

Disclosure of Confidential Information
Chapter 8, Article 14
§§ 8-1401 to 8-1404

8-1401

Disclosure of confidential records or information; court order; not applicable, when; immunity.

(1) No person organized under the Credit Union Act, the Nebraska Banking Act, the Nebraska Industrial Development Corporation Act, the Nebraska Model Business Corporation Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Trust Company Act, or Chapter 8, article 3, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any records or information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person with which it is doing business to any person, party, agency, or organization, unless:

(a) The disclosure relates to a lawyers trust account and is required to be made to the Counsel for Discipline of the Nebraska Supreme Court pursuant to a rule adopted by the Nebraska Supreme Court;

(b) The disclosure is governed by rules for discovery promulgated pursuant to section 25-1273.01;

(c) The disclosure is made pursuant to section 8-1404;

(d) The request for disclosure is made by a law enforcement agency regarding a crime, a fraud, or any other unlawful activity in which the person to whom the request for disclosure is made is or may be a victim of such crime, fraud, or unlawful activity;

(e) The request for disclosure is made by a governmental agency which is a duly constituted supervisory regulatory agency of the person to whom the request for disclosure is made and the disclosure relates to examinations, audits, investigations, or inquiries of such persons;

(f) The request for disclosure is made pursuant to subpoena issued under the laws of this state by a governmental agency exercising investigatory or adjudicative functions with respect to a matter within the agency's jurisdiction;

(g) The production of records is pursuant to a written demand of the Tax Commissioner under section 77-375;

(h) There is first presented to such person a subpoena, summons, or warrant issued by a court of competent jurisdiction;

(i) A statute by its terms or rules and regulations adopted and promulgated thereunder requires the disclosure, other than by subpoena, summons, warrant, or court order;

(j) There is presented to such person an order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order;

(k) The request for disclosure relates to information or records regarding the balance due, monthly payments due, payoff amounts, payment history, interest rates, due dates, or similar information for indebtedness owed by a deceased person when the request is made by a person having an ownership interest in real estate or personal property which secures such indebtedness owed to the person to whom the request for disclosure is made; or

(l) There is first presented to such person the written permission of the person about whom records or information is being sought authorizing the release of the requested records or information.

(2) Any person who makes a disclosure of records or information as required by this section shall not be held civilly or criminally liable for such disclosure in the absence of malice, bad faith, intent to deceive, or gross negligence.

(3) This section does not prohibit:

(a) The disclosure of records or information to a certified public accountant while engaged to perform an independent audit;

(b) The disclosure of records or information or the making of reports pursuant to a statute which, by its terms or rules and regulations adopted and promulgated thereunder, permits the disclosure or reports; or

(c) The disclosure, in the regular course of business, of records or information for the purpose of conducting due diligence pursuant to a proposed purchase or sale of a person subject to the provisions of this section or of the assets or liabilities of such a person.

Last amended:

~ Cum. Supp. 2018

8-1402

Provide records or information; costs.

(1) Any person, party, agency, or organization requesting disclosure of records or information pursuant to section 8-1401 shall pay the costs of providing such records or information unless:

(a) The request for disclosure is made pursuant to subdivision (1)(a) of section 8-1401 and a Nebraska Supreme Court rule provides for the method of payment;

(b) The request for disclosure is made pursuant to subdivision (1)(d) or (1)(e) of section 8-1401;

(c) Otherwise ordered by a court of competent jurisdiction; or

(d) The person making the disclosure waives any or all of the costs.

(2)(a) The requesting person, party, agency, or organization shall pay the actual cost of providing the records or information.

(b) For purposes of this subsection, actual cost means:

(i) Search and processing costs, including the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging, and preparing records or information for shipment or delivery. Search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies;

(ii) Reproduction costs incurred in making copies of records or information requested. The rate for reproduction costs for making copies of requested records or information shall be the usual rate charged by the person making the disclosure to its customers for reproducing copies, including copies produced by reader-printer reproduction processes. Photographs, films, and other materials shall be reimbursed at actual cost; and

(iii) Transportation costs, including transport of personnel to locate and retrieve the records or information requested and including all other reasonably necessary costs to convey the records or information.

(3) No person authorized to receive payment pursuant to subsection (1) of this section has an obligation to provide any records or information pursuant to section 8-1401 until assurances are received that the costs due under this section will be paid, except for requests made pursuant to subdivisions (1)(d), (1)(e), (1)(f), and (1)(g) of section 8-1401.

Last amended:

~ Cum. Supp. 2018

8-1403

Terms, defined.

For purposes of sections 8-1401, 8-1402, and 8-1404:

(1) Governmental agency means any agency, department, or commission of this state or any authorized officer, employee, or agent of such agency, department, or commission;

(2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that obtains, serves, and enforces arrest warrants or that conducts or engages in prosecutions for violations of the law; and

(3) Person means any individual, corporation, partnership, limited liability company, association, joint stock association, trust, unincorporated organization, and any other legal entity.

Last amended:

~ Cum. Supp. 2018

8-1404

Death of decedent; information regarding financial or property interests; furnished; to whom; affidavit; contents; immunity from liability; applicability of section.

(1) This section does not apply to:

(a) Real property owned by a decedent; or

(b) The contents of a safe deposit box rented by a decedent from a state-chartered or federally chartered bank, savings bank, building and loan association, savings and loan association, or credit union.

(2) After the death of a decedent, a person (a) indebted to the decedent or (b) having possession of (i) personal property, (ii) an instrument evidencing a debt, (iii) an obligation, (iv) a chose in action, (v) a life insurance policy, (vi) a bank account, (vii) a certificate of deposit, or (viii) intangible property, including annuities, fixed income investments, mutual funds, cash, money market accounts, or stocks, belonging to the decedent, shall furnish the value of the indebtedness or property on the date of death and the names of the known or designated beneficiaries of property described in this subsection to a person who is (A) an heir at law of the decedent, (B) a devisee of the decedent or a person nominated as a personal representative in a will of the decedent, or (C) an agent or attorney authorized in writing by any such person described in subdivision (A) or (B) of this subdivision, with a copy of such authorization attached to the affidavit, and who also presents an affidavit containing the information required by subsection (3) of this section.

(3) An affidavit presented under subsection (2) of this section shall state:

(a) The name, address, social security number if available, and date of death of the decedent;

(b) The name and address of the affiant and that the affiant is (i) an heir at law of the decedent, (ii) a devisee of the decedent or a person nominated as a personal representative in a will of the decedent, or (iii) an agent or attorney authorized in writing by any such person described in subdivision (i) or (ii) of this subdivision;

(c) That the disclosure of the value on the date of death is necessary to determine whether the decedent's estate can be administered under the summary procedures set forth in section 30-24,125, to assist in the determination of the inheritance tax in an estate that is not subject to probate, or to assist a conservator or guardian in the preparation of a final accounting subsequent to the death of the decedent;

(d) That the affiant is answerable and accountable for the information received to the decedent's personal representative, if any, or to any other person having a superior right to the property or indebtedness;

(e) That the affiant swears or affirms that all statements in the affidavit are true and material and further acknowledges that any false statement may subject the person to penalties relating to perjury under section 28-915; and

(f) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.

(4) A person presented with an affidavit under subsection (2) of this section shall provide the requested information within five business days after being presented with the affidavit.

(5) A person who acts in good faith reliance on an affidavit presented under subsection (2) of this section is immune from liability for the disclosure of the requested information.

Last amended:

~ Cum. Supp. 2018
