

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 416**

Introduced by Pansing Brooks, 28.

Read first time January 16, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to property; to amend sections 30-2333,  
2 30-2353, 30-2723, 30-2742, and 30-3854, Reissue Revised Statutes of  
3 Nebraska, and sections 30-2354, 30-2715, 30-2715.01, and 76-3415,  
4 Revised Statutes Cumulative Supplement, 2014; to change provisions  
5 relating to transfer of property upon death; to harmonize  
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 30-2333, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 30-2333 (a) For purposes of this section:

4 (1) Beneficiary, as it relates to a trust beneficiary, includes a  
5 person who has any present or future interest, vested or contingent, and  
6 also includes the owner of an interest by assignment or other transfer;  
7 as it relates to a charitable trust, includes any person entitled to  
8 enforce the trust; and as it relates to a beneficiary of a beneficiary  
9 designation, refers to a beneficiary of an insurance or annuity policy,  
10 of an account with POD designation as defined in section 30-2716, of a  
11 security registered in beneficiary form, of a pension, profit-sharing,  
12 retirement, or similar benefit plan, or of any other nonprobate transfer  
13 at death;

14 (2) Beneficiary designated in a governing instrument includes a  
15 grantee of a deed, a beneficiary of a transfer on death deed, a transfer-  
16 on-death beneficiary, a beneficiary of a POD designation, a devisee, a  
17 trust beneficiary, a beneficiary of a beneficiary designation, a donee,  
18 appointee, or taker in default of a power of appointment, and a person in  
19 whose favor a power of attorney or a power held in any individual,  
20 fiduciary, or representative capacity is exercised;

21 (3) Disposition or appointment of property includes a transfer of an  
22 item of property or any other benefit to a beneficiary designated in a  
23 governing instrument;

24 (4) Divorce or annulment means any divorce or annulment, or any  
25 dissolution or declaration of invalidity of a marriage, that would  
26 exclude the spouse as a surviving spouse within the meaning of section  
27 30-2353. A decree of separation that does not terminate the status of  
28 husband and wife is not a divorce for purposes of this section;

29 (5) Divorced individual includes an individual whose marriage has  
30 been annulled;

31 (6) Governing instrument means a deed, a will, a trust, an insurance

1 or annuity policy, an account with POD designation, a security registered  
2 in beneficiary form, a transfer on death deed, a pension, profit-sharing,  
3 retirement, or similar benefit plan, an instrument creating or exercising  
4 a power of appointment or a power of attorney, or a dispositive,  
5 appointive, or nominative instrument of any similar type, which is  
6 executed by the divorced individual before the divorce or annulment of  
7 his or her marriage to his or her former spouse;

8 (7) Joint tenants with the right of survivorship and community  
9 property with the right of survivorship includes co-owners of property  
10 held under circumstances that entitle one or more to the whole of the  
11 property on the death of the other or others, but excludes forms of co-  
12 ownership registration in which the underlying ownership of each party is  
13 in proportion to that party's contribution;

14 (8) Payor means a trustee, an insurer, a business entity, an  
15 employer, a government, a governmental agency or subdivision, or any  
16 other person authorized or obligated by law or a governing instrument to  
17 make payments;

18 (9) Relative of the divorced individual's former spouse means an  
19 individual who is related to the divorced individual's former spouse by  
20 blood, adoption, or affinity and who, after the divorce or annulment, is  
21 not related to the divorced individual by blood, adoption, or affinity;  
22 and

23 (10) Revocable, with respect to a disposition, appointment,  
24 provision, or nomination, means one under which the divorced individual,  
25 at the time of the divorce or annulment, was alone empowered, by law or  
26 under the governing instrument, to cancel the designation in favor of his  
27 or her former spouse or former spouse's relative, whether or not the  
28 divorced individual was then empowered to designate himself or herself in  
29 place of his or her former spouse or in place of his or her former  
30 spouse's relative and whether or not the divorced individual then had the  
31 capacity to exercise the power.

1           (b) For purposes of this section, subject to subsection (c) of this  
2 section, a person has knowledge of a fact if the person:

3           (1) Has actual knowledge of it;

4           (2) Has received a notice or notification of it; or

5           (3) From all the facts and circumstances known to the person at the  
6 time in question, has reason to know it.

7           (c) An organization that conducts activities through employees has  
8 notice or knowledge of a fact only from the time the information was  
9 received by an employee having responsibility to act for the  
10 organization, or would have been brought to the employee's attention if  
11 the organization had exercised reasonable diligence. An organization  
12 exercises reasonable diligence if it maintains reasonable routines for  
13 communicating significant information to the employee having  
14 responsibility to act for the organization and there is reasonable  
15 compliance with the routines. Reasonable diligence does not require an  
16 employee of the organization to communicate information unless the  
17 communication is part of the individual's regular duties or the  
18 individual knows a matter involving the organization would be materially  
19 affected by the information.

20           (d) Except as provided by the express terms of a governing  
21 instrument, a court order, or a contract relating to the division of the  
22 marital estate made between the divorced individuals before or after the  
23 marriage, divorce, or annulment, the divorce or annulment of a marriage:

24           (1) Revokes any revocable

25           (A) disposition or appointment of property made by a divorced  
26 individual to his or her former spouse in a governing instrument and any  
27 disposition or appointment created by law or in a governing instrument to  
28 a relative of the divorced individual's former spouse;

29           (B) provision in a governing instrument conferring a general or  
30 nongeneral power of appointment on the divorced individual's former  
31 spouse or on a relative of the divorced individual's former spouse; and

1       (C) nomination in a governing instrument, nominating a divorced  
2 individual's former spouse or a relative of the divorced individual's  
3 former spouse to serve in any fiduciary or representative capacity,  
4 including a personal representative, executor, trustee, conservator,  
5 agent, or guardian; and

6       (2) Severs the interests of the former spouses in property held by  
7 them at the time of the divorce or annulment as joint tenants with the  
8 right of survivorship, transforming the interests of the former spouses  
9 into equal tenancies in common.

10       (e) A severance under subdivision (d)(2) of this section does not  
11 affect any third-party interest in property acquired for value and in  
12 good faith reliance on an apparent title by survivorship in the survivor  
13 of the former spouses unless a writing declaring the severance has been  
14 noted, registered, filed, or recorded in records appropriate to the kind  
15 and location of the property which are relied upon, in the ordinary  
16 course of transactions involving such property, as evidence of ownership.

17       (f) Provisions of a governing instrument are given effect as if the  
18 former spouse and relatives of the former spouse disclaimed all  
19 provisions revoked by this section or, in the case of a revoked  
20 nomination in a fiduciary or representative capacity, as if the former  
21 spouse and relatives of the divorced individual's former spouse died  
22 immediately before the divorce or annulment.

23       (g) Provisions revoked solely by this section are revived by the  
24 divorced individual's remarriage to the former spouse or by a  
25 nullification of the divorce or annulment.

26       (h) No change of circumstances other than as described in this  
27 section and section 30-2354 effects a revocation.

28       (i)(1) A payor or other third party is not liable for having made a  
29 payment or transferred an item of property or any other benefit to a  
30 beneficiary designated in a governing instrument affected by a divorce,  
31 annulment, or remarriage, or for having taken any other action in good

1 faith reliance on the validity of the governing instrument, before the  
2 payor or other third party received written notice of or has knowledge of  
3 the divorce, annulment, or remarriage. A payor or other third party is  
4 liable for a payment made or other action taken after the payor or other  
5 third party received written notice of a claimed forfeiture or revocation  
6 under this section.

7       (2) Written notice of the divorce, annulment, or remarriage under  
8 subdivision (i)(1) of this section must be mailed to the payor's or other  
9 third party's main office or home, be personally delivered to the payor  
10 or other third party, or be delivered by such other means which establish  
11 that the person has knowledge of the divorce, annulment, or remarriage.

12       (3) Upon receipt of written notice of the divorce, annulment, or  
13 remarriage, a payor or other third party may pay any amount owed or  
14 transfer or deposit any item of property held by it to or with the court  
15 that has jurisdiction of the probate proceedings relating to the  
16 decedent's estate or, if no proceedings have been commenced, to or with  
17 the court that has jurisdiction of probate proceedings relating to  
18 decedents' estates located in the county of the decedent's residence. The  
19 court shall hold the funds or item of property and, upon its  
20 determination under this section, shall order disbursement or transfer in  
21 accordance with the determination. Payments, transfers, or deposits made  
22 to or with the court discharge the payor or other third party from all  
23 claims for the value of amounts paid to or items of property transferred  
24 to or deposited with the court.

25       (j)(1) A person who purchases property from a former spouse, a  
26 relative of a former spouse, or any other person for value and without  
27 notice, or who receives from a former spouse, a relative of a former  
28 spouse, or any other person a payment or other item of property in  
29 partial or full satisfaction of a legally enforceable obligation, is  
30 neither obligated under this section to return the payment, item of  
31 property, or benefit nor is liable under this section for the amount of

1 the payment or the value of the item of property or benefit. But a former  
2 spouse, relative of a former spouse, or other person who, not for value,  
3 received a payment, an item of property, or any other benefit to which  
4 that person is not entitled under this section is obligated to return the  
5 payment, item of property, or benefit, or is personally liable for the  
6 amount of the payment or the value of the item of property or benefit, to  
7 the person who is entitled to it under this section.

8 (2) If this section or any part of this section is preempted by  
9 federal law with respect to a payment, an item of property, or any other  
10 benefit covered by this section, a former spouse, a relative of a former  
11 spouse, or any other person who, not for value, received a payment, an  
12 item of property, or any other benefit to which that person is not  
13 entitled under this section is obligated to return that payment, item of  
14 property, or benefit, or is personally liable for the amount of the  
15 payment or the value of the item of property or benefit, to the person  
16 who would have been entitled to it were this section or part of this  
17 section not preempted.

18 (k) If a former spouse has notice of the fact that he or she is a  
19 former spouse, then any receipt of property or money to which this  
20 section applies is received by the former spouse as a trustee for the  
21 person or persons who would be entitled to that property under this  
22 section.

23 ~~If after executing a will the testator is divorced or his marriage~~  
24 ~~dissolved or annulled, the divorce, dissolution, or annulment revokes any~~  
25 ~~disposition or appointment of property made by the will to the former~~  
26 ~~spouse, any provision conferring a general or special power of~~  
27 ~~appointment on the former spouse, and any nomination of the former spouse~~  
28 ~~as executor, trustee, conservator, or guardian, unless the will expressly~~  
29 ~~provides otherwise. Property prevented from passing to a former spouse~~  
30 ~~because of revocation by divorce, dissolution, or annulment passes as if~~  
31 ~~the former spouse failed to survive the decedent, and other provisions~~

~~1 conferring some power or office on the former spouse are interpreted as  
2 if the spouse failed to survive the decedent. If provisions are revoked  
3 solely by this section, they are revived by testator's remarriage to the  
4 former spouse. For purposes of this section, divorce, dissolution, or  
5 annulment means any divorce, dissolution, or annulment which would  
6 exclude the spouse as a surviving spouse within the meaning of section  
7 30-2353. A decree of separation which does not terminate the status of  
8 husband and wife is not a divorce for purposes of this section. No change  
9 of circumstances other than as described in this section revokes a will.~~

10       Sec. 2. Section 30-2353, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12       30-2353 (a) An individual who is divorced from the decedent or whose  
13 marriage to the decedent has been dissolved or annulled by a decree that  
14 has become final is not a surviving spouse unless, by virtue of a  
15 subsequent marriage, he or she is married to the decedent at the time of  
16 death. A decree of separation which does not terminate the status of  
17 husband and wife is not a divorce for purposes of this section.

18       (b) For purposes of parts 1, 2, 3, and 4 of this article and of  
19 section 30-2412, a surviving spouse does not include:

20       (1) an individual who obtains or consents to a final decree or  
21 judgment of divorce from the decedent or an annulment or dissolution of  
22 their marriage, which decree or judgment is not recognized as valid in  
23 this state, unless they subsequently participate in a marriage ceremony  
24 purporting to marry each to the other, or subsequently live together as  
25 man and wife;

26       (2) an individual who, following an invalid a decree or judgment of  
27 divorce or annulment or dissolution of marriage obtained by the decedent,  
28 participates in a marriage ceremony with a third individual; or

29       (3) an individual who was a party to a valid proceeding concluded by  
30 an order purporting to terminate all marital property rights against the  
31 decedent.



1           Sec. 3. Section 30-2354, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3           30-2354 (a) For purposes of this section:

4           (1) Beneficiary, as it relates to a trust beneficiary, includes a  
5 person who has any present or future interest, vested or contingent, and  
6 also includes the owner of an interest by assignment or other transfer;  
7 as it relates to a charitable trust, includes any person entitled to  
8 enforce the trust; and as it relates to a beneficiary of a beneficiary  
9 designation, refers to a beneficiary of an insurance or annuity policy,  
10 of an account with POD designation as defined in section 30-2716, of a  
11 security registered in beneficiary form, of a pension, profit-sharing,  
12 retirement, or similar benefit plan, or of any other nonprobate transfer  
13 at death;

14           (2) Beneficiary designated in a governing instrument includes a  
15 grantee of a deed, a beneficiary of a transfer on death deed, a transfer-  
16 on-death beneficiary, a beneficiary of a POD designation, a devisee, a  
17 trust beneficiary, a beneficiary of a beneficiary designation, a donee,  
18 appointee, or taker in default of a power of appointment, and a person in  
19 whose favor a power of attorney or a power held in any individual,  
20 fiduciary, or representative capacity is exercised;

21           (3) Disposition or appointment of property includes a transfer of an  
22 item of property or any other benefit to a beneficiary designated in a  
23 governing instrument;

24           (4) Governing instrument means a deed, a will, a trust, an insurance  
25 or annuity policy, an account with POD designation, a security registered  
26 in beneficiary form, a transfer on death deed, a pension, profit-sharing,  
27 retirement, or similar benefit plan, an instrument creating or exercising  
28 a power of appointment or a power of attorney, or a dispositive,  
29 appointive, or nominative instrument of any similar type, which is  
30 executed by the decedent;

31           (5) Joint tenants with the right of survivorship and community

1 property with the right of survivorship includes co-owners of property  
2 held under circumstances that entitle one or more to the whole of the  
3 property on the death of the other or others, but excludes forms of co-  
4 ownership registration in which the underlying ownership of each party is  
5 in proportion to that party's contribution;

6 (6) Payor means a trustee, an insurer, a business entity, an  
7 employer, a government, a governmental agency or subdivision, or any  
8 other person authorized or obligated by law or a governing instrument to  
9 make payments; and

10 (7) Revocable, with respect to a disposition, appointment,  
11 provision, or nomination, means one under which the decedent, at the time  
12 of or immediately before death, was alone empowered, by law or under the  
13 governing instrument, to cancel the designation in favor of the killer,  
14 whether or not the decedent was then empowered to designate himself or  
15 herself in place of his or her killer and whether or not the decedent  
16 then had the capacity to exercise the power.

17 (b) For purposes of this section, subject to subsection (c) of this  
18 section, a person has knowledge of a fact if the person:

19 (1) Has actual knowledge of it;

20 (2) Has received a notice or notification of it; or

21 (3) From all the facts and circumstances known to the person at the  
22 time in question, has reason to know it.

23 (c) An organization that conducts activities through employees has  
24 notice or knowledge of a fact only from the time the information was  
25 received by an employee having responsibility to act for the  
26 organization, or would have been brought to the employee's attention if  
27 the organization had exercised reasonable diligence. An organization  
28 exercises reasonable diligence if it maintains reasonable routines for  
29 communicating significant information to the employee having  
30 responsibility to act for the organization and there is reasonable  
31 compliance with the routines. Reasonable diligence does not require an

1 employee of the organization to communicate information unless the  
2 communication is part of the individual's regular duties or the  
3 individual knows a matter involving the organization would be materially  
4 affected by the information.

5 (d) An individual who feloniously and intentionally kills the  
6 decedent forfeits all benefits under the Nebraska Probate Code with  
7 respect to the decedent's estate, including an intestate share, an  
8 elective share, an omitted spouse's or child's share, a homestead  
9 allowance, exempt property, and a family allowance. If the decedent died  
10 intestate, the decedent's intestate estate passes as if the killer  
11 disclaimed his or her intestate share.

12 (e) The felonious and intentional killing of the decedent:

13 (1) Revokes any revocable (i) disposition or appointment of property  
14 made by the decedent to the killer in a governing instrument, (ii)  
15 provision in a governing instrument conferring a general or nongeneral  
16 power of appointment on the killer, and (iii) nomination of the killer in  
17 a governing instrument, nominating or appointing the killer to serve in  
18 any fiduciary or representative capacity, including a personal  
19 representative, executor, trustee, or agent; and

20 (2) Severs the interests of the decedent and killer in property held  
21 by them at the time of the killing as joint tenants with the right of  
22 survivorship, transforming the interests of the decedent and killer into  
23 equal tenancies in common.

24 (f) A severance under subdivision (e)(2) of this section does not  
25 affect any third-party interest in property acquired for value and in  
26 good faith reliance on an apparent title by survivorship in the killer  
27 unless a writing declaring the severance has been noted, registered,  
28 filed, or recorded in records appropriate to the kind and location of the  
29 property which are relied upon, in the ordinary course of transactions  
30 involving such property, as evidence of ownership.

31 (g) Provisions of a governing instrument are given effect as if the

1 killer disclaimed all provisions revoked by this section or, in the case  
2 of a revoked nomination in a fiduciary or representative capacity, as if  
3 the killer predeceased the decedent.

4 (h) A wrongful acquisition of property or interest by a killer not  
5 covered by this section must be treated in accordance with the principle  
6 that a killer cannot profit from his or her wrong.

7 (i) After all right to appeal has been exhausted, a judgment of  
8 conviction establishing criminal accountability for the felonious and  
9 intentional killing of the decedent conclusively establishes the  
10 convicted individual as the decedent's killer for purposes of this  
11 section. In the absence of a conviction, the court, upon the petition of  
12 an interested person, must determine whether, under the preponderance of  
13 evidence standard, the individual would be found criminally accountable  
14 for the felonious and intentional killing of the decedent. If the court  
15 determines that, under that standard, the individual would be found  
16 criminally accountable for the felonious and intentional killing of the  
17 decedent, the determination conclusively establishes that individual as  
18 the decedent's killer for purposes of this section.

19 (j)(1) A payor or other third party is not liable for having made a  
20 payment or transferred an item of property or any other benefit to a  
21 beneficiary designated in a governing instrument affected by an  
22 intentional and felonious killing, or for having taken any other action  
23 in good faith reliance on the validity of the governing instrument, upon  
24 request and satisfactory proof of the decedent's death, before the payor  
25 or other third party received written notice of or has knowledge of a  
26 claimed forfeiture or revocation under this section. A payor or other  
27 third party is liable for a payment made or other action taken after the  
28 payor or other third party received written notice of a claimed  
29 forfeiture or revocation under this section.

30 (2) Written notice of a claimed forfeiture or revocation under  
31 subdivision (1) of this subsection must be mailed to the payor's or other

1 third party's main office or home, be personally delivered to the payor  
2 or other third party, or be delivered by such other means which establish  
3 that the person has knowledge of the claimed forfeiture or revocation.

4 (3) Upon receipt of written notice of or obtaining knowledge of a  
5 claimed forfeiture or revocation under this section, a payor or other  
6 third party may pay any amount owed or transfer or deposit any item of  
7 property held by it to or with the court that has jurisdiction of the  
8 probate proceedings relating to the decedent's estate or, if no  
9 proceedings have been commenced, to or with the court that has  
10 jurisdiction of probate proceedings relating to decedents' estates  
11 located in the county of the decedent's residence. The court shall hold  
12 the funds or item of property and, upon its determination under this  
13 section, shall order disbursement or transfer in accordance with the  
14 determination. Payments, transfers, or deposits made to or with the court  
15 discharge the payor or other third party from all claims for the value of  
16 amounts paid to or items of property transferred to or deposited with the  
17 court.

18 (k)(1) A person who purchases property for value and without notice,  
19 or who receives a payment or other item of property in partial or full  
20 satisfaction of a legally enforceable obligation, is neither obligated  
21 under this section to return the payment, item of property, or benefit  
22 nor is liable under this section for the amount of the payment or the  
23 value of the item of property or benefit. But a person who, not for  
24 value, received a payment, an item of property, or any other benefit to  
25 which that person is not entitled under this section is obligated to  
26 return the payment, item of property, or benefit, or is personally liable  
27 for the amount of the payment or the value of the item of property or  
28 benefit, to the person who is entitled to it under this section.

29 (2) If this section or any part of this section is preempted by  
30 federal law with respect to a payment, an item of property, or any other  
31 benefit covered by this section, a person who, not for value, received a

1 payment, an item of property, or any other benefit to which that person  
2 is not entitled under this section is obligated to return that payment,  
3 item of property, or benefit, or is personally liable for the amount of  
4 the payment or the value of the item of property or benefit, to the  
5 person who would have been entitled to it were this section or part of  
6 this section not preempted.

7 ~~(a) A surviving spouse, heir or devisee who feloniously and~~  
8 ~~intentionally kills or aids and abets the killing of the decedent is not~~  
9 ~~entitled to any benefits under the will or under this article, and the~~  
10 ~~estate of the decedent passes as if such spouse, heir, or devisee had~~  
11 ~~predeceased the decedent. Property appointed by the will of the decedent~~  
12 ~~to or for the benefit of such devisee passes as if the devisee had~~  
13 ~~predeceased the decedent.~~

14 ~~(b) Any joint tenant who feloniously and intentionally kills or aids~~  
15 ~~and abets the killing of another joint tenant thereby effects a severance~~  
16 ~~of the interest of the decedent so that the share of the decedent passes~~  
17 ~~as his property and such joint tenant has no rights by survivorship. This~~  
18 ~~provision applies to joint tenancies and tenancies by the entirety in~~  
19 ~~real and personal property, joint accounts in banks, savings and loan~~  
20 ~~associations, credit unions and other institutions, and any other form of~~  
21 ~~co-ownership with survivorship incidents.~~

22 ~~(c) A named beneficiary of a bond, life insurance policy, or other~~  
23 ~~contractual arrangement who feloniously and intentionally kills or aids~~  
24 ~~and abets the killing of the principal obligee or the individual upon~~  
25 ~~whose life the policy is issued is not entitled to any benefit under the~~  
26 ~~bond, policy or other contractual arrangement, and it becomes payable as~~  
27 ~~though such beneficiary has predeceased the decedent.~~

28 ~~(d) Real property specified for a designated beneficiary of a~~  
29 ~~transfer on death deed who feloniously and intentionally kills or aids~~  
30 ~~and abets the killing of the transferor who signed the transfer on death~~  
31 ~~deed or any other owner of the real property shall pass as if the~~

1 ~~designated beneficiary had predeceased the transferor.~~

2 ~~(e) Any other acquisition of property or interest by the killer or~~  
3 ~~by one who aids and abets the killer is treated in accordance with the~~  
4 ~~principles of this section.~~

5 ~~(f) A final judgment of conviction of felonious and intentional~~  
6 ~~killing or aiding and abetting therein is conclusive for purposes of this~~  
7 ~~section. In the absence of a conviction of felonious and intentional~~  
8 ~~killing or aiding and abetting therein, the court may determine by a~~  
9 ~~preponderance of evidence whether the killing or aiding and abetting~~  
10 ~~therein was felonious and intentional for purposes of this section.~~

11 ~~(g) This section does not affect the rights of any person who,~~  
12 ~~before rights under this section have been adjudicated, purchases, from~~  
13 ~~the killer or aider and abettor for value and without notice, property~~  
14 ~~which the killer or aider and abettor would have acquired except for this~~  
15 ~~section, but the killer or aider and abettor is liable for the amount of~~  
16 ~~the proceeds or the value of the property. Any insurance company, bank,~~  
17 ~~or other obligor making payment according to the terms of its policy or~~  
18 ~~obligation is not liable by reason of this section unless prior to~~  
19 ~~payment it has received at its home office or principal address written~~  
20 ~~notice of a claim under this section.~~

21 Sec. 4. Section 30-2715, Revised Statutes Cumulative Supplement,  
22 2014, is amended to read:

23 30-2715 (a) Subject to sections 30-2333 and 30-2354, a A provision  
24 for a nonprobate transfer on death in an insurance policy, contract of  
25 employment, bond, mortgage, promissory note, certificated or  
26 uncertificated security, account agreement, custodial agreement, deposit  
27 agreement, compensation plan, pension plan, individual retirement plan,  
28 employee benefit plan, trust, marital property agreement, certificate of  
29 title, or other written instrument of a similar nature is  
30 nontestamentary. This subsection includes a written provision that:

31 (1) money or other benefits due to, controlled by, or owned by a

1 decedent before death must be paid after the decedent's death to a person  
2 whom the decedent designates either in the instrument or in a separate  
3 writing, including a will, executed either before or at the same time as  
4 the instrument, or later;

5 (2) money due or to become due under the instrument ceases to be  
6 payable in the event of death of the promisee or the promisor before  
7 payment or demand; or

8 (3) any property controlled by or owned by the decedent before death  
9 which is the subject of the instrument passes to a person the decedent  
10 designates either in the instrument or in a separate writing, including a  
11 will, executed either before or at the same time as the instrument, or  
12 later.

13 (b) This section does not limit rights of creditors under other laws  
14 of this state.

15 Sec. 5. Section 30-2715.01, Revised Statutes Cumulative Supplement,  
16 2014, is amended to read:

17 30-2715.01 (1) Subject to sections 30-2333 and 30-2354, a A person  
18 who owns a motor vehicle may provide for the transfer of such vehicle  
19 upon his or her death or the death of the last survivor of a joint  
20 tenancy with right of survivorship by including in the certificate of  
21 title a designation of beneficiary or beneficiaries to whom the vehicle  
22 will be transferred on the death of the owner or the last survivor,  
23 subject to the rights of all lienholders, whether created before,  
24 simultaneously with, or after the creation of the transfer-on-death  
25 interest. A trust may be the beneficiary of a transfer-on-death  
26 certificate of title. The certificate of title shall include the name of  
27 the owner, the name of any tenant-in-common owner or the name of any  
28 joint-tenant-with-right-of-survivorship owner, followed in substance by  
29 the words transfer on death to (name of beneficiary or beneficiaries or  
30 name of trustee if a trust is to be the beneficiary). The abbreviation  
31 TOD may be used instead of the words transfer on death to.



1           (2) A transfer-on-death beneficiary shall have no interest in the  
2 motor vehicle until the death of the owner or the last survivor of the  
3 joint-tenant-with-right-of-survivorship owners. A beneficiary designation  
4 may be changed at any time by the owner or by the joint-tenant-with-  
5 right-of-survivorship owners then surviving without the consent of any  
6 beneficiary by filing an application for a subsequent certificate of  
7 title.

8           (3) Ownership of a motor vehicle which has a designation of  
9 beneficiary as provided in subsection (1) of this section and for which  
10 an application for a subsequent certificate of title has not been filed  
11 shall vest in the designated beneficiary or beneficiaries on the death of  
12 the owner or the last of the joint-tenant-with-right-of-survivorship  
13 owners, subject to the rights of all lienholders.

14           Sec. 6. Section 30-2723, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16           30-2723 (a) Except as otherwise provided in sections 30-2716 to  
17 30-2733, on death of a party sums on deposit in a multiple-party account  
18 belong to the surviving party or parties subject to sections 30-2333 and  
19 30-2354. If two or more parties survive and one is the surviving spouse  
20 of the decedent, the amount to which the decedent, immediately before  
21 death, was beneficially entitled under section 30-2722 belongs to the  
22 surviving spouse. If two or more parties survive and none is the  
23 surviving spouse of the decedent, the amount to which the decedent,  
24 immediately before death, was beneficially entitled under such section  
25 belongs to the surviving parties in equal shares, and augments the  
26 proportion to which each survivor, immediately before the decedent's  
27 death, was beneficially entitled under section 30-2722, and the right of  
28 survivorship continues between the surviving parties.

29           (b) In an account with a POD designation:

30           (1) On death of one of two or more parties, the rights in sums on  
31 deposit are governed by subsection (a) of this section.

1           (2) On death of the sole party or the last survivor of two or more  
2 parties, sums on deposit belong to the surviving beneficiary or  
3 beneficiaries. If two or more beneficiaries survive, sums on deposit  
4 belong to them in equal and undivided shares, and there is no right of  
5 survivorship in the event of death of a beneficiary thereafter. If no  
6 beneficiary survives, sums on deposit belong to the estate of the last  
7 surviving party.

8           (c) Sums on deposit in a single-party account without a POD  
9 designation, or in a multiple-party account that, by the terms of the  
10 account, is without right of survivorship, are not affected by death of a  
11 party, but the amount to which the decedent, immediately before death,  
12 was beneficially entitled under section 30-2722 is transferred as part of  
13 the decedent's estate. A POD designation in a multiple-party account  
14 without right of survivorship is ineffective. For purposes of this  
15 section, designation of an account as a tenancy in common establishes  
16 that the account is without right of survivorship.

17           (d) The ownership right of a surviving party or beneficiary, or of  
18 the decedent's estate, in sums on deposit is subject to requests for  
19 payment made by a party before the party's death, whether paid by the  
20 financial institution before or after death, or unpaid. The surviving  
21 party or beneficiary, or the decedent's estate, is liable to the payee of  
22 an unpaid request for payment. The liability is limited to a  
23 proportionate share of the amount transferred under this section, to the  
24 extent necessary to discharge the request for payment.

25           Sec. 7. Section 30-2742, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27           30-2742 (a) Subject to sections 30-2333 and 30-2354, A transfer on  
28 death resulting from a registration in beneficiary form is effective by  
29 reason of the contract regarding the registration between the owner and  
30 the registering entity and sections 30-2734 to 30-2745 and is not  
31 testamentary.

1 (b) Sections 30-2734 to 30-2745 do not limit the rights of creditors  
2 of security owners against beneficiaries and other transferees under  
3 other laws of this state.

4 Sec. 8. Section 30-3854, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 30-3854 (UTC 602) (a) Unless the terms of a trust expressly provide  
7 that the trust is irrevocable, the settlor may revoke or amend the trust.  
8 This subsection does not apply to a trust created under an instrument  
9 executed before January 1, 2005.

10 (b) If a revocable trust is created or funded by more than one  
11 settlor:

12 (1) to the extent the trust consists of community property, the  
13 trust may be revoked by either spouse acting alone but may be amended  
14 only by joint action of both spouses;

15 (2) to the extent the trust consists of property other than  
16 community property, each settlor may revoke or amend the trust with  
17 regard to the portion of the trust property attributable to that  
18 settlor's contribution; and

19 (3) upon the revocation or amendment of the trust by fewer than all  
20 of the settlors, the trustee shall promptly notify the other settlors of  
21 the revocation or amendment.

22 (c) The settlor may revoke or amend a written revocable trust:

23 (1) by substantial compliance with a method provided in the terms of  
24 the trust; or

25 (2) if the terms of the trust do not provide a method or the method  
26 provided in the terms is not expressly made exclusive, by:

27 (A) a later will or codicil that expressly refers to the trust or  
28 specifically devises property that would otherwise have passed according  
29 to the terms of the trust; or

30 (B) an instrument evidencing an intent to amend or revoke the trust  
31 signed by the settlor, or in the settlor's name by some other individual

1 in the presence of and by the direction of the settlor. The instrument  
2 must have an indication of the date of the writing or signing and, in the  
3 absence of such indication of the date, be the only such writing or  
4 contain no inconsistency with any other like writing or permit  
5 determination of such date of writing or signing from the content of such  
6 writing, from extrinsic circumstances, or from any other evidence.

7 (d) Upon revocation of a revocable trust, the trustee shall deliver  
8 the trust property as the settlor directs.

9 (e) A settlor's powers with respect to revocation, amendment, or  
10 distribution of trust property may be exercised by an agent under a power  
11 of attorney only to the extent expressly authorized by the terms of the  
12 trust or the power.

13 (f) A conservator of the settlor or, if no conservator has been  
14 appointed, a guardian of the settlor may exercise a settlor's powers with  
15 respect to revocation, amendment, or distribution of trust property only  
16 with the approval of the court supervising the conservatorship or  
17 guardianship.

18 (g) A trustee who does not know that a trust has been revoked or  
19 amended is not liable to the settlor or settlor's successors in interest  
20 for distributions made and other actions taken in reliance on the terms  
21 of the trust.

22 (h) The revocation, amendment, and distribution of trust property of  
23 a trust pursuant to this section is subject to sections 30-2333 and  
24 30-2354.

25 Sec. 9. Section 76-3415, Revised Statutes Cumulative Supplement,  
26 2014, is amended to read:

27 76-3415 (a) Except as otherwise provided in the transfer on death  
28 deed, in this section, or in sections 30-2313 to 30-2319 or section  
29 30-2354, on the death of the transferor, the following rules apply to  
30 property that is the subject of a transfer on death deed and owned by the  
31 transferor at death:

1           (1) Subject to subdivision (2) of this subsection, the interest in  
2 the property is transferred to the designated beneficiary in accordance  
3 with the deed;

4           (2) The interest of a designated beneficiary is contingent on the  
5 designated beneficiary surviving the transferor by one hundred twenty  
6 hours. If the deed provides for a different survival period, the deed  
7 shall determine the survival requirement for designated beneficiaries.  
8 The interest of a designated beneficiary that fails to survive the  
9 transferor by one hundred twenty hours or as otherwise provided in the  
10 deed shall be treated as if the designated beneficiary predeceased the  
11 transferor;

12           (3) Subject to subdivision (4) of this subsection, concurrent  
13 interests are transferred to the beneficiaries in equal and undivided  
14 shares with no right of survivorship; and

15           (4) If the transferor has identified two or more designated  
16 beneficiaries to receive concurrent interests in the property, the share  
17 of one which fails for any reason is transferred to the other, or to the  
18 others in proportion to the interest of each in the remaining part of the  
19 property held concurrently.

20           (b) A beneficiary takes the property subject to all conveyances,  
21 encumbrances, assignments, contracts, mortgages, liens, and other  
22 interests to which the property is subject at the transferor's death.

23           (c) If a transferor is a joint owner and is:

24           (1) Survived by one or more other joint owners, the property that is  
25 the subject of a transfer on death deed belongs to the surviving joint  
26 owner or owners with right of survivorship; or

27           (2) The last surviving joint owner, the transfer on death deed of  
28 the last surviving joint owner transferor is effective.

29           (d) A transfer on death deed transfers property without covenant or  
30 warranty of title even if the deed contains a contrary provision.

31           (e) If after recording a transfer on death deed the transferor is

1 divorced or his or her marriage is dissolved or annulled, the divorce,  
2 dissolution, or annulment revokes any disposition or appointment of  
3 property made by the transfer on death deed as provided in section  
4 30-2333 to the former spouse unless the transfer on death deed expressly  
5 provides otherwise. Property prevented from passing to a former spouse  
6 under a transfer on death deed because of revocation by divorce,  
7 dissolution, or annulment passes as if the former spouse failed to  
8 survive the transferor. A decree of separation which does not terminate  
9 the status of husband and wife is not a divorce for purposes of this  
10 section.

11       Sec. 10. Original sections 30-2333, 30-2353, 30-2723, 30-2742, and  
12 30-3854, Reissue Revised Statutes of Nebraska, and sections 30-2354,  
13 30-2715, 30-2715.01, and 76-3415, Revised Statutes Cumulative Supplement,  
14 2014, are repealed.