

## 2021 Kansas Statutes

**58-9a-303. Authority of fiduciary.** (a) A fiduciary, without court approval, by complying with subsections (b) and (f), may:

- (1) Convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:
    - (A) That in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto; and
    - (B) the percentage and method used to calculate the unitrust amount;
  - (2) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or
  - (3) convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to K.S.A. 2021 Supp. 58-9a-301 through 58-9a-309, and amendments thereto, rather than a unitrust amount.
- (b) A fiduciary may take an action under subsection (a) if:
- (1) The fiduciary determines that the action will assist the fiduciary to administer a trust impartially;
  - (2) the fiduciary sends a notice in a record, in the manner required by K.S.A. 2021 Supp. 58-9a-304, and amendments thereto, describing and proposing to take the action;
  - (3) the fiduciary sends a copy of the notice under paragraph (2) to each settlor of the trust which is:
    - (A) If an individual, living; or
    - (B) if not an individual, in existence;
  - (4) at least one member of each class of the qualified beneficiaries determined under K.S.A. 58a-103(12), and amendments thereto, other than the attorney general, receiving the notice under paragraph (2) is:
    - (A) If an individual, legally competent;
    - (B) if not an individual, in existence; or
    - (C) represented in the manner provided in K.S.A. 2021 Supp. 58-9a-304(b), and amendments thereto; and
  - (5) the fiduciary does not receive, by the date specified in the notice under K.S.A. 2021 Supp. 58-9a-304(d)(5), and amendments thereto, an objection in a record to the action proposed under paragraph (2) from a person to which the notice under paragraph (2) is sent.
- (c) If a fiduciary receives, not later than the date stated in the notice under K.S.A. 2021 Supp. 58-9a-304(d)(5), and amendments thereto, an objection in a record described in K.S.A. 2021 Supp. 58-9a-304(d)(4), and amendments thereto, to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications or prevented. A person described in K.S.A. 2021 Supp. 58-9a-304(a), and amendments thereto, may oppose the proposed action in the proceeding under this subsection, whether or not the person:
- (1) Consented under K.S.A. 2021 Supp. 58-9a-304(c), and amendments thereto; or
  - (2) objected under K.S.A. 2021 Supp. 58-9a-304(d)(4), and amendments thereto.
- (d) If, after sending a notice under subsection (b)(2), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in

K.S.A. 2021 Supp. 58-9a-304(a), and amendments thereto, of the decision not to take the action and the reasons for the decision.

(e) If a beneficiary requests in a record that a fiduciary take an action described in subsection (a) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(f) In deciding whether and how to take an action authorized by subsection (a), or whether and how to respond to a request by a beneficiary under subsection (e), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including relevant factors in K.S.A. 2021 Supp. 58-9a-201(e), and amendments thereto.

(g) A fiduciary may release or delegate the power to convert an income trust to a unitrust under subsection (a)(1), change the percentage or method used to calculate a unitrust amount under subsection (a)(2), or convert a unitrust to an income trust under subsection (a)(3), for a reason described in K.S.A. 2021 Supp. 58-9a-203(g), and amendments thereto, and in the manner described in K.S.A. 2021 Supp. 58-9a-203(h), and amendments thereto.

**History:** L. 2021, ch. 63, § 10; July 1.