



KANSAS BAR
ASSOCIATION

TO: **The Honorable Lance Kinzer**
 And Members of the House Judiciary Committee

FROM: **Joseph Molina**
 On Behalf of the Kansas Bar Association

RE: **HB 2015 – Amending K.S.A. 23-2601**

DATE: **January 31, 2013**

Good afternoon Chairman Kinzer and Members of the House Judiciary Committee. I am Joseph Molina and I provide this written testimony on behalf of the Kansas Bar Association in support of HB 2015 which modifies K.S.A. 23-2601.

K.S.A. 23-2601 provides that the separate property owned by one spouse, irrespective of whether brought into the marriage or received from a third party, remains free of the other spouse's debts, except for transfers from the other spouse. As originally drafted (prior to 1936), the exception appears to be absolute regardless of the circumstances of the spousal transfer, and contradicts other applicable Kansas law. K.S.A. 33-101 and 33-201 specifically address the circumstances under which creditors can reach transferred assets, including transfer to a trust for the use of the transferee or a transfer made "in fraud of creditors." We believe that whether a transfer to a spouse can be reached by the creditor of transferring spouse is best determined under these other statutes.

On behalf of the Kansas Bar Association, I thank you for the opportunity to appear before the committee in support of HB 2015.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,000 members, including lawyers, judges, law students, and paralegals. www.ksbar.org