

2023 Kansas Statutes

58-5115. Trust limitation on decanting power. (a) An authorized fiduciary shall not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

- (1) The decanting power; or
- (2) a power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

- (1) The decanting power; or
- (2) a power granted by state law to a fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(c) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(d) Subject to subsections (a) and (b), an authorized fiduciary may exercise the decanting power under the uniform trust decanting act even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

(e) To the extent the creation of a second-trust instrument is permitted, if a first-trust instrument contains an express prohibition described in subsection (a) or an express restriction described in subsection (b), the provision shall be included in the second-trust instrument.

History: L. 2023, ch. 48, § 15; July 1.