

LEGISLATIVE BILL 38

Approved by the Governor March 20, 2013

Introduced by Wightman, 36.

FOR AN ACT relating to the Nebraska Uniform Trust Code; to amend sections 30-3823 and 30-3855, Reissue Revised Statutes of Nebraska; to change provisions relating to testamentary powers and other powers, rights, and duties; to provide an operative date; and to repeal the original sections.

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

Section 1. Section 30-3823, Reissue Revised Statutes of Nebraska, is amended to read:

30-3823 (UTC 302) ~~To the extent there is no conflict of interest between the holder of a general testamentary~~ The holder of a power of appointment and the persons represented with respect to the particular question or dispute, the holder or other power to terminate an interest may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

Sec. 2. Section 30-3855, Reissue Revised Statutes of Nebraska, is amended to read:

30-3855 (UTC 603) (a) While a trust is revocable, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(b) ~~During~~ While the trust is irrevocable and during the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section and the duties of the trustee are owed exclusively to the holder of the power to the extent of the property subject to the power.

(c) While the trust is irrevocable and during the period the interest of any beneficiary not having a present interest may be terminated by the exercise of a power of appointment or other power, the duties of the trustee are owed exclusively to the holder of the power to the extent of the property subject to the power.

Sec. 3. This act becomes operative on January 1, 2014.

Sec. 4. Original sections 30-3823 and 30-3855, Reissue Revised Statutes of Nebraska, are repealed.