

**58a-402. Requirements for creation.** (a) A trust is created only if:

- (1) The settlor has capacity to create a trust;
- (2) the settlor indicates an intention to create the trust;
- (3) the trust has a definite beneficiary or is:
  - (A) A charitable trust;
  - (B) a trust for the care of an animal, as provided in K.S.A. 58a-408, and amendments thereto; or
  - (C) a trust for a noncharitable purpose, as provided in K.S.A. 58a-409, and amendments thereto;
- (4) the trustee has duties to perform; and
- (5) the same person is not the sole trustee and sole beneficiary.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

**History:** L. 2002, ch. 133, § 23; Jan. 1, 2003.