

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 145

FINAL READING

Introduced by Hansen, M., 26.

Read first time January 11, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Nebraska Uniform Power of Attorney Act;
2 to amend sections 30-4020 and 30-4031, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to banks and other financial
4 institutions; to harmonize provisions; and to repeal the original
5 sections.

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

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

3 30-4020 (1) Except as otherwise provided in subsection (2) of this
4 section:

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

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

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

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

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

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

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

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

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

31 (f) The person makes, or has actual knowledge that another person

1 has made, a report to the local adult protective services office stating
2 a good faith belief that the principal may be subject to physical or
3 financial abuse, neglect, exploitation, or abandonment by the agent or a
4 person acting for or with the agent;

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

8 (h) The power of attorney becomes effective upon the occurrence of
9 an event or contingency, and neither a certification nor evidence of the
10 occurrence of the event or contingency is presented to the person being
11 asked to accept the power of attorney.

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

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

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

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

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

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

24 Sec. 2. Section 30-4031, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 30-4031 Unless the power of attorney otherwise provides, language in
27 a power of attorney granting authority with respect to banks and other
28 financial institutions authorizes the agent to:

29 (1) Continue, modify, and terminate an account or other banking
30 arrangement made by or on behalf of the principal;

31 (2) Establish, modify, and terminate an account or other banking

1 arrangement with a bank, trust company, savings and loan association,
2 credit union, thrift company, brokerage firm, or other financial
3 institution selected by the agent;

4 (3) Contract for services available from a financial institution,
5 including renting a safe deposit box or space in a vault;

6 (4) Withdraw, by check, order, electronic funds transfer, or
7 otherwise, money or property of the principal deposited with or left in
8 the custody of a financial institution;

9 (5) Receive statements of account, vouchers, notices, and similar
10 documents from a financial institution and act with respect to them;

11 (6) Enter a safe deposit box or vault and withdraw or add to the
12 contents;

13 (7) Borrow money and pledge as security personal property of the
14 principal necessary to borrow money or pay, renew, or extend the time of
15 payment of a debt of the principal or a debt guaranteed by the principal;

16 (8) Make, assign, draw, endorse, discount, guarantee, and negotiate
17 promissory notes, checks, drafts, and other negotiable or nonnegotiable
18 paper of the principal or payable to the principal or the principal's
19 order, transfer money, receive the cash or other proceeds of those
20 transactions, and accept a draft drawn by a person upon the principal and
21 pay it when due;

22 (9) Receive for the principal and act upon a sight draft, warehouse
23 receipt, or other document of title whether tangible or electronic, or
24 other negotiable or nonnegotiable instrument;

25 (10) Apply for, receive, and use letters of credit, credit and debit
26 cards, electronic transaction authorizations, and traveler's checks from
27 a financial institution and give an indemnity or other agreement in
28 connection with letters of credit;~~and~~

29 (11) Consent to an extension of the time of payment with respect to
30 commercial paper or a financial transaction with a financial institution;

31 and -

1 (12) Execute such powers of attorney as may be required and
2 necessary for interacting with a bank, trust company, savings and loan
3 association, credit union, thrift company, brokerage firm, or other
4 financial institution so long as the terms and conditions in the
5 financial institution's power of attorney are similar to those in the
6 power of attorney granting authority, including the identification of the
7 acting agent and the agent's successors. The execution of a financial
8 institution's power of attorney document does not revoke the power of
9 attorney document granting authority.

10 Sec. 3. Original sections 30-4020 and 30-4031, Reissue Revised
11 Statutes of Nebraska, are repealed.