

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.

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

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

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

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 K.S.A. 58a-502 is hereby repealed.

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