

LEGISLATIVE BILL 763

Approved by the Governor April 20, 1978

Introduced by Banking, Commerce and Insurance Committee,
DeCamp, 40, Chmn.; Mills, 44; Duis, 39;
Murphy, 17; Labeledz, 5; Merz, 1; Schmit, 23

AN ACT to amend sections 8-1302 and 24-604, Reissue Revised Statutes of Nebraska, 1943, relating to securities; to provide for transfer of securities as prescribed; to provide that securities may be evidenced by book entry; and to repeal the original sections.

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

Section 1. That section 8-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1302. (1) Notwithstanding any other provision of law, any fiduciary holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities in a clearing corporation, as defined in section 8-102, Uniform Commercial Code, or with any other agency or organization. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation, agency or other organization with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities. Certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation, agency or other organization without physical delivery of certificates representing such securities. A bank or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered institutions, the Director of Banking and Finance or, in the case of national banking associations, the comptroller of the

currency may from time to time issue. A bank or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company in such clearing corporation, agency or other organization for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation, agency or other organization for its account as such fiduciary.

(2) This section shall apply to any fiduciary holding securities in its fiduciary capacity, and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on September 2, 1977, or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

Sec. 2. That section 24-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-604. Any person or any corporation holding any stock, bond, note, debenture, or any other security or property, the title to which may be registered, hereinafter referred to as a security, as executor, administrator, trustee, guardian, conservator or in any other fiduciary capacity, may cause the same to be registered in his or its own name or in the name of a nominee without any words indicating the fiduciary capacity in which such security is held; Provided, (1) the accounts and records of such person or corporation at all times clearly show that such security was held by such person or corporation in such fiduciary capacity; (2) said security is kept separate and apart from the property held by such person or corporation in his or its own right or in any other fiduciary capacity, or such security may be evidenced by book entry; (3) such fiduciary at all times has possession of such security and, if registered in the name of a nominee, before or promptly after such registration, secures from the nominee all such instruments as may be necessary to transfer the same without any further act of such nominee; and (4) the fiduciary shall be liable individually and in his or its own right for any loss resulting to the fiduciary estate because said security was so registered instead of being registered in his or

its name as such fiduciary.

Sec. 3. Any state agency which receives and holds securities for safekeeping purposes may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate.

Sec. 4. That original sections 8-1302 and 24-604, Reissue Revised Statutes of Nebraska, 1943, are repealed.