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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3402**

03/21/2016 Authored by Franson and Dehn, R.,
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to financial institutions; regulating retirement, health savings, and
1.3 medical savings accounts; providing asset protection; amending Minnesota
1.4 Statutes 2014, sections 47.75, subdivision 1; 48.15, subdivision 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2014, section 47.75, subdivision 1, is amended to read:

1.7 Subdivision 1. **Retirement, health savings, and medical savings accounts.** (a) A
1.8 commercial bank, savings bank, savings association, credit union, or industrial loan and
1.9 thrift company may act as trustee or custodian:

1.10 (1) under the federal Self-Employed Individuals Tax Retirement Act of 1962, as
1.11 amended;

1.12 (2) of a medical savings account under the federal Health Insurance Portability and
1.13 Accountability Act of 1996, as amended;

1.14 (3) of a health savings account under the Medicare Prescription Drug, Improvement,
1.15 and Modernization Act of 2003, as amended; and

1.16 (4) under the federal Employee Retirement Income Security Act of 1974, as amended.

1.17 (b) Assets in an account described in this section must be used for the reimbursement
1.18 of health care expenses and are not assignable or subject to execution, levy, attachment,
1.19 garnishment, or other legal process, except as provided in section 518.58, 518.581, or
1.20 518A.53.

1.21 ~~(b)~~ (c) The trustee or custodian may accept the trust funds if the funds are invested
1.22 only in savings accounts or time deposits in the commercial bank, savings bank, savings
1.23 association, credit union, or industrial loan and thrift company, except that health savings
1.24 accounts may also be invested in transaction accounts. Health savings accounts invested in

2.1 transaction accounts shall not be subject to the restrictions in section 48.512, subdivision
 2.2 3. All funds held in the fiduciary capacity may be commingled by the financial institution
 2.3 in the conduct of its business, but individual records shall be maintained by the fiduciary
 2.4 for each participant and shall show in detail all transactions engaged under authority
 2.5 of this subdivision.

2.6 Sec. 2. Minnesota Statutes 2014, section 48.15, subdivision 4, is amended to read:

2.7 Subd. 4. **Retirement, health savings, and medical savings accounts.** (a) A state
 2.8 bank may act as trustee or custodian:

2.9 (1) of a self-employed retirement plan under the federal Self-Employed Individuals
 2.10 Tax Retirement Act of 1962, as amended;

2.11 (2) of a medical savings account under the federal Health Insurance Portability and
 2.12 Accountability Act of 1996, as amended;

2.13 (3) of a health savings account under the Medicare Prescription Drug, Improvement,
 2.14 and Modernization Act of 2003, as amended; and

2.15 (4) of an individual retirement account under the federal Employee Retirement
 2.16 Income Security Act of 1974, as amended, if the bank's duties as trustee or custodian are
 2.17 essentially ministerial or custodial in nature and the funds are invested only (i) in the
 2.18 bank's own savings or time deposits, except that health savings accounts may also be
 2.19 invested in transaction accounts. Health savings accounts invested in transaction accounts
 2.20 shall not be subject to the restrictions in section 48.512, subdivision 3; or (ii) in any
 2.21 other assets at the direction of the customer if the bank does not exercise any investment
 2.22 discretion, invest the funds in collective investment funds administered by it, or provide
 2.23 any investment advice with respect to those account assets.

2.24 (b) Assets in an account described in this section must be used for the reimbursement
 2.25 of health care expenses and are not assignable or subject to execution, levy, attachment,
 2.26 garnishment, or other legal process, except as provided in section 518.58, 518.581, or
 2.27 518A.53.

2.28 ~~(b)~~ (c) Affiliated discount brokers may be utilized by the bank acting as trustee or
 2.29 custodian for self-directed IRAs, if specifically authorized and directed in appropriate
 2.30 documents. The relationship between the affiliated broker and the bank must be fully
 2.31 disclosed. Brokerage commissions to be charged to the IRA by the affiliated broker should
 2.32 be accurately disclosed. Provisions should be made for disclosure of any changes in
 2.33 commission rates prior to their becoming effective. The affiliated broker may not provide
 2.34 investment advice to the customer.

3.1 ~~(e)~~ (d) All funds held in the fiduciary capacity may be commingled by the financial
3.2 institution in the conduct of its business, but individual records shall be maintained by
3.3 the fiduciary for each participant and shall show in detail all transactions engaged under
3.4 authority of this subdivision.

3.5 ~~(d)~~ (e) The authority granted by this section is in addition to, and not limited by,
3.6 section 47.75.