

2023 Kansas Statutes

58a-105. Default and mandatory rules. (a) Except as otherwise provided in the terms of the trust, this code governs the duties and powers of a trustee, relations among trustees and the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this code except:

- (1) The requirements for creating a trust;
- (2) subject to K.S.A. 2023 Supp. 58-5009, 58-5011 and 58-5012, and amendments thereto, the duty of a trustee to act in good faith and administer the trust in accordance with K.S.A. 58a-801, and amendments thereto;
- (3) the requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy and possible to achieve;
- (4) the power of the court to modify or terminate a trust under K.S.A. 58a-410 through 58a-416, and amendments thereto;
- (5) the effect of the rights of creditors to reach a trust as provided in article 5 of chapter 58a of the Kansas Statutes Annotated, and amendments thereto;
- (6) the power of the court under K.S.A. 58a-702, and amendments thereto, to require, dispense with, or modify or terminate a bond;
- (7) the power of the court under K.S.A. 58a-708(b), and amendments thereto, to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;
- (8) the effect of an exculpatory term under K.S.A. 58a-1008, and amendments thereto;
- (9) the rights under K.S.A. 58a-1010 through 58a-1013, and amendments thereto, of a person other than a trustee or beneficiary;
- (10) periods of limitation for commencing a judicial proceeding under K.S.A. 58a-604, and amendments thereto;
- (11) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and
- (12) the barring of claims against trusts and trustees under K.S.A. 58a-818, and amendments thereto.

(c) Notwithstanding any provisions of the Kansas uniform trust code to the contrary, any trust created by will and admitted to probate shall be subject to the requirements of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2002, ch. 133, § 5; L. 2004, ch. 158, § 3; L. 2006, ch. 23, § 2; L. 2022, ch. 16, § 20; July 1.