

LEGISLATIVE BILL 91

Approved by the Governor March 22, 1993

Introduced by Beutler, 28

AN ACT relating to decedents' estates; to amend section 30-3205, Reissue Revised Statutes of Nebraska, 1943; to provide for certain investments of funds by a bank or trust company acting as fiduciary; to provide for compensation; to repeal the original section; and to declare an emergency.

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

Section 1. That section 30-3205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

30-3205. (1) A fiduciary holding funds for investment may invest such funds in securities of, or other interests in, any open-end or closed-end management-type investment company or investment trust registered pursuant to the federal Investment Company Act of 1940, as amended, if a court order, will, agreement, or other instrument creating or defining the investment powers of the fiduciary directs, requires, authorizes, or permits the investment of such funds in any of the following: (1) (a) Such investments as the fiduciary may, in his or her discretion, select; (2) (b) investments generally, other than those in which fiduciaries are by law authorized to invest trust funds; and (3) (c) United States Government obligations if the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such obligations and if such investment company or investment trust takes delivery of the collateral, either directly or through an authorized custodian.

(2) A bank or trust company acting as a fiduciary, agent, or otherwise may, in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the bank or trust company as a fiduciary, invest and reinvest interests in the securities of an open-end or closed-end management-type investment company or investment trust registered pursuant to the federal Investment Company Act of 1940, as amended, or may retain, sell, or exchange such interests so long as the portfolio of the investment company or investment trust as an entity consists substantially of investments not prohibited by the instrument governing the fiduciary relationship. The fact that the bank or trust company or an affiliate of the bank or trust company provides services to the investment company or investment trust, such as that of an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise, and is receiving reasonable compensation for the services shall not preclude the bank or trust company from investing, reinvesting, retaining, or exchanging any interest held by the trust estate in the securities of any open-end or closed-end

management-type investment company or investment trust registered pursuant to the federal Investment Company Act of 1940, as amended.

(3) The compensation received by a bank or trust company or affiliate of the bank or trust company for providing investment advisor, custodian, transfer agent, registrar, sponsor, distributor, manager, or other such services to the investment company or investment trust may be in addition to the compensation to which the bank or trust company or affiliate of the bank or trust company is otherwise entitled to receive from the trust if the basis on which the compensation from the investment company or investment trust is calculated is expressed by a percentage of the asset value, a percentage of the income earned, or the actual amount charged and is (a) consented to in writing by all persons entitled to receive statements of account activity and (b) disclosed initially by prospectus and at least annually thereafter to such persons by account, statement, or any other written means.

Sec. 2. That original section 30-3205, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.