

CHAPTER 440**(SB 309)**

AN ACT relating to trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 and Section 3 of this Act:

- (1) "Life beneficiary" means a beneficiary who is a current permissible or mandatory recipient of income or principal from the trust, or, if more than one (1), the beneficiary or beneficiaries of the oldest generation;*
- (2) "Remainder beneficiary" means a beneficiary who would have received the trust property in fee but for the continuation of the trust by the corporate trustee;*
- (3) "A portion or all of the trust" means a portion, including all, of any remainder beneficiary's share of the trust to which the remainder beneficiary would be entitled in fee following the death of the life beneficiary. The portion of each of the remainder beneficiary's share that is continued shall be held as a separate trust;*
- (4) "Trust" has the same meaning as set forth in KRS 386.800; and*
- (5) "Corporate trustee" means a trust company or a bank empowered as a fiduciary.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

- (1) A corporate trustee administering a trust may continue the term of a portion of the trust so long as the period of the continuation does not extend beyond the term of the Rule Against Perpetuities, as set forth in KRS 381.215, that is applicable to the trust.*
- (2) Subject to KRS 381.215, the portion of the trust continued by the corporate trustee shall continue for the life of the remainder beneficiary of the trust, upon the same terms and conditions as provided in the trust, for the term preceding the life beneficiary's death. In addition, commencing with the death of the life beneficiary, the remainder beneficiary may withdraw that portion of the trust that has been continued by giving written notice to the corporate trustee. However, each year five percent (5%) of the remainder beneficiary's right of withdrawal shall lapse on December 31, and the lapses shall be cumulative.*
- (3) The corporate trustee's authority granted in subsection (1) of this section shall not apply to any portion of a trust which:
 - (a) Continues by its terms after the death of the life beneficiary; or*
 - (b) Has been pledged to secure a debt.**
- (4) This section shall apply to any trust that was irrevocable on January 1, 1976.*

Section 3. KRS 287.220 is amended to read as follows:

- (1) When acting as a fiduciary or in any other capacity in which the duties, powers, liabilities, rights, and compensation are regulated by law, or under the control or supervision of the court, banks and trust companies shall, except as provided in subsection (2) **and subsection***

(3) of this section, be subject to the same duties and responsibilities, have the same rights and powers, and receive the same compensation as is allowed the individual holding or exercising similar offices or trusts.

- (2) Upon all bonds required to be executed by such corporation before any court, the capital stock shall be the only security required for the faithful performance of its duties, unless the court or officer before whom the bond is executed, or some party in interest demands additional security.
 - (3) *A bank or trust company serving as a trustee of multiple trusts having one (1) or more common beneficiaries or remainder beneficiaries, need not obtain court approval for performance or execution of its duties, and it shall not be considered a conflict of interest solely because all beneficiaries or remainder beneficiaries of the trusts are not identical.*
- Approved April 21, 2000**