

HOUSE BILL No. 2402

By Committee on Judiciary

2-9

9 AN ACT concerning civil procedure; relating to divorce or annulment.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) Except as provided by the express terms of a governing
13 instrument; a contract relating to the division of the marital property
14 made between individuals before or after their marriage, divorce decree
15 or annulment; or a plan document governing a retirement and pension
16 plan; the divorce decree or annulment of a marriage revokes any
17 revocable:

18 (1) Disposition, beneficiary designation or appointment of property
19 made by an individual to the individual's former spouse in a governing
20 instrument;

21 (2) provision in a governing instrument conferring a general or non-
22 general power of appointment on an individual's former spouse; and

23 (3) nomination in a governing instrument, nominating an individual's
24 former spouse to serve in any fiduciary or representative capacity, in-
25 cluding a personal representative, executor, trustee, conservator, agent or
26 guardian.

27 (b) Provisions of a governing instrument are given effect as if the
28 former spouse died immediately before the divorce decree or annulment.

29 (c) Provisions revoked solely by this section are revived by the indi-
30 vidual's remarriage to the former spouse or by a nullification of the di-
31 vorce decree or annulment.

32 (d) No change of circumstances other than as described in this section
33 and in K.S.A. 59-513, and amendments thereto, affects a revocation.

34 (e) (1) A payor or other third party is not liable for having made a
35 payment or transferred an item of property or any other benefit to a
36 beneficiary designated in a governing instrument affected by a dissolu-
37 tion, annulment or remarriage, or for having taken any other action in
38 good faith reliance on the validity of the governing instrument, before
39 the payor or other third party received written notice of the divorce de-
40 cree, annulment or remarriage. A payor or other third party is liable for
41 a payment made or other action taken after the payor or other third party
42 received written notice of a claimed forfeiture or revocation under this
43 section.

1 (2) Written notice of the divorce decree, annulment or remarriage
2 under paragraph (1) must be delivered to the payor's or other third party's
3 main office or home. Upon receipt of written notice of the divorce decree,
4 annulment or remarriage, a payor or other third party may pay any
5 amount owed or transfer or deposit any item of property held by it to or
6 with the court having jurisdiction of the probate proceedings relating to
7 the decedent's estate or, if no proceedings have been commenced, to or
8 with the court having jurisdiction of probate proceedings relating to de-
9 cedents' estates located in the county of the decedent's residence. The
10 court shall hold the funds or item of property and, upon its determination
11 under this section, shall order disbursement or transfer in accordance
12 with the determination. Payments, transfers, or deposits made to or with
13 the court discharge the payor or other third party from all claims for the
14 value of amounts paid to or items of property transferred to or deposited
15 with the court.

16 (f) "Governing instrument" means a deed, will, trust, insurance or
17 annuity policy, account with POD designation, pension, profit-sharing,
18 retirement or similar benefit plan, instrument creating or exercising a
19 power of appointment or a power of attorney, or a donative, appointive
20 or nominative instrument of any other type.

21 Sec. 2. This act shall take effect and be in force from and after its
22 publication in the statute book.