



KANSAS BAR
ASSOCIATION

TO: The Honorable Tim Owens
And Members of the Senate Judiciary Committee

FROM: Joseph N. Molina
On Behalf of the Kansas Bar Association

RE: SB 36 – Amending K.S.A. 60-2308

DATE: February 10, 2011

Good morning Chairman Owens and Members of the Senate Judiciary Committee. I am Joseph N. Molina and I appear on behalf of the Kansas Bar Association to provide an answer concerning SB 36.

During the hearing on SB 36 Senator Vratil questioned the “spendthrift trust” provision contained in K.S.A. 60-2308(b). Sen. Vratil was interested in the need for such a provision. I have researched the request and found that creditors are prohibited from filing an attachment of assets contained within a spendthrift trust. This protects an exempt asset, such as qualified retirement plans, from creditors who would simply attach the asset and wait till the retirement plan is distributed. By presuming a qualified retirement plan is a spendthrift trust creditors are unable to circumvent the intent of the law.

On behalf of the Kansas Bar Association, I thank you for the opportunity to respond to questions concerning SB 36.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,000 members, including lawyers, judges, law students, and paralegals. www.ksbar.org