

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 711

Introduced by Armendariz, 18.

Read first time January 18, 2023

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Nebraska Uniform Trust Code; to amend
2 section 30-3878, Reissue Revised Statutes of Nebraska, and section
3 30-3805, Revised Statutes Cumulative Supplement, 2022; to change
4 provisions relating to default and mandatory rules for trusts and
5 the duty of a trustee to inform and report to a beneficiary; to
6 harmonize provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-3805, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 30-3805 (UTC 105) (a) Except as otherwise provided in the terms of
4 the trust, the Nebraska Uniform Trust Code governs the duties and powers
5 of a trustee, relations among trustees, and the rights and interests of a
6 beneficiary.

7 (b) The terms of a trust prevail over any provision of the code
8 except:

9 (1) the requirements for creating a trust;

10 (2) subject to sections 30-4309, 30-4311, and 30-4312, the duty of a
11 trustee to act in good faith and in accordance with the terms and
12 purposes of the trust and the interests of the beneficiaries;

13 (3) the requirement that a trust and its terms be for the benefit of
14 its beneficiaries, and that the trust have a purpose that is lawful, not
15 contrary to public policy, and possible to achieve;

16 (4) the power of the court to modify or terminate a trust under
17 sections 30-3836 to 30-3842;

18 (5) the effect of a spendthrift provision and the rights of certain
19 creditors and assignees to reach a trust as provided in sections 30-3846
20 to 30-3852;

21 (6) the power of the court under section 30-3858 to require,
22 dispense with, or modify or terminate a bond;

23 (7) the power of the court under subsection (b) of section 30-3864
24 to adjust a trustee's compensation specified in the terms of the trust;

25 ~~(8) the duty under subsection (a) of section 30-3878 to keep the~~
26 ~~qualified beneficiaries of the trust reasonably informed about the~~
27 ~~administration of the trust and of the material facts necessary for them~~
28 ~~to protect their interests, and to respond to the request of a qualified~~
29 ~~beneficiary of an irrevocable trust for trustee's reports and other~~
30 ~~information reasonably related to the administration of a trust;~~

31 ~~(8) (9) the effect of an exculpatory term under section 30-3897;~~

1 ~~(9)~~ ~~(10)~~ the rights under sections 30-3899 to 30-38,107 of a person
2 other than a trustee or beneficiary;

3 ~~(10)~~ ~~(11)~~ periods of limitation for commencing a judicial
4 proceeding;

5 ~~(11)~~ ~~(12)~~ the power of the court to take such action and exercise
6 such jurisdiction as may be necessary in the interests of justice;

7 ~~(12)~~ ~~(13)~~ the subject matter jurisdiction of the court and venue for
8 commencing a proceeding as provided in sections 30-3814 and 30-3815;

9 ~~(13)~~ ~~(14)~~ the power of a court under subdivision (a)(1) of section
10 30-3807; and

11 ~~(14)~~ ~~(15)~~ the power of a court to review the action or the proposed
12 action of the trustee for an abuse of discretion.

13 Sec. 2. Section 30-3878, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 30-3878 (UTC 813) (a) Except as provided in subsection (g) of this
16 section, a A trustee shall keep the qualified beneficiaries of the trust
17 reasonably informed about the administration of the trust and of the
18 material facts necessary for them to protect their interests. Unless
19 unreasonable under the circumstances, a trustee shall promptly respond to
20 a beneficiary's request for information related to the administration of
21 the trust.

22 (b) Unless provided otherwise in the terms of a trust, a A trustee:

23 (1) upon request of a beneficiary, shall promptly furnish to the
24 beneficiary a copy of the trust instrument;

25 (2) within sixty days after accepting a trusteeship, shall notify
26 the qualified beneficiaries of the acceptance and of the trustee's name,
27 address, and telephone number;

28 (3) within sixty days after the date the trustee acquires knowledge
29 of the creation of an irrevocable trust, or the date the trustee acquires
30 knowledge that a formerly revocable trust has become irrevocable, whether
31 by the death of the settlor or otherwise, shall notify the qualified

1 beneficiaries of the trust's existence, of the identity of the settlor or
2 settlors, of the right to request a copy of the trust instrument, and of
3 the right to a trustee's report as provided in subsection (c) of this
4 section; and

5 (4) shall notify the qualified beneficiaries in advance of any
6 change in the method or rate of the trustee's compensation.

7 (c) A trustee shall send to the distributees or permissible
8 distributees of trust income or principal, and to other qualified or
9 nonqualified beneficiaries who request it, at least annually and at the
10 termination of the trust, a report of the trust property, liabilities,
11 receipts, and disbursements, including the source and amount of the
12 trustee's compensation, a listing of the trust assets and, if feasible,
13 their respective market values. Upon a vacancy in a trusteeship, unless a
14 cotrustee remains in office, a report must be sent to the qualified
15 beneficiaries by the former trustee. A personal representative,
16 conservator, or guardian may send the qualified beneficiaries a report on
17 behalf of a deceased or incapacitated trustee.

18 (d) A beneficiary may waive the right to a trustee's report or other
19 information otherwise required to be furnished under this section. A
20 beneficiary, with respect to future reports and other information, may
21 withdraw a waiver previously given.

22 (e) The duties of a trustee specified in this section are subject to
23 the provisions of section 30-3855.

24 (f) Subdivisions (b)(2) and (3) of this section do not apply to a
25 trustee who accepts a trusteeship before January 1, 2006, to an
26 irrevocable trust created before January 1, 2006, or to a revocable trust
27 that becomes irrevocable before January 1, 2006.

28 (g) The terms of a trust may expand, restrict, eliminate, or
29 otherwise vary the right of a beneficiary to be informed of the
30 beneficiary's interest in a trust for a period of time, including a
31 period of time related to:

- 1 (1) the age of such beneficiary;
- 2 (2) the lifetime of a settlor, the spouse of a settlor, or both;
- 3 (3) a term of years or specific date; or
- 4 (4) a specific event that is certain to occur.

5 Sec. 3. Original section 30-3878, Reissue Revised Statutes of
6 Nebraska, and section 30-3805, Revised Statutes Cumulative Supplement,
7 2022, are repealed.