

AMENDMENTS TO LB764

Introduced by Banking, Commerce and Insurance.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 8-224.01, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 8-224.01 (1) No charge shall be allowed against an estate or trust
6 for legal services performed by an attorney who is a salaried employee of
7 the trust company or when a portion of the charge for legal service is
8 retained by the trust company. Any officer or employee of the trust
9 company causing or consenting to such division of fee for legal service
10 shall be guilty of a Class I misdemeanor. No investments of an estate or
11 trust shall be made in the capital stock or securities of the trust
12 company, in the stock or securities of its affiliated companies, or in
13 obligations, either direct or indirect, of any director, officer, or
14 employee of the trust company. The trust company shall not substitute any
15 of the assets of an estate or trust under its control for securities of
16 the trust company. A trust company may administer, in a fiduciary
17 capacity, an estate or trust which contains such capital stock,
18 securities, or obligations as part of its assets if such assets are
19 received in kind from the grantor of the estate or trust and retention of
20 such capital stock, securities, or obligations is properly authorized by
21 the terms of the governing document. Any officer or employee of the trust
22 company making such an investment or consenting to such an investment or
23 causing such substitution or consenting to such substitution shall be
24 guilty of a Class III felony.

25 (2) No loan of the assets of the trust company shall be made to any
26 officer or director of such corporation. No trust company shall cause or
27 allow funds of any account entrusted to the trust company to be loaned,

1 directly or indirectly, to any director, officer, or employee of the
2 trust company except when the director, officer, or employee has a
3 specific beneficial interest in the account and such loans are allowed in
4 governing account documents and are not prohibited by other state or
5 federal law. Any director, officer, or employee of the trust company
6 causing, consenting to, or receiving funds from a loan made in violation
7 of this section shall be guilty of a Class III felony.

8 (3) This section shall not apply to:

9 (a) Investments authorized in section 30-3205; or

10 (b) Investments for which the will or trust states that the stock of
11 the trust company or securities of a company or companies affiliated with
12 the trust company may be acquired for the estate or trust.

13 Sec. 2. Section 30-3205, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 30-3205 (1) Notwithstanding the prohibition on investments in
16 section 8-224.01, a A fiduciary holding funds for investment may invest
17 such funds in securities of, or other interests in, a private investment
18 fund or any open-end or closed-end management-type investment company or
19 investment trust registered or exempt from registration under ~~pursuant to~~
20 the federal Investment Company Act of 1940, as amended, if a court order,
21 will, agreement, or other instrument creating or defining the investment
22 powers of the fiduciary directs, requires, authorizes, or permits the
23 investment of such funds in any of the following:

24 (a) Such investments as the fiduciary may, in his or her discretion,
25 select;

26 (b) Investments ~~investments~~ generally, other than those in which
27 fiduciaries are by law authorized to invest trust funds; and

28 (c) United States Government obligations if the portfolio of such
29 investment company or investment trust is limited to United States
30 Government obligations and to repurchase agreements fully collateralized
31 by such obligations and if such investment company or investment trust

1 takes delivery of the collateral, either directly or through an
2 authorized custodian.

3 (2)(a) Notwithstanding the prohibition on investments in section
4 8-224.01, a (2)—A bank or trust company acting as a fiduciary, agent, or
5 otherwise may, in the exercise of its investment discretion or at the
6 direction of another person authorized to direct investment of funds held
7 by the bank or trust company as a fiduciary, invest and reinvest
8 interests in the securities of a private investment fund or an open-end
9 or closed-end management-type investment company or investment trust
10 registered or exempt from registration under ~~pursuant to~~ the federal
11 Investment Company Act of 1940, as amended, or may retain, sell, or
12 exchange such interests so long as the portfolio of the investment
13 company or investment trust as an entity consists substantially of
14 investments not prohibited by the instrument governing the fiduciary
15 relationship.

16 (b) The fact that the bank or trust company or an affiliate of the
17 bank or trust company provides services to the investment company, ~~or~~
18 investment trust, or private investment fund, such as that of an
19 investment advisor, custodian, transfer agent, registrar, sponsor,
20 distributor, manager, or otherwise, and is receiving reasonable
21 compensation for the services shall not preclude the bank or trust
22 company from investing, reinvesting, retaining, or exchanging any
23 interest held by the trust estate in the securities of a private
24 investment fund or any open-end or closed-end management-type investment
25 company or investment trust registered or exempt from registration under
26 ~~pursuant to~~ the federal Investment Company Act of 1940, as amended.

27 Sec. 3. Original sections 8-224.01 and 30-3205, Reissue Revised
28 Statutes of Nebraska, are repealed.