

2021 Kansas Statutes

58a-417. Combination and division of trusts. (a) After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust. The terms of each new trust created by a division under this section do not have to be identical if the interest of each beneficiary is substantially the same under the terms of the trust prior to its division and the combined terms of all trusts after the division. Two or more trusts may be combined into a single trust if the interests of each beneficiary in the trust resulting from the combination are substantially the same as the combined interests of the beneficiary in the trusts prior to the combination. The trustee shall determine the terms controlling any trust after its combination as authorized by this section. The trustee may make a division under this section by:

(1) Giving written notice of the division, not later than the 30th day before the date of a division under this subsection, to each qualified beneficiary; and

(2) executing a written instrument, acknowledged before a notary public or other person authorized to take acknowledgments of conveyances of real estate stating that the trust has been divided pursuant to this section and that the notice requirements of this subsection have been satisfied.

(b) A trustee, in the written instrument dividing a trust, shall allocate trust property among the separate trusts on a fractional basis by identifying the assets and liabilities passing to each separate trust, or on any other reasonable basis. The trustee shall allocate undesignated trust property received after the trustee has divided the trust into separate trusts in the manner provided by the written instrument dividing the trust, or, in the absence of a provision in the written instrument, in a manner determined by the trustee.

(c) The trustee may combine two or more trusts under this section by:

(1) Giving a written notice of the combination, not later than the 30th day before the effective date of the combination, to each qualified beneficiary; and

(2) executing a written instrument, acknowledged before a notary public or other person authorized to take acknowledgments of conveyances of real estate stating that the trust has been combined pursuant to this section and that the notice requirements of this subsection have been satisfied.

(d) The trustee may divide or combine a testamentary trust after the will establishing the trust has been admitted to probate, even if the trust will not be funded until a later date. The trustee may divide or combine any other trust before it is funded if the instrument establishing the trust is not revocable at the time of the division or combination.

History: L. 2002, ch. 133, § 38; L. 2006, ch. 23, § 7; July 1.