

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 815

Introduced by Murante, 49.

Read first time January 10, 2014

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Nebraska Banking Act; to amend section
2 8-162.02, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to fiduciary accounts controlled by a
4 trust department; to repeal the original section; and to
5 declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-162.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 8-162.02 (1) A state-chartered bank may deposit or have
4 on deposit funds of a fiduciary account controlled by the bank's
5 trust department unless prohibited by applicable law.

6 (2) To the extent that the funds are awaiting investment
7 or distribution and are not insured or guaranteed by the Federal
8 Deposit Insurance Corporation, a state-chartered bank shall set aside
9 collateral as security under the control of appropriate fiduciary
10 officers and bank employees. The bank shall place pledged assets of
11 fiduciary accounts in the joint custody or control of not fewer than
12 two of the fiduciary officers or employees of the bank designated for
13 that purpose by the board of directors. The bank may maintain the
14 investments of a fiduciary account off-premises if consistent with
15 applicable law and if the bank maintains adequate safeguards and
16 controls. The market value of the collateral shall at all times equal
17 or exceed the amount of the uninsured or unguaranteed fiduciary funds
18 awaiting investment or distribution.

19 (3) A state-chartered bank may satisfy the collateral
20 requirements of this section with any of the following: (a) Direct
21 obligations of the United States or other obligations fully
22 guaranteed by the United States as to principal and interest; (b)
23 readily marketable securities of the classes in which banks, trust
24 companies, or other corporations exercising fiduciary powers are
25 permitted to invest fiduciary funds under applicable state law; and

1 (c) surety bonds, to the extent the surety bonds provide adequate
2 security, unless prohibited by applicable law.

3 (4) A state-chartered bank, acting in its fiduciary
4 capacity, may deposit funds of a fiduciary account that are awaiting
5 investment or distribution with an affiliated insured depository
6 institution unless prohibited by applicable law. The bank may set
7 aside collateral as security for a deposit by or with an affiliate of
8 fiduciary funds awaiting investment or distribution, as it would if
9 the deposit was made at the bank, unless such action is prohibited by
10 applicable law.

11 (5) Public funds deposited in and held by a state-
12 chartered bank are not subject to this section.

13 (6) This section does not apply to a fiduciary account in
14 which, pursuant to the terms of the governing instrument, full
15 investment authority is retained by the grantor or is vested in
16 persons or entities other than the state-chartered bank and the bank,
17 acting in its fiduciary capacity, does not have the power to exert
18 any influence over investment decisions.

19 Sec. 2. Original section 8-162.02, Reissue Revised
20 Statutes of Nebraska, is repealed.

21 Sec. 3. Since an emergency exists, this act takes effect
22 when passed and approved according to law.