section: (1) "Qualified remainder benefici-
19 ary" means a beneficiary who will be eligible to receive mandatory or
20 discretionary distributions of trust income or principal upon the termi-
21 nation of the interests of the beneficiaries who are permissible distribu-
22 tees; and

23 (2) "permissible distributees" means those beneficiaries who, as of
24 the date the trustee determines that this section applies to the trust, are
25 eligible to receive mandatory or discretionary distributions of trust in-
26 come or principal.

27 (c) This section shall apply to an irrevocable trust if:

28 (1) The trustee may distribute trust income or principal to one or
29 more permissible distributees;

30 (2) no distributions of trust income or principal have been made to
31 any permissible distributee during the 10-year period preceding the no-
32 tice required by subsection (f);

33 (3) the trustee determines that there will be sufficient assets in the
34 trust for the trustee to meet its obligations to the permissible distributees
35 after any distributions authorized by this section;

36 (4) the trustee determines that the application of this section to the
37 trust is not inconsistent with a material purpose of the trust; and

38 (5) the application of this section to a trust that is exempt from the
39 federal generation-skipping transfer tax will not cause the trust to become
40 subject to such tax.

41 (d) After the trustee determines that this section applies to a trust,
42 this section shall continue to apply to the trust until the first to occur of
43 the following:

- 1 (1) The termination of the interests of all the beneficiaries who were
2 permissible distributees on the date of the notice required by subsection
3 (f);
4 (2) the termination of the trust; or
5 (3) the trustee determines that additional distributions pursuant to
6 this section will impair the ability of the trustee to meet its obligation to
7 the permissible distributees.
8 (e) A spendthrift provision in the terms of a trust is not presumed
9 inconsistent with the application of this section to the trust.
10 (f) The trustee shall notify the qualified beneficiaries of the trust that
11 the trustee has determined that this section applies to a trust not less than
12 60 days before distributing trust income or principal to any qualified re-
13 mainder beneficiary.
14 (g) A trustee acting in good faith shall not be liable to any beneficiary
15 for acting, or failing to act, pursuant to this section.
16 (h) The provisions of this section shall be part of and supplemental
17 to the Kansas uniform trust code.
18 Sec. 2. This act shall take effect and be in force from and after its
19 publication in the statute book.