

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:06 a.m. on February 21, 1995 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Senator Tim Emert
Anita Larson, Security Benefit Group of Companies
Mark Knackendoffel, First Manhattan Trust Company
Brad Bergman, Midwest Trust Company
Randy Rush, Kansas Bankers Association Trust Division
Ron Smith, Kansas Bar Association

Others attending: See attached list

The chairman opened the hearing on SB 261, concerning the designation of former spouse as beneficiary of a life insurance policy and the effect of marriage dissolution on payment of benefits. Senator Tim Emert, sponsor of this legislation, explained the background of and need for this bill and stated that the bill was modeled after a Missouri law. (Attachment #1) Senator Bond questioned whether the language, "...or former spouse..." should be added on line 28, Section 1(b) of the bill.

Anita Larson, Security Benefit Group, appeared in opposition to the bill because it has no notification provision to protect insurance companies and may cause delays in companies making prompt payment. (Attachment #2) In response to Senator Bond's question regarding whether or not a beneficiary can be changed in any way other than written notification to the company, Ms. Larson responded that written notification is required.

Senator Steffes asked whether SBG has experienced any problems with doing business in Missouri, which already has this law, and Ms. Larson stated that they had not.

There were no further questions and no other conferees; the hearing on SB 261 was closed. Randy Hearrell, Kansas Judicial Council, pointed out that there is a bill in the House of Representatives, HB 2179, which, among numerous other provisions, also addresses the matter at hand. Chairman Bond requested Mr. Hearrell to meet with Senator Emert regarding HB 2179 to see if that bill contains appropriate language to address the concerns of Ms. Larson and SBG. The bill was tabled pending Senator Emert's recommendations.

The hearing was opened on SB 274, regarding the removal of trustees and the appointment of successor trustees. Mark Knackendoffel, First Manhattan Trust Company, appeared as a proponent of this bill, stating that it is a consumer oriented bill which focuses on adding additional flexibility to the beneficiaries of various trusts, allowing them to change trustees under certain conditions. (Attachment #3)

Brad Bergman, Midwest Trust Company, also appeared as a proponent, adding that the bill would give beneficiaries the same rights as trust companies and trust departments have to change trustees. Mr. Bergman suggested that the bill might be amended to limit or prohibit the charging of excessive exit fees.

Randy Rush, Kansas Bankers Association Trust Division, appeared in opposition to this bill. (Attachment #4) Mr. Rush stated that the KBA opposes this legislation because it would allow beneficiaries to change irrevocable trusts, and that he is most concerned about the language on page 2, lines 2 and 3 of the bill. Mr. Rush also recommended language to limit the time frame in which trustees can be replaced.

In response to Senator Praeger's question pertaining to what conditions would allow a beneficiary to decide to change trustees and whether the new trustee must meet the qualifications required of the original trustee, Mr. Rush stated that the bill, as written, would allow a beneficiary to appoint a new trustee whether that trustee is qualified according to the original trust or not.

Senator Steffes stated that, in his opinion, it should be as easy for a beneficiary to change trustees as it is for a trust company or bank trust department to sell or relocate their trust business.

Ron Smith, Kansas Bar Association, also appeared in opposition to SB 274, stating that it would change basic control issues surrounding wills and trusts. (Attachment #5)

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 21, 1995.

There were no further questions and no other conferees; the hearing on SB 274 was closed. Senator Bond questioned whether or not the grantor of the trust should be involved in changing trustees of an irrevocable trust if the grantor is alive, and observed that only banks and trust companies now have discretion to change trustees, that beneficiaries have no power to change trustees when the trust is sold. The chairman then asked the interested parties to meet with Senator Steffes with regard to the issue of whether or not to include the grantor in the decision when available, whether or not excessive termination fees should be addressed in the legislation, and whether the language on page 2, lines 2 and 3, needs revision. Action on the bill will be considered at a later date.

Senator Corbin made a motion to approve the minutes of the meeting of February 20 as submitted. Senator Steffes seconded the motion; the motion carried.

The committee adjourned at 10:00 a.m. The next meeting is scheduled for February 22, 1995.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 2/21/95

NAME	REPRESENTING
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<i>Buddy Bush</i>	KBA TRUST DIV
<i>Dean Fudgeons</i>	KBA TRUST DIV
<i>Kathy Doyle</i>	KBA
<i>J. Lynn Newsell</i>	K.S.C.
MARK KNACKENDORFER	FIRST MANHATTAN TRUST CO.
<i>Jon Smith</i>	Ks Bar Assoc
<i>Bill Sneed</i>	Am Inv Life
<i>Stacy Moorhead</i>	Kansas Insurance Dept.
LARRY MAGILL	KAIA
<i>Sue Bond</i>	
<i>Bud Smoot</i>	AIA
BRAD BERGMAN	MID WEST TRUST CO.
<i>Judi Stork</i>	OSBC
<i>DAVE HANSON</i>	Ks Life Assoc

TIM EMERT

SENATOR, 15TH DISTRICT
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MONTGOMERY, WILSON, WOODSON COUNTIES
P.O. BOX 747
INDEPENDENCE, KANSAS 67301
(316) 331-1800
STATE CAPITOL BUILDING, ROOM 143-N
TOPEKA, KS 66612-1504
(913) 296-7363



TOPEKA

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MEMBER: EDUCATION

ENERGY AND NATURAL
RESOURCES

TRANSPORTATION AND UTILITIES

February 21, 1995

TESTIMONY BEFORE THE
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS
AND INSURANCE

Re: SB 261
by
Senator Tim Emert

I appear here today to testify in support of Senate Bill 261.

Every practicing attorney in this state can tell you stories of injustices which have occurred under our present law regarding payment of insurance proceeds to beneficiaries

As the law presently stands, payments of life insurance proceeds are made to named beneficiaries. The inequities occur when the insured is divorced and has either through an oversight or negligence failed to remove his or her former spouse from that policy of insurance.

I have seen problems arise in this regard numerous times, in fact, this past weekend I was contacted by a client, who in brief, related the following factual situation:

A couple was married and had two young children, ages three and five. The mother abandoned the husband and children. The parties were subsequently divorced and the father obtained custody of the children and attempted to rear these children with the help of his mother and was working two jobs to support them. The actual decree of divorce was entered about a month ago, last Thursday night the father was killed in a fire. His only asset of value was a fifty thousand dollar life insurance

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policy which will be paid to his former spouse.

Whether due to oversight, negligence or just forgetfulness, the father failed to change the beneficiary on his insurance policy. I was called by his mother, the grandmother of the two young children, (she will be responsible for rearing the children) trying to determine if there was any way to get some money to pay funeral expenses. I could be of no help.

Innumerable stories can be told of this nature. They do not always involve large amounts of insurance because many of us carry coverage that we are not even paying premiums on such as AAA or the KPERS life benefit.

This bill is straight forward and provides that the beneficiary designation in favor of the insured's former spouse is revoked on the date the marriage is dissolved. The exceptions to this are contained in Subsection (b).

The members of the insurance industry that I have visited with have not expressed any problem with this bill. The only concern that I can imagine is that there might be some uncertainty as to whom to pay the proceeds. That could be easily determined by requiring death certificates before paying proceeds. Most insurance companies already require those as proof of death.

I would appreciate your favorable consideration of this bill and stand for any questions.

BLACK TYPE ONLY

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Office of Vital Statistics

CERTIFICATE OF DEATH

STATE FILE NUMBER

FOR INSTRUCTIONS SEE HANDBOOK

1. DECEDENT'S NAME FIRST MIDDLE LAST			2. SEX	3. DATE OF DEATH (Mo., Day, Yr.)		
4. SOCIAL SECURITY NUMBER		5a. AGE—Last Birthday (Yrs.)	5b. UNDER 1 YEAR Months	5c. UNDER 1 DAY Hours Minutes	6. DATE OF BIRTH (Mo., Day, Yr.)	
8. WAS DECEDENT EVER IN U.S. ARMED FORCES? <input type="checkbox"/> Yes <input type="checkbox"/> No		9a. PLACE OF DEATH (Check only one) HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA <input type="checkbox"/> OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)				
9b. FACILITY NAME (If not institution, give street and number)			9c. CITY, TOWN, OR LOCATION OF DEATH		9d. COUNTY OF DEATH	
10. MARITAL STATUS <input type="checkbox"/> Married <input type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced		11. SURVIVING SPOUSE (If wife, give maiden name)		12a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.)		
12b. KIND OF BUSINESS/INDUSTRY (Do not give name of company)		13a. RESIDENCE—STATE		13b. COUNTY	13c. CITY, TOWN, OR LOCATION AND ZIP CODE	
13d. STREET AND NUMBER		13e. INSIDE CITY LIMITS <input type="checkbox"/> Yes <input type="checkbox"/> No		14. ANCESTRY—(Cuban, Mexican, Puerto Rican, Vietnamese, Hmong, English, German, etc.) (Specify)		
15. RACE—(Native American, Black, White, etc.) (Specify)		16. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) College (1-4 or 5+)				
17. FATHER'S NAME FIRST MIDDLE LAST			18. MOTHER'S NAME FIRST MIDDLE MAIDEN SURNAME			
19a. INFORMANT'S NAME (Type)			19b. MAILING ADDRESS (Street and Number, or Rural Route, City or Town, State, Zip Code)			
20a. METHOD OF DISPOSITION <input type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		20b. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)		20c. LOCATION—City or Town, State		
21a. FUNERAL SERVICE LICENSEE & LICENSE NO. (Signature)			21b. NAME OF EMBALMER & LICENSE NO.			
22. NAME AND ADDRESS OF FIRM						
23a. To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated. (Signature and Title) X			24a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place, and due to the cause(s) and manner as stated. (Signature and Title) X			
23b. DATE SIGNED (Mo., Day, Yr.)		23c. TIME OF DEATH A.M. P.M.		24b. DATE SIGNED (Mo., Day, Yr.)		
23d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)		24c. TIME OF DEATH		24d. PRONOUNCED DEAD (Mo., Day, Yr.)		
24e. PRONOUNCED DEAD (Hour)		24f. PRONOUNCED DEAD (A.M./P.M.)		25. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, OR CORONER) (Type or Print)		
26. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Interval Between O and Death						
IMMEDIATE CAUSE (Final disease or condition resulting in death)		a. _____ DUE TO (OR AS A CONSEQUENCE OF):				
Sequentially list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death) LAST		b. _____ DUE TO (OR AS A CONSEQUENCE OF):				
		c. _____ DUE TO (OR AS A CONSEQUENCE OF):				
		d. _____				
PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.			27a. AUTOPSY <input type="checkbox"/> Yes <input type="checkbox"/> No	27b. IF YES, WERE FINDINGS CONSIDERED IN DETERMINING CAUSE OF DEATH <input type="checkbox"/> Yes <input type="checkbox"/> No	28. WAS CASE REFERRED TO CORONER <input type="checkbox"/> Yes <input type="checkbox"/> No	
29. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Accident <input type="checkbox"/> Could not be determined <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide		30a. DATE OF INJURY (Mo., Day, Yr.)	30b. TIME OF INJURY A.M. P.M.	30c. INJURY AT WORK <input type="checkbox"/> Yes <input type="checkbox"/> No	30d. DESCRIBE HOW INJURY OCCURRED	
		30e. PLACE OF INJURY—Own home, other residence, farm, street, factory, office building, etc. (Specify)		30f. LOCATION (Street and Number or Rural Route, City or Town, State)		

CONFIDENTIAL RECORD
Copy for Research Purposes Only
Per K.S.A. 65-2422

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**The Security Benefit
Group of Companies**

Security Benefit Life Insurance Company
Security Benefit Group, Inc.
Security Distributors, Inc.
Security Management Company

700 Harrison St.
Topeka, Kansas 66636-0001
(913) 295-3000

February 21, 1995

Subj: Senate Bill 261
Designation of Former Spouse as Beneficiary

Dear Chairman and Committee Members:

Security Benefit Life Insurance Company is a Kansas life insurer. Security Benefit has been conducting the business of life insurance for over 100 years. We oppose Senate Bill 261.

Senate Bill 261 would automatically change the beneficiary designation upon the dissolution of a marriage. It is the general rule in most states that dissolution of marriage does not affect a beneficiary designation. We believe that enactment of this proposal may cause confusion and in some instances may be contrary to the intent of the decedent. We have the following concerns.

This proposal does not contain a provision that protects good faith payors. A life insurance company may pay proceeds to a former spouse that is the named beneficiary and later be confronted with a second claim lodged by a current spouse. If a company pays a claim in good faith without prior written notice of the dissolution of marriage, it should be protected from further liability.

We believe that payors are entitled to adequate written notice of the dissolution of marriage. A proposal similar to Senate Bill 261 has been introduced in the House of Representatives. House Bill 2179 relates to revocation of probate and nonprobate transfers by divorce. However, House Bill 2179 shields good faith payors from further liability if the payor has not been given written notice by certified mail or other form sufficient to provide service of legal process. This notice provision is fair and reasonable.

We believe that this Senate Bill should not effect beneficiary designations made prior to the enactment of this proposal. A person may have made a designation under current law and want his or her former spouse to receive the benefits.

This proposal could impact a payor's ability to make prompt payment. If a current spouse is not aware of the benefits, he or she may not claim the proceeds. The payor will not know to whom proceeds should be paid. The

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Attachment #2*

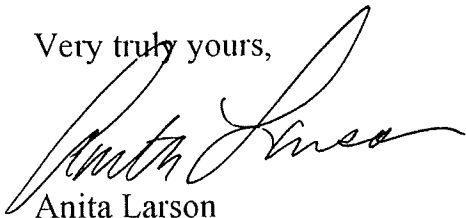
payor will not have a name, nor will it have an address for the current spouse. It will only have the name and address of the designated beneficiary.

Finally, we question that this statute is necessary. Kansans do not need this statute to change a beneficiary after dissolution of marriage. Such changes do not have to be effected by operation of law. If a person does not want his or her former spouse to receive benefits, all he or she must do is change the beneficiary. Ordinarily, a change of beneficiary on a life insurance policy can be made with relative ease.

For all of the reasons stated above, we encourage you to vote against Senate Bill 261. If the committee wishes to vote favorably on this proposal, we hope that the Committee will amend Senate Bill 261 to: provide adequate protection for good faith payors; provide payors with adequate notice of the dissolution of marriage; and, make it applicable only to beneficiary designations made after the enactment of the Bill.

Thank you for your time and consideration. I would be happy to address your questions and concerns.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Anita Larson".

Anita Larson
Assistant Counsel
Security Benefit Life Insurance Company

First Manhattan Trust Company

701 Poyntz Avenue, P.O. Box 66, Manhattan, KS 66502-0001
Phone: (913) 537-7200 Fax: (913) 537-2030

MEMORANDUM

TO: Brad Bergman
FROM: Mark Knackendoffel
DATE: February 7, 1995
RE: Proposed Successor Trustee Language

PROPOSED LEGISLATION REGARDING APPOINTMENT OF SUCCESSOR TRUSTEE

K.S.A. 58-2412. Removal of Trustees.

- (a) Whenever a trustee is or becomes an incapacitated person, becomes insolvent, or there is reasonable doubt as to the solvency of the trustee or the trustee's surety, or is otherwise incapable of performing the duties of the trustee, the trustee may be removed.
- (b) Whenever a trustee has violated or attempted to violate any express trustee or fails or refuses to perform any of the duties imposed upon the trustee by law, by the provisions of the trust instrument or by any lawful order of the court, the trustee may be removed and his or her compensation may be reduced or forfeited, in the discretion of the court.
- (c) If, upon petition of the trustee or any beneficiary of a trust requesting appointment of a specific successor trustee, the court having jurisdiction over a trust finds that:
 - (1) appointment of such requested successor trustee(s) would not jeopardize the purpose of the trust;
 - (2) either all the beneficiaries of such trust consent in writing to appointment of such requested successor(s) or the court determines the appointment of such requested successor(s) will not adversely affect the beneficiaries who have not consented;
and
 - (3) the proper administration of the trust and the trustee's relationship with the beneficiaries have been adversely affected by a transfer of control, change of management or transfer of the principal office location for the delivery of trustee services of a corporate trustee,

the court, after due notice to all persons, or the representatives of persons having an interest in the trust may appoint such requested successor(s) as trustee, regardless of the absence of any provision in the trust instrument for removal of trustee or appointment of successor trustee or the existence of any limitation in the trust instrument regarding the identity or qualifications of a successor trustee. For this purpose, all beneficiaries of such trust shall include all the current and future beneficiaries, whether vested or contingent, but any such beneficiary who is unborn or a minor may be represented (i) by any ancestor who is also a beneficiary or (ii) otherwise by a guardian ad litem appointed by the court, for the purpose of receiving notice or consenting, and permissible appointees under a power of appointment contained in the trust are not included.

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Attachment #3

TESTIMONY OF RANDALL B. RUSH
President

THE KANSAS BANKER'S ASSOCIATION TRUST DIVISION
800 S.W. Jackson
Topeka, KS 66612

February 21, 1995

TO: Senate Financial Institutions and Insurance Committee
Dick Bond, Chair

RE: Senate Bill No. 274

Good Morning:

My name is Randy Rush. I am currently Executive Vice President and Senior Trust Officer for The Smith County State Bank & Trust Company, Smith Center, Kansas. My appearance today is as President of the Kansas Banker's Association Trust Division and at the request and on behalf of the Kansas Bankers Association Trust Division.

Senate Bill 274 proposes legislation to provide for the appointment of a successor trustee when the trustee's relationship with the beneficiaries has adversely been affected by a transfer of control, change of management or transfer of the principal office location of a corporate trustee. In addition, the language of the bill overrides a settlor's direction of qualifications regarding the identity of a newly appointed successor trustee.

Background:

It is important to understand what type of trusts Senate Bill 274 will affect. This bill will apply only to those trusts that are irrevocable. Revocable living trusts are not affected since the grantor or settlor is still living and they may add to, change, modify or terminate a trust as long as they have the capacity to do so. This means that they have the ability to change their present trustee. Trusts most commonly become irrevocable at the time of the death of the grantor or settlor of the trust.

Irrevocable Trusts

Unless language is included in the trust document, the trustee of an irrevocable trust can be removed and a successor appointed only by the court. It is important to understand that the grantor (often parents) could have given the property outright to the beneficiaries, (kids) but for some reason or reasons chose not to. Instead the parents chose to have the property managed by a trustee subject to the directions contained in the trust document. Sometimes the beneficiaries are spendthrifts and the parents want to protect the assets due to the kid's lack of financial responsibility. Other times, the parents do not want all of the assets to go to the kids at a young age and interfere with their natural maturation process. Also, parents may want to assure that the assets will be available to their grandkids. In

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attachment #4*

these and other circumstances, the trustee may be called upon to exercise discretion as to when and how large of distributions should be made to the kids. This relationship may be adversarial due to the unique instructions left by the grantor. Beneficiaries many times consider the assets their own, when in reality, the trust assets are owned by the trust for their benefit.

Common Law

Common Law, as it began in England and has long since evolved in the United States, has held that a person can establish a trust with any provisions in the trust as long as the provisions are lawful and not against public policy. Just as with a will, the terms of the trust need not be fair or equitable in the eyes of the beneficiaries or even the courts. The grantor may do with their property as they desire.

Successor Trustee Qualifications

The appointment of a successor trustee *“regardless of the existence of any limitation in the trust instrument regarding the identity or qualifications of a successor trustee”* goes against the common law of trusts and may frustrate or undermine the purpose of the settlor. To by statute, override the desire of a grantor to select and determine qualifications of the successor trustee on their property is not good public policy.

Besides being poor public policy, this language may override important estate planning needs of the grantor:

- If a grantor has faith in a certain corporate trustee but wants to be assured that an individual trustee will be appointed if the institution is merged or sold, he could not be assured that this direction would be honored by the courts. This would be especially true if the beneficiaries don't care for the individual trustee the grantor appoints as successor trustee.
- At the advice of counsel, many trust documents have qualification clauses that are intended to assure any successor trustee will have a high level of experience and expertise in trust matters. This assures that trust assets will be prudently managed and invested. However, this bill eliminates any assurance that the grantors directions would be followed.
- Due to the high level of liability and potential for error in the management of trusts, many trust documents have financial qualification clauses that seek to provide “deep financial pockets” in the event that the trustee violates its fiduciary duty.

It may be argued that beneficiaries are not subject to risk since fidelity insurance and errors and omission insurance will cover any risks to the beneficiaries. However, E&O insurance is not a requirement for banks and trust companies authorized to be fiduciaries in Kansas. In addition, E&O coverage can be very expensive to obtain. Many trust institutions in Kansas do not have E&O coverage and may not be able to obtain. It is

not good planning to depend solely on insurance for financial stability. There is no insurance against poor management or unforeseen economic, regulatory or statutory changes.

Mergers & Change of Control

This bill is limited to situations where a *trustee's relationship with beneficiaries has been adversely affected by a transfer of control, change of management or transfer of the principal location ...* The bill contains no time limitation given as to how long the transfer of control remains a valid cause for removal.

K.S.A. 58-2412

The current 58-2412 statute provides in part:

Trustees having violated or attempted to violate any express trust; or becoming insolvent, or of whose solvency or that of their sureties there is reasonable doubt, or for other cause..

The present statute provides great flexibility for the court to remove a trustee for "other cause". It is the position of many Division members that the current statute gives ample authority to the courts to properly protect and remedy problems with trustees and beneficiaries.

It should be noted that Senate Bill 274 may in practice limit the court's ability to deal with trustee/beneficiary relationships. The language providing for removal for "other cause" is stricken from the current statute and is not replaced anywhere else in the bill.

While this bill is attempting to address a perceived problem with trust accounts that are involved in mergers and acquisitions, the major concern and opposition I am voicing today on behalf of the Trust Division, is in regard to lines 2 & 3 on page two. This provision overrides a grantor's right to direct successor trustee qualifications.

A grantor, if he desires, should be able to limit successor trustees to whomever he desires. Yes, some corporate trustees will be upset and disappointed that they can not obtain certain trust accounts due to the limitations in trust documents, but it should be the right of the grantor to determine who the successor trustees are. To remove the right of the grantor to pick his successor trustee is NOT GOOD PUBLIC POLICY.

On behalf of the Kansas Bankers Association, I am opposed to the enactment of Senate Bill 274.

Thank you.

Randall B. Rush



**KANSAS BAR
ASSOCIATION**

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Memorandum

TO: Senate Financial Institutions
& Insurance Committee
FROM: Ron Smith, KBA
SUBJ: SB 274
DATE: February 21, 1995

The KBA opposes this bill.

For centuries, the intent of the maker of a will or trust document has been paramount in the considerations of public policy in carrying out the desires of the maker of a will or trust document. The fact that the testator has chosen a trustee that may be contrary to the desires of the beneficiaries of the will or trust is not a reason for change in this public policy, since to make this change in the statutes you allow beneficiaries to materially alter the intent of the maker of the trust or will document.

There are already provisions in the statutory and common law for beneficiaries to change trustees if the beneficiaries can show cause. We support those provisions.

To allow the changes in this bill without a showing of cause, however, changes basic control issues surrounding wills and trusts. KBA thinks such change is unwise.

Thank you.

See pt 7/41
2/21/95
Attachment #5