

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2444

By Committee on Judiciary

1-16

1 AN ACT concerning the Kansas uniform trust code; relating to spendthrift
2 provisions; amending K.S.A. 58a-502 and repealing the existing
3 section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 58a-502 is hereby amended to read as follows: 58a-
7 502. (a) A spendthrift provision is valid.

8 (b) A term of a trust providing that the interest of a beneficiary is held
9 subject to a "spendthrift trust," or words of similar import, is sufficient to
10 restrain both voluntary and involuntary transfer of the beneficiary's
11 interest.

12 (c) A beneficiary may not transfer an interest in a trust in violation of
13 a valid spendthrift provision and, except as otherwise provided in this
14 article, a creditor or assignee of the beneficiary may not reach the interest
15 or a distribution by the trustee before its receipt by the beneficiary.

16 (d) *Except as provided in subsection (e),* ~~regardless~~ **irrespective of**
17 ~~whether or not a~~ **the trust contains** ~~has~~ a spendthrift provision, a creditor
18 of a beneficiary may not compel a distribution *to a beneficiary* that is
19 subject to the trustee's discretion, even if: (1) ~~The discretion standard for~~
20 **of distribution** is expressed in the form of a standard ~~for distribution; or~~
21 **and** (2) the trustee has abused ~~the such~~ **the trustee's** discretion.

22 (e) *If a beneficiary is* ~~presently~~ **or was serving as sole trustee and the**
23 **standard of distribution for** ~~with regard to~~ **such beneficiary is not in the**
24 **form of an ascertainable standard relating to such beneficiary's health,**
25 **education, support or maintenance, a creditor shall have the right to: (1)**
26 **Compel any distribution the beneficiary, in the capacity while serving as**
27 **sole trustee, to make a distribution to such beneficiary, if such beneficiary**
28 **either is presently authorized to make to such beneficiary or was**
29 **authorized to** ~~do so~~ **make to such beneficiary and did not make; and (2)**
30 **attach such beneficiary's beneficial interest in the trust** ~~relating with~~
31 **respect** ~~to any present or future discretionary distributions to such~~
32 **beneficiary, in the absence of a spendthrift provision precluding such**
33 **attachment.**

34 (f) This section does not limit the right of a beneficiary to
35 maintain a judicial proceeding against a trustee for an abuse of discretion
36 or failure to comply with a standard for distribution.

1 Sec. 2. K.S.A. 58a-502 is hereby repealed.

2 Sec. 3. This act shall take effect and be in force from and after its
3 publication in the statute book.