

Testimony before the House Judiciary Committee

Wednesday, February 13, 2013

House Bill 2166

From: Daryl Craft representing the Kansas Bankers Association Trust Division

Ladies and Gentlemen:

The Kansas Bankers Association Trust Division has reviewed House Bill 2166 as it relates to the duties and responsibilities of our members to administer probate estates and trusts, and we strongly object to the terms of the Bill which change long established estate and trust law.

It appears to us the purpose of the bill is to enhance the health and environment secretary's ability to recover from deceased recipients of medical assistance. The Bill would amend Section 4(b) of K.S.A. 58a-818 by inserting language requiring a trustee to file a report with department of health and environment reporting medical assistance received by the deceased settlor or beneficiary. It would not be uncommon for a trustee to not know whether such assistance had been received. To mandate a trustee to make such a report would place an undue burden and potential liability on such trustee.

The Bill would amend Sections 5, 6 and 7 of K.S.A. 59-617 by extending from six months to one year the period during which a will must be filed with a court. The current six month limit has worked fine for many years, and we see no compelling reason for a change, based simply on a request by the secretary to do so.

The Bill would amend Section 9 of K.S.A. 59-1501 to require an executor or administration to file with the district court a release from the department of health and environment before any probate estate may be closed. We believe this would unnecessarily burden executors and administrators to comply when faced with the miniscule number of estates for which the department may actually have a valid claim. The cost simply does not justify the benefit.

The Bill amends Section 10 of K.S.A. 2013 Supp 59-1507b by providing that an executor or administrator of an estate of less than \$40,000, where the deceased was a recipient of medical assistance, shall transfer personal property to the department of health and environment. We can visualize a situation where a truck backs up to the department location, and unloads old furniture and clothing, maybe old tires and who knows what else. Surely this is not what the secretary intended when he proposed this amendment. It has been our experience that in an estate of less than \$40,000 there usually isn't much personal property of any value or interest.

In summary we believe that any small benefit that might be gained by the department of health and environment would be more than offset by the additional burdens and liabilities placed on executors and trustees by making changes to current law which does not otherwise need to be changed.

Thank you for your time and attention to this matter.