

386B.13-140 Trust limitation on decanting power.

- (1) An authorized fiduciary may not exercise the decanting power to the extent the first-trust instrument expressly prohibits the exercise of:
 - (a) The decanting power; or
 - (b) A power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.
- (2) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to the exercise of:
 - (a) The decanting power; or
 - (b) A power granted by state law to a fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.
- (3) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.
- (4) Subject to subsections (1) and (2) of this section, an authorized fiduciary may exercise the decanting power under KRS 386B.13-010 to 386B.13-280 even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.
- (5) If a first-trust instrument contains an express prohibition described in subsection (1) of this section or an express restriction described in subsection (2) of this section, the provision shall be included in the second-trust instrument.

Effective: July 15, 2026

History: Created 2026 Ky. Acts ch. 134, sec. 100, effective July 15, 2026.