

LEGISLATIVE BILL 1197

Approved by the Governor March 30, 2000

Introduced by Bromm, 23

AN ACT relating to trustees; to provide for a certification of trust; and to declare an emergency.

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

Section 1. (1) A trustee may present a certification of trust to any person in lieu of a copy of any trust instrument to establish the existence or terms of the trust. The trustee may present the certification of trust voluntarily or at the request of the person with whom he or she is dealing. Notwithstanding any provision of the Nebraska Trustees' Powers Act to the contrary, no person is required to accept and rely solely on a certification of trust in lieu of a copy of, or excerpts from, the trust instrument itself.

(2) A certification of trust shall be in the form of an affidavit and signed and acknowledged by all acting trustees of the trust.

Sec. 2. (1) A certification of trust may confirm the following facts or contain the following information:

(a) The existence of a trust and, for an inter vivos trust, the date of execution or, for a testamentary trust, the date of death of the decedent;

(b) The identity of the grantor, settlor, or testator and each currently acting trustee;

(c) The powers of the trustee and any restrictions imposed upon the trustee in dealing with the assets of the trust;

(d) The name or method of choosing successor trustees;

(e) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;

(f) If there is more than one trustee, whether all of the currently acting trustees must, or if less than all, may, act to exercise identified powers of the trustee;

(g) The identifying number of the trust and whether it is a social security number or an employer identification number;

(h) The name of each beneficiary and the relationship to the grantor, settlor, or testator;

(i) The state or other jurisdiction under which the trust was established; and

(j) The form in which title to the assets of the trust is to be taken.

(2) The certification of trust shall contain a statement that the trust has not been revoked or amended to make any representations contained in the certification of trust incorrect and that the signatures are those of all the acting trustees.

Sec. 3. A certification of trust need not contain the dispositive provisions of the trust, but the person to whom the certification of trust is presented may require copies of, or excerpts from, any trust instrument which designates the trustee or confers upon the trustee power to act in the pending transaction.

Sec. 4. A person who acts in reliance upon a certification of trust without any knowledge that the representations contained in the certification of trust are incorrect is not liable to any person for such actions. A person who does not know that the representations contained in the certification of trust are incorrect may assume without inquiry the existence of the representations contained in the certification of trust. Knowledge may not be inferred solely from the fact that a copy of all or part of a trust instrument is held by the person relying upon the certification of trust.

Sec. 5. A person's failure to demand a certification of trust, or his or her refusal to accept and rely solely on a certification of trust, shall not be considered an improper act, and no inference as to whether he or she has acted in good faith shall be drawn from the failure to demand, or the refusal to accept and rely upon, a certification of trust. This section creates no implication that a person is liable for acting in reliance upon a certification of trust under circumstances in which the requirements of sections 1 to 6 of this act are not satisfied.

Sec. 6. Sections 1 to 5 of this act apply to all trusts whether established pursuant to Nebraska law or established pursuant to the law of another state or jurisdiction.

Sec. 7. Since an emergency exists, this act takes effect when

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passed and approved according to law.