

2021 Kansas Statutes

58-9a-302. Application; duties and remedies. (a) Except as otherwise provided in subsection (b), K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, apply to:

(1) An income trust, unless the terms of the trust expressly prohibit use K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, by a specific reference to K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, or an explicit expression of intent that net income not be calculated as a unitrust amount; and

(2) an express unitrust, except to the extent the terms of the trust explicitly:

(A) Prohibit use of K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, by a specific reference to K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto;

(B) prohibit conversion to an income trust; or

(C) limit changes to the method of calculating the unitrust amount.

(b) K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, do not apply to a trust described in section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii) or 2702(b) of the internal revenue code of 1986, 26 U.S.C. § 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii) or 2702(b).

(c) An income trust to which K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, apply under subsection (a)(1) may be converted to a unitrust under K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, regardless of the terms of the trust concerning distributions. Conversion to a unitrust under K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, does not affect other terms of the trust concerning distributions of income or principal.

(d) K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, apply to an estate only to the extent a trust is a beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may be administered as a unitrust, the administration of the estate as a unitrust may be discontinued, or the percentage or method used to calculate the unitrust amount may be changed, in the same manner as for a trust under K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto.

(e) K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, do not create a duty to take or consider action under K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, or to inform a beneficiary about the applicability of K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto.

(f) A fiduciary that in good faith takes or fails to take an action under K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, is not liable to a person affected by the action or inaction.

History: L. 2021, ch. 63, § 9; July 1.