

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 172

Introduced by Pansing Brooks, 28.

Read first time January 11, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to finance; to amend section 30-2723, Reissue
2 Revised Statutes of Nebraska, and section 43-2101, Revised Statutes
3 Cumulative Supplement, 2018; to clarify duties of cofiduciaries with
4 respect to banking transactions involving trust or estate assets; to
5 change provisions relating to sums on deposit payable on death to
6 two or more beneficiaries; to authorize competency for persons
7 eighteen years of age or older entering into certain financial
8 agreements; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. In any case in which copersonal representatives,
2 cotrustees, coguardians, or coconservators have been appointed, unless
3 specifically restricted in a will, a trust, or an order of appointment,
4 such copersonal representatives, cotrustees, coguardians, or
5 coconservators shall have the authority to act independently and shall
6 not be required to act in concert with respect to banking transactions
7 involving trust or estate assets.

8 Sec. 2. Section 30-2723, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 30-2723 (a) Except as otherwise provided in sections 30-2716 to
11 30-2733, on death of a party sums on deposit in a multiple-party account
12 belong to the surviving party or parties. If two or more parties survive
13 and one is the surviving spouse of the decedent, the amount to which the
14 decedent, immediately before death, was beneficially entitled under
15 section 30-2722 belongs to the surviving spouse. If two or more parties
16 survive and none is the surviving spouse of the decedent, the amount to
17 which the decedent, immediately before death, was beneficially entitled
18 under such section belongs to the surviving parties in equal shares, and
19 augments the proportion to which each survivor, immediately before the
20 decedent's death, was beneficially entitled under section 30-2722, and
21 the right of survivorship continues between the surviving parties.

22 (b) In an account with a POD designation:

23 (1) On death of one of two or more parties, the rights in sums on
24 deposit are governed by subsection (a) of this section.

25 ~~(2)(A)~~ (2) On death of the sole party or the last survivor of two or
26 more parties, sums on deposit belong to the surviving beneficiary or
27 beneficiaries. If two or more beneficiaries survive, sums on deposit
28 belong to them in such proportions as specified in the POD designation
29 or, if the POD designation does not specify different proportions, in
30 equal and undivided shares, and there is no right of survivorship in the
31 event of death of a beneficiary thereafter. If no beneficiary survives,

1 sums on deposit belong to the estate of the last surviving party.

2 (B) If there are two or more beneficiaries, and if any beneficiary
3 fails to survive the sole party or the last survivor of two or more
4 parties, sums on deposit belong to the surviving beneficiaries in
5 proportion to their respective interests as beneficiaries under
6 subdivision (2)(A) of this subsection.

7 (c) Sums on deposit in a single-party account without a POD
8 designation, or in a multiple-party account that, by the terms of the
9 account, is without right of survivorship, are not affected by death of a
10 party, but the amount to which the decedent, immediately before death,
11 was beneficially entitled under section 30-2722 is transferred as part of
12 the decedent's estate. A POD designation in a multiple-party account
13 without right of survivorship is ineffective. For purposes of this
14 section, designation of an account as a tenancy in common establishes
15 that the account is without right of survivorship.

16 (d) The ownership right of a surviving party or beneficiary, or of
17 the decedent's estate, in sums on deposit is subject to requests for
18 payment made by a party before the party's death, whether paid by the
19 financial institution before or after death, or unpaid. The surviving
20 party or beneficiary, or the decedent's estate, is liable to the payee of
21 an unpaid request for payment. The liability is limited to a
22 proportionate share of the amount transferred under this section, to the
23 extent necessary to discharge the request for payment.

24 Sec. 3. Section 43-2101, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 43-2101 All persons under nineteen years of age are declared to be
27 minors, but in case any person marries under the age of nineteen years,
28 his or her minority ends. Upon becoming the age of majority, a person is
29 considered an adult and acquires all rights and responsibilities granted
30 or imposed by statute or common law, except that a person:

31 (1) Eighteen ~~eighteen~~ years of age or older and who is not a ward of

1 the state may: (a) Enter ~~enter~~ into a binding contract or lease of
2 whatever kind or nature; and (b) execute, sign, authorize, or otherwise
3 authenticate (i) an effective financing statement, (ii) a promissory note
4 or other instrument evidencing an obligation to repay, or (iii) a
5 mortgage, trust deed, security agreement, financing statement, or other
6 security instrument to grant a lien or security interest in real or
7 personal property or fixtures, and shall be legally responsible therefor;
8 and

9 (2) Eighteen ~~eighteen~~ years of age or older may consent to mental
10 health services for himself or herself without the consent of his or her
11 parent or guardian.

12 Sec. 4. Original section 30-2723, Reissue Revised Statutes of
13 Nebraska, and section 43-2101, Revised Statutes Cumulative Supplement,
14 2018, are repealed.