

One Hundred Seventh Legislature - First Session - 2021

Introducer's Statement of Intent

LB470

Chairperson: Senator Steve Lathrop

Committee: Judiciary

Date of Hearing: February 04, 2021

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

A “power of appointment” gives a third party (a powerholder) the authority to direct the disposition of a donor’s property to specified eligible recipients. The donor names a trusted person to distribute the property among beneficiaries, taking into account any future circumstances that could otherwise thwart the donor’s plans. They are used by estate planners in Nebraska, but there is little statutory law governing their creation, use, and revocation. Instead, estate planning lawyers rely on the common law, which is scattered among court decisions from many different states.

LB 470 codifies the law on powers of appointment, relying heavily on the Restatement (Third) of Property: Will and Other Donative Transfers. The act:

Provides rules for the creation, revocation, and amendment of powers of appointment;
Governs exercise of a power of appointment;
Provides rules for disclaimers, releases, and contracts between a powerholder and a permissible beneficiary; and
Outlines the rights of a powerholder’s creditors in appointive property.

LB 470 will provide guidance and certainty to estate planning lawyers when they use powers of appointment and to courts when they interpret powers of appointment in Nebraska.

Principal Introducer: _____

Senator Wendy DeBoer