

HOUSE BILL No. 2444

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

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

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

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

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

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

(e) *If a beneficiary is or was serving as sole trustee and the standard of distribution with respect to such beneficiary is not in the form of an ascertainable standard relating to such beneficiary's health, education, support or maintenance, a creditor shall have the right to: (1) Compel any distribution the beneficiary, while serving as sole trustee, either is presently authorized to make to such beneficiary or was authorized to make to such beneficiary and did not make; and (2) attach such beneficiary's beneficial interest in the trust with respect to any present or future discretionary distributions to such beneficiary, in the absence of a spendthrift provision precluding such attachment.*

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

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 K.S.A. 58a-502 is hereby repealed.

Sec. 3. 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

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.