

LEGISLATIVE BILL 338

Approved by the Governor May 6, 1977

Introduced by Banking, Commerce and Insurance Committee,
DeCamp, 40, Chmn.; Schmit, 23; Labedz, 5;
Merz, 1; Swigart, 8

AN ACT relating to banking; to define terms; to authorize transfer of trust business from an affiliated bank to a trust company as prescribed.

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

Section 1. As used in this act, unless the context otherwise requires:

(1) Trust company shall mean any trust company which is incorporated under the laws of this state, and any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in sections 8-201 to 8-226, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto; and

(2) Fiduciary capacity shall mean a capacity resulting from a bank undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes the capacities of trustee, including trustee of a common trust fund, executor, administrator, personal representative, registrar or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state, or public authority, guardian of estates, conservator, receiver, escrow agent, agent for the investment of money, attorney-in-fact, and any other similar capacity.

Sec. 2. (1) Any trust company which has been duly authorized to commence the business for which it is organized and which has made the deposit of cash or securities required by sections 8-209 and 8-210, Reissue Revised Statutes of Nebraska, 1943, may file an application in the county court of the county in which an affiliated bank is located requesting that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank specified in the application, and such specified affiliated bank shall join in such application. Such application may be made by the trust company seeking substitution and need not list the fiduciary capacities in which substitution is proposed to be made. For purposes of this section, affiliated bank with respect to

a trust company shall mean any bank incorporated under the laws of this state and any national banking association having its principal office in this state more than fifty per cent of the voting stock of which is owned directly or indirectly by the same bank holding company as defined in the United States Bank Holding Company Act, as amended, that owns directly or indirectly more than fifty per cent of the voting stock of such trust company. The county court may require such notice as it deems necessary.

(2) When the county court finds that such trust company has been duly authorized to commence the business for which it is organized and that it has made a deposit of cash or securities in accordance with sections 8-209 and 8-210, Reissue Revised Statutes of Nebraska, 1943, the county court may enter an order substituting such trust company in every fiduciary capacity for the specified affiliated bank, except as may be otherwise specified in the application.

(3) Upon entry of such order, such trust company shall, without further act, be substituted in every such fiduciary capacity, and such application may be evidenced by filing a copy of the order with the clerk of any county court in this state.

Sec. 3. Each designation in a will or other instrument heretofore or hereafter executed in which a bank is designated as fiduciary shall be deemed a designation of the trust company substituted for such bank pursuant to this act, except when such will or other instrument is executed after such substitution. Any grant in any such will or other instrument of any discretionary power shall be deemed conferred upon the trust company deemed designated as the fiduciary pursuant to this section.

Sec. 4. A bank shall account jointly with the trust company which has been substituted as fiduciary for such bank pursuant to this act for the accounting period during which the trust company is initially so substituted. Upon substitution pursuant to this act, the bank shall deliver to the trust company all assets held by the bank as fiduciary, except assets held for accounts with respect to which there has been no substitution pursuant to this act, and upon such substitution all such assets shall become the property of the trust company without the necessity of any instrument of transfer or conveyance.