

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 248

Introduced by Pansing Brooks, 28; Williams, 36.

Read first time January 11, 2021

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Uniform Directed Trust Act; to amend
- 2 section 30-4305, Revised Statutes Cumulative Supplement, 2020; to
- 3 change provisions relating to actions excluded from the act; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-4305, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 30-4305 (UDTA 5) (a) In this section, power of appointment means a
4 power that enables a person acting in a nonfiduciary capacity to
5 designate a recipient of an ownership interest in or another power of
6 appointment over trust property.

7 (b) The Nebraska Uniform Directed Trust Act does not apply to a:

8 (1) power of appointment;

9 (2) power to appoint or remove a trustee or trust director;

10 (3) power of a settlor over a trust to the extent the settlor has a
11 power to revoke the trust;

12 (4) power of a beneficiary over a trust to the extent the exercise
13 or nonexercise of the power affects the beneficial interest of:

14 (A) the beneficiary; or

15 (B) the beneficial interest of another beneficiary represented by
16 the beneficiary under sections 30-3822 to 30-3826 with respect to the
17 exercise or nonexercise of the power; ~~or~~

18 (5) power over a trust if:

19 (A) the terms of the trust provide that the power is held in a
20 nonfiduciary capacity; and

21 (B) the power must be held in a nonfiduciary capacity to achieve the
22 settlor's tax objectives under the Internal Revenue Code of 1986 as
23 defined in section 49-801.01; or -

24 (6) power over a trust if:

25 (A) the terms of the trust provide that the power is held in a
26 nonfiduciary capacity; and

27 (B) the power must be held in a nonfiduciary capacity to correct a
28 mistake of the scrivener in order to conform the terms of the trust with
29 the intention of a settlor. The correction must not reform the trust in
30 any material respect.

31 (c) Unless the terms of a trust provide otherwise, a power granted

1 to a person to designate a recipient of an ownership interest in or power
2 of appointment over trust property which is exercisable while the person
3 is not serving as a trustee is a power of appointment and not a power of
4 direction.

5 Sec. 2. Original section 30-4305, Revised Statutes Cumulative
6 Supplement, 2020, is repealed.