

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.

4
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* **irrespective of**
17 ~~whether or not a~~ **the trust contains has** a spendthrift provision, a creditor
18 of a beneficiary may not compel a distribution *to a beneficiary* that is
19 subject to the trustee's discretion, even if: (1) ~~The discretion standard for~~
20 **of distribution** is expressed in the form of a standard ~~for distribution; or~~
21 **and** (2) the trustee has abused ~~the such~~ **the trustee's** discretion.

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

34 (e) (f) This section does not limit the right of a beneficiary to

1 maintain a judicial proceeding against a trustee for an abuse of discretion
2 or failure to comply with a standard for distribution.

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 K.S.A. 58a-502 is hereby repealed.

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