

## LEGISLATIVE BILL 248

Approved by the Governor March 17, 2021

Introduced by Pansing Brooks, 28; Williams, 36.

A BILL FOR AN ACT relating to the Nebraska Uniform Directed Trust Act; to amend section 30-4305, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to actions excluded from the act; and to repeal the original section.

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

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

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

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

(1) power of appointment;

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

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

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

(A) the beneficiary; or

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

(5) power over a trust if:

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

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

(6) power over a trust if:

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

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

(c) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in or power of appointment over trust property which is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

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 Original section 30-4305, Revised Statutes Cumulative Supplement, 2020, is repealed.