

## CHAPTER 497—H. F. No. 491.

*An act relating to the suspension of fiduciary powers during war service.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Definitions.**—When used in this Act unless the context otherwise requires:

(a) “War Service” shall be deemed to include the following, during the period that the United States shall be engaged in war with any foreign nation:

(1) Active membership in the military, naval or air forces of the United States or any of its allies.

(2) Acceptance for membership in the military, naval or air forces of the United States or any of its allies and awaiting induction into that service.

(3) Participation in any work abroad in connection with a governmental agency of the United States or any of its allies, with the Red Cross, or with any other similar service.

(4) Internment by an enemy, or absence from the United States and inability to return.

(5) Any service arising out of or in connection with the war, which in the opinion of the court prevents the fiduciary from giving the proper attention to his duties.

(b) “Fiduciary” shall be deemed to refer to a trustee of a testamentary trust or of an express trust, a guardian of the person or estate of any person, an executor of a will, an administrator of the estate of a decedent, or an advisor or consultant in a testamentary or express trust.

(c) Words importing the masculine gender as used herein, include the feminine.

Sec. 2. **Powers of fiduciary may be suspended—petition.**—Whenever any fiduciary contemplates entering war service, such fiduciary may petition, or whenever any fiduciary is engaged in war service, such fiduciary or co-fiduciary or any interested person may petition the proper court having jurisdiction in matters of that nature for the suspension of the powers and duties of the fiduciary during the period of his war service and until the further order of the court, and in like manner any one of such per-

sons may petition for the reinstatement of such fiduciary upon his return.

**Sec. 3. Notice of hearing.**—Notice of the hearing on the petition shall be given to such persons and in such manner as the court may direct.

**Sec. 4. Hearing—order.**—Upon a hearing on the petition or in the case of an executor, administrator, or guardian on the court's own motion, the court may:

(a) Order the suspension of the powers and duties of the fiduciary who is in war service for the period of the war service and until the further order of the court;

(b) Appoint a successor fiduciary to serve for the period of suspension of the powers and duties of the fiduciary and until the further order of the court, if upon suspension of his powers and duties, there is no fiduciary to exercise the powers and duties of the fiduciary who is in war service, or if in the opinion of the court the appointment of a cofiduciary is advisable.

(c) Decree that the ownership and title to the trust res shall vest in the successor fiduciary or cofiduciary, as the case may be, and that the duties, powers and discretions, or such of the powers and discretions as are not personal to the fiduciary, may be exercised by the cofiduciary or successor fiduciary; or

(d) Make such further orders in the premises as the Court may deem advisable with respect to the trust estate or its administration, and authorize a reasonable compensation to the successor fiduciary.

(e) Reserve jurisdiction for the entry of further orders and for the reinstatement of the fiduciary.

Upon a petition therefor, the court shall thereafter order the reinstatement of the fiduciary when his war service has terminated if it appears that the trust is not fully executed or administration of the estate is not completed.

**Sec. 5. Responsibility of fiduciary.**—The fiduciary shall have no responsibility for the acts and doings of his cofiduciary or successor fiduciary during the period of the suspension of his powers and duties, but he is not hereby relieved of responsibility for his own acts or doings in the administration of the trust fund or estate. A successor fiduciary appointed hereunder shall have no responsibility for the acts and doing of the predecessor fiduciary.

Approved April 19, 1943.