

2018 Kansas Statutes

58-714. Same; protection of payors, bona fide purchasers and other third parties; personal liability of recipient. (a) *Protection of Payors and Other Third Parties.*

(1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument who, under this act, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this act. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this act.

(2) Written notice of a claimed lack of entitlement under paragraph (1) must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this act, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this act, shall order disbursement in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(b) *Protection of Bona Fide Purchasers; Personal Liability of Recipient.*

(1) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this act to return the payment, item of property, or benefit nor liable under this act for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property or any other benefit to which the person is not entitled under this act is obligated to return the payment, item of property or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this act.

(2) If this act or any part of this act is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this act, a person who, not for value, receives the payment, item of property or any other benefit to which the person is not entitled under this act is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this act or part of this act not preempted.

History: L. 1992, ch. 97, § 7; July 1.