SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 400

<u>As Recommended by Senate Committee on
Financial Institutions and Insurance</u>

Brief*

Sub. for SB 400 would amend the Kansas Uniform Trust Code to add to the list of trust matters that could be resolved by a nonjudicial settlement agreement, to increase the limit on the total value of a trust before a trustee could seek to terminate such trust as being non-economic, and to amend the definition of a "resident trust."

Resolution by Nonjudicial Settlement Agreement

The bill would add the following matters to those that may be resolved by a nonjudicial settlement agreement:

● The interpretation or construction of the terms of the trust;

● The direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power; and

● The governing law of the trust.

Non-economic Trust

The bill would increase from $100,000 to $250,000 the total value of a trust before a trustee could seek termination

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

of the trust based on its value being insufficient to justify the cost of administration.

Definition of "Resident Trust"

The bill would amend "resident trust" to mean a trust that is administered in this state and that was created by or consisting of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable.

Background

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Kansas Bankers Association.

Senate Committee on Financial Institutions and Insurance

In the Senate Committee hearing, a representative of Midwest Trust Company (Midwest Trust) provided **proponent** testimony, stating the bill would help modernize the Kansas Uniform Trust Code, bring high quality jobs to Kansas, and ensure Kansas fiduciaries are competing fairly with those of other states. The Midwest Trust representative stated the Judicial Council is studying the rule against perpetuities and the decanting of trusts, subjects addressed by two sections of the bill, as introduced. The Midwest Trust representative requested those sections of the bill be stricken to allow time to collaborate with the Judicial Council on the subjects addressed therein. The Midwest Trust representative also proposed an amendment to the definition of "resident trust." Written-only proponent testimony was provided by a representative of the Trust Division of the Kansas Bankers Association.

Neutral testimony was provided by a representative of the Kansas Bar Association, who requested additional time for the Judicial Council to study the provisions relating to the rule against perpetuities and the decanting of trusts. The neutral conferee also requested additional time for the Kansas Bar Association Real Property, Trust, and Probate Section to review and determine whether any of the provisions of the bill conflict with the Kansas Uniform Trust Code enacted in 2002. The neutral conferee indicated the bill, as introduced, represented the most significant amendment to the Kansas Uniform Trust Code since its enactment.

No other testimony was provided.

The Senate Committee amended the bill to remove sections pertaining to the rule against perpetuities and the decanting of trusts, amend the definition of "resident trust," update the bill title, and make technical amendments, and created a substitute bill.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect on Judicial Branch operations. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Kansas Uniform Trust Code; resident trust; nonjudicial settlement; non-economic trust