

AMENDMENTS TO LB145

Introduced by Banking, Commerce and Insurance.

1 1. Insert the following new section:

2 Section 1. Section 30-4020, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 30-4020 (1) Except as otherwise provided in subsection (2) of this
5 section:

6 (a) A person shall either accept an acknowledged power of attorney
7 or request a certification, a translation, or an opinion of counsel under
8 subsection (4) of section 30-4019 no later than seven business days after
9 presentation of the power of attorney for acceptance;

10 (b) If a person requests a certification, a translation, or an
11 opinion of counsel under subsection (4) of section 30-4019, the person
12 shall accept the power of attorney no later than five business days after
13 receipt of the certification, translation, or opinion of counsel; and

14 (c) A person may not require an additional or different form of
15 power of attorney for authority granted in the power of attorney
16 presented, except as provided in section 30-4031.

17 (2) A person is not required to accept an acknowledged power of
18 attorney if:

19 (a) The person is not otherwise required to engage in a transaction
20 with the principal in the same circumstances;

21 (b) Engaging in a transaction with the agent or the principal in the
22 same circumstances would be inconsistent with state or federal law;

23 (c) The person has actual knowledge of the termination of the
24 agent's authority or of the power of attorney before exercise of the
25 power;

26 (d) A request for a certification, a translation, or an opinion of
27 counsel under subsection (4) of section 30-4019 is refused;

1 (e) The person in good faith believes that the power is not valid or
2 that the agent does not have the authority to perform the act requested,
3 whether or not a certification, a translation, or an opinion of counsel
4 under subsection (4) of section 30-4019 has been requested or provided;

5 (f) The person makes, or has actual knowledge that another person
6 has made, a report to the local adult protective services office stating
7 a good faith belief that the principal may be subject to physical or
8 financial abuse, neglect, exploitation, or abandonment by the agent or a
9 person acting for or with the agent;

10 (g) The person brought, or has actual knowledge that another person
11 has brought, a judicial proceeding for construction of a power of
12 attorney or review of the agent's conduct; or

13 (h) The power of attorney becomes effective upon the occurrence of
14 an event or contingency, and neither a certification nor evidence of the
15 occurrence of the event or contingency is presented to the person being
16 asked to accept the power of attorney.

17 (3) A person may not refuse to accept an acknowledged power of
18 attorney if any of the following applies:

19 (a) The person's reason for refusal is based exclusively upon the
20 date the power of attorney was executed; or

21 (b) The person's refusal is based exclusively on a mandate that an
22 additional or different power of attorney form must be used.

23 (4) A person that refuses in violation of this section to accept an
24 acknowledged power of attorney is subject to:

25 (a) A court order mandating acceptance of the power of attorney; and

26 (b) Liability for reasonable attorney's fees and costs incurred in
27 any action or proceeding that confirms the validity of the power of
28 attorney or mandates acceptance of the power of attorney.

29 2. On page 3, line 18, strike "section" and insert "sections 30-4020
30 and"; and in line 19 strike "is" and insert "are".

31 3. Renumber the remaining sections accordingly.