

8-1,131. Retirement plan, medical savings account, or health savings account, investments; bank as trustee or custodian; powers and duties; account, how treated.

(1) All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the bank or in other banks. If any such retirement plan, within the judgment of the bank, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, and is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No bank, in respect to savings made under this subsection, shall be required to segregate such savings from other liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

(2)(a) All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian of a **medical savings account** created within the provisions of section 220 of the Internal Revenue Code and a **health savings account** created within the provisions of section 223 of the Internal Revenue Code. If any such medical savings account or health savings account, within the judgment of the bank, constitutes a medical savings account under section 220 of the Internal Revenue Code or a health savings account under section 223 of the Internal Revenue Code and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, and is subsequently determined not to be such a medical savings account or health savings account, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the account holder. No bank, in respect to savings made under this subsection, shall be required to segregate such savings from other liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

(b) Except for judgments against the **medical savings account holder or health savings account holder or his or her dependents for qualified medical expenses** as defined under section 223(d)(2) of the Internal Revenue Code, funds credited to a medical savings account or health savings account below **twenty-five thousand**

dollars are not susceptible to levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement and are not an asset or property of the account holder for purposes of bankruptcy law.

Source: Laws 1975, LB 208, § 1; Laws 1995, LB 574, § 2; Laws 1997, LB 753, § 1; Laws 1999, LB 396, § 11; Laws 2005, LB 465, § 1.