

CHAPTER.....

AN ACT relating to distribution of estates; authorizing a person to convey his interest in real property in a deed which becomes effective upon his death; extending the statute of limitations for certain actions filed on behalf of a decedent; increasing the limit for a set-aside estate; providing for the sale of personal property of an estate; making various other changes related to wills and estates; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The owner of an interest in real property may create a deed that conveys his interest in real property to a grantee which becomes effective upon the death of the owner. Such a conveyance is subject to liens on the property in existence on the date of the death of the owner.*

*2. The owner of an interest in real property who creates a deed pursuant to subsection 1 may designate in the deed:*

*(a) Multiple grantees who will take title to the property upon his death as joint tenants with right of survivorship, tenants in common, husband and wife as community property, community property with right of survivorship or any other tenancy that is recognized in this state.*

*(b) A successor in interest to the grantee. If a successor in interest is designated, the deed must include a provision stating the condition precedent for the interest of the successor to vest.*

*3. If the owner of the real property which is the subject of a deed created pursuant to subsection 1 holds the interest in the property as a joint tenant with right of survivorship or as community property with the right of survivorship and:*

*(a) The deed includes a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the last surviving owner; or*

*(b) The deed does not include a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the owner who created the deed only if the owner who conveyed his interest in real property to the grantee is the last surviving owner.*

*4. If an owner of an interest in real property who creates a deed pursuant to subsection 1 transfers his interest in the real*

*property to another person during his lifetime, the deed created pursuant to subsection 1 is void.*

*5. The provisions of this section must not be construed to limit the recovery of benefits paid for Medicaid.*

**Sec. 2.** NRS 133.055 is hereby amended to read as follows:

133.055 A signature affixed to a self-proving affidavit *or a self-proving declaration that is* attached to a will and executed at the same time as the will is considered a signature affixed to the will if necessary to prove the execution of the will.

**Sec. 3.** Chapter 134 of NRS is hereby amended by adding thereto a new section to read as follows:

*If any person dies leaving several children, or leaving a child and issue of one or more children, and any such surviving child dies under age, without issue and not having been married, all the estate that came to the deceased child by inheritance from the deceased parent descends in equal shares to the other children of the same parent, and to the issue of any other children of the same parent who may have died, by right of representation.*

**Sec. 4.** NRS 134.030 is hereby amended to read as follows:

134.030 If a decedent dies intestate and has title to any estate which is the separate property of the decedent and which is not otherwise limited by contract, the estate descends and must be distributed, subject to the payment of the debts of the decedent, in the manner provided in NRS 134.040 to 134.120, inclusive ~~[ ]~~, *and section 3 of this act.*

**Sec. 5.** NRS 134.080 is hereby amended to read as follows:

134.080 ~~[ ]~~ At the death of a child who is under age, who is without issue and who has not been married, all the other children of the parent being also dead, if any of the other children left issue, the estate that came to the child by inheritance from the parent descends to all the issue of the other children of the same parent, and if all the issue are in the same degree of kindred to the child, they are entitled to share the estate equally; otherwise, they are entitled to take according to the right of representation.

~~[2. If any person dies leaving several children, or leaving a child and issue of one or more children, and any such surviving child dies under age, without issue and not having been married, all the estate that came to the deceased child by inheritance from the deceased parent descends in equal shares to the other children of the same parent, and to the issue of any other children of the same parent who may have died, by right of representation.]~~

**Sec. 6.** NRS 136.170 is hereby amended to read as follows:

136.170 1. If it appears to the court that a will cannot be proven as otherwise provided by law because one or more or all the subscribing witnesses to the will, at the time the will is offered for probate, are dead or mentally or physically incapable of testifying or

otherwise unavailable, the court may admit the will to probate upon the testimony in person, by deposition or by affidavit of at least two credible disinterested ~~{witnesses}~~ *persons* that the signature to the will is genuine, or upon other sufficient proof that the signature is genuine.

2. The provisions of subsection 1 do not preclude the court, in its discretion, from requiring in addition, the testimony in person, by deposition or by affidavit of any available subscribing witness, or proof of such other pertinent facts and circumstances as the court deems necessary to admit the will to probate.

**Sec. 7.** NRS 138.020 is hereby amended to read as follows:

138.020 1. No person is qualified to serve as an executor who, at the time the will is probated:

- (a) Is under the age of majority;
- (b) Has been convicted of a felony;
- (c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of *conflict of interest*, drunkenness, improvidence or lack of integrity or understanding; or
- (d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this state. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this state.

2. If a disqualified person is named as the sole executor in a will, or if all persons so named are disqualified or renounce their right to act, or fail to appear and qualify, letters of administration with the will annexed must issue.

**Sec. 8.** NRS 141.045 is hereby amended to read as follows:

141.045 Letters of special administration may be in substantially the following form, after properly entitling the court:

In the Matter of the Estate of )  
 ) Case No.  
 )  
 deceased. ) Letters of Special Administration  
 ..... )

On ..... (day) ..... (month) ..... (year), the court entered an order ~~{admitting the decedent's will to probate and}~~ appointing .....(name)..... as special administrator of the decedent's estate. The order includes:

- [ ] a directive for the establishment of a blocked account for sums in excess of \$.....;
  - [ ] a directive for the posting of a bond in the sum of \$.....;
- or

[ ] a directive for both the establishment of a blocked account for sums in excess of \$ ..... and the posting of a bond in the sum of \$.....

The special administrator, after being duly qualified, may act and has the authority and duties of special administrator.

In testimony of which, I have this date signed these letters and affixed the seal of the court.

CLERK OF THE COURT  
By .....  
Deputy Clerk (date)

OATH

I, ....., whose mailing address is ....., solemnly affirm that I will faithfully perform according to law the duties of special administrator, and that all matters stated in any petition or paper filed with the court by me are true of my own knowledge or, if any matters are stated on information and belief, I believe them to be true.

.....  
Special Administrator

SUBSCRIBED AND AFFIRMED before me this ..... (day) of ..... (month) of ..... (year).

CLERK OF COURT  
By .....  
Deputy Clerk  
(or) .....  
NOTARY PUBLIC  
County of ..... State of .....

**Sec. 9.** NRS 141.090 is hereby amended to read as follows:

141.090 If a court has reason to believe, from its own knowledge or from credible information, that a personal representative:

1. Has wasted, converted to the personal representative's own use or mismanaged, or is about to waste or convert to the personal representative's own use, the property of the estate committed to the personal representative's charge;
2. Has committed or is about to commit any wrong or fraud upon the estate;
3. Has become disqualified to act;
4. Has wrongfully neglected the estate; ~~or~~
5. *Has a conflict of interest with the estate; or*
6. Has unreasonably delayed the performance of necessary acts in any particular as personal representative,

the court may, by an order entered upon the minutes, suspend the powers of the personal representative until the matter can be investigated, or take such other action as it deems appropriate under the circumstances.

**Sec. 10.** NRS 143.065 is hereby amended to read as follows:

143.065 A statute of limitations running on a cause of action belonging to a decedent, that was not barred as of the date of death, does not bar the cause of action sooner than ~~4 months~~ **1 year** after the death. A cause of action that, but for this section, would be barred less than ~~4 months~~ **1 year** after the death of the decedent is barred after ~~4 months~~ **1 year** unless the running of the statute is tolled under other law.

**Sec. 11.** NRS 143.120 is hereby amended to read as follows:

143.120 1. If the person so cited refuses to appear and submit to examination or to testify concerning the matter of the complaint, the court may commit the person to the county jail, there to remain confined until the person obeys the order of the court or is discharged according to law.

2. If, upon examination, it appears that the person has concealed, converted, smuggled, conveyed away, or in any manner disposed of any money, goods or chattels of the decedent, or that the person has possession or control of any deeds, conveyances, bonds, contracts or other writings which contain evidence of, or tend to disclose the right, title, interest or claim of the decedent to any real or personal property, claim or demand, or any last will of the decedent, the court may enter an order requiring the person to deliver any such property or effects to the personal representative at such time as the court may fix. If the person fails to comply with the order, the court may commit the person to the county jail until the order is complied with or the person is discharged according to law.

3. The order of the court for the delivery of the property is prima facie evidence of the right of the personal representative to the property in any action that may be brought for its recovery, and any judgment recovered must be for ~~double the value of the property, and damages in addition thereto equal to~~ **treble damages equal to three times** the value of the property.

4. In addition to the examination of the party, witnesses may be produced and examined on either side.

**Sec. 12.** NRS 145.060 is hereby amended to read as follows:

145.060 1. A personal representative shall publish and mail notice to creditors in the manner provided in NRS 155.020.

2. Creditors of the estate must file their claims, due or to become due, with the clerk, within 60 days after the mailing to the creditors for those required to be mailed, or 60 days after the first publication of the notice to creditors pursuant to NRS 155.020, and

within ~~10~~ 15 days thereafter the personal representative shall allow or reject the claims filed.

3. Any claim which is not filed within the 60 days is barred forever, except that if it is made to appear, by the affidavit of the claimant or by other proof to the satisfaction of the court, that the claimant did not have notice as provided in NRS 155.020, the claim may be filed at any time before the filing of the final account.

4. Every claim which is filed as provided in this section and allowed by the personal representative, must then, and not until then, be ranked as an acknowledged debt of the estate and be paid in the course of administration, except that payment of small debts in advance may be made pursuant to subsection 3 of NRS 150.230.

5. If a claim filed by the Welfare Division of the Department of Human Resources is rejected by the personal representative, the State Welfare Administrator may, within 20 days after receipt of the written notice of rejection, petition the court for summary determination of the claim. A petition for summary determination must be filed with the clerk, who shall set the petition for hearing, and the petitioner shall give notice for the period and in the manner required by NRS 155.010. Allowance of the claim by the court is sufficient evidence of its correctness, and it must be paid as if previously allowed by the personal representative.

**Sec. 13.** NRS 146.070 is hereby amended to read as follows:

146.070 1. If a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed ~~[\$50,000.]~~ \$75,000, and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.

2. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed ~~[\$50,000.]~~ \$75,000, upon good cause shown, the court shall order that the estate not be administered upon, but the whole estate be assigned and set apart in the following order:

(a) To the payment of funeral expenses, expenses of last illness, money owed to the Department of Human Resources as a result of payment of benefits for Medicaid and creditors, if there are any; and

(b) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no valid will, pursuant to intestate succession.

3. Proceedings taken under this section, whether or not the decedent left a valid will, must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:

(a) A specific description of all the decedent's property.

(b) A list of all the liens and mortgages of record at the date of the decedent's death.

(c) An estimate of the value of the property.

(d) A statement of the debts of the decedent so far as known to the petitioner.

(e) The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner.

4. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the State Welfare Administrator. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.

5. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.

6. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of ~~[\$50,000,]~~ \$75,000, the court may direct that the estate be distributed to the father or mother of a minor heir or devisee, with or without the filing of any bond, or to a custodian under chapter 167 of NRS, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond, as in the discretion of the court is deemed to be in the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.

**Sec. 14.** Chapter 147 of NRS is hereby amended by adding thereto a new section to read as follows:

*The debts and charges of the estate must be paid in the following order:*

1. *Expenses of administration.*

2. *Funeral expenses.*

3. *The expenses of the last illness.*

4. *Family allowance.*

5. *Debts having preference by laws of the United States.*

6. *Money owed to the Department of Human Resources as a result of the payment of benefits for Medicaid.*

7. *Wages to the extent of \$600, of each employee of the decedent, for work done or personal services rendered within 3 months before the death of the employer. If there is not sufficient money with which to pay all such labor claims in full, the money available must be distributed among the claimants in accordance with the amounts of their respective claims.*

8. *Judgments rendered against the decedent in his lifetime, and mortgages in order of their date. The preference given to a mortgage extends only to the proceeds of the property mortgaged. If the proceeds of that property are insufficient to pay the mortgage, the part remaining unsatisfied must be classed with other demands against the estate.*

9. *All other demands against the estate.*

**Sec. 15.** Chapter 148 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 and 17 of this act.

**Sec. 16.** 1. *The personal representative may enter into a written contract with any bona fide agent, broker, or multiple group of agents or brokers to secure a purchaser for any personal property of the estate, and by that contract, the personal representative may grant an exclusive right to sell and shall provide for the payment to the agent, broker, or multiple group of agents or brokers, out of the proceeds of a sale to any purchaser secured pursuant to the contract, of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale. If the sale is confirmed to the purchaser, the contract is binding and valid as against the estate for the amount so allowed by the court.*

2. *By the execution of any such contract, no personal liability is incurred by the personal representative, and no liability of any kind is incurred by the estate unless a sale is made and confirmed by the court.*

3. *The commission must not exceed 10 percent of the proceeds from the sale of any personal property pursuant to this section.*

**Sec. 17.** 1. *Except as otherwise provided in subsection 2, no sale of personal property at private sale may be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold, nor unless the personal property has been appraised within 1 year before the time of sale. If it has not been appraised, a new appraisal must be had, as in the case of an original appraisal of personal property. This may be done at any time before the sale or confirmation thereof.*

2. *If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs consent in writing to sale*



*without an appraisal, the requirement of an appraisal may be dispensed with.*

**Sec. 18.** NRS 148.190 is hereby amended to read as follows:

148.190 1. Except as otherwise provided in *subsection 3 and* NRS 148.080, 148.170 and 148.180 and in summary administration under chapter 145 of NRS, a personal representative may sell personal property of the estate only after notice is published in a newspaper published in the county where the proceedings are pending, if there is such a newspaper, and if not, then in one having general circulation in the county, for 2 weeks, consisting of three publications 1 week apart, before the day of the sale or, in the case of a private sale, before the day on or after which the sale is to be made. For good cause shown, the court may decrease the number of publications to one and shorten the time for publication to a period not less than 8 days. The notice shall include a brief description of the property to be sold, a place where bids or offers will be received, and a day on or after which the sale will be made.

2. Public sales may be made at the courthouse door, at some other public place, at the residence of the decedent or at a place designated by the personal representative, but no sale may be made of any personal property which is not available for inspection at the time of sale, unless the court otherwise orders.

*3. If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate consent in writing, the court may waive the requirement of publication.*

**Sec. 19.** NRS 150.010 is hereby amended to read as follows:

150.010 The personal representative must be allowed all necessary expenses in the administration and settlement of the estate, and fees for services as provided by law, but if the decedent by will makes some other provision for the compensation of the personal representative, this shall be deemed a full compensation for those services, unless *within 60 days after his appointment* the personal representative files a renunciation, in writing, of all claim for the compensation provided by the will.

**Sec. 20.** Chapter 151 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 and 22 of this act.

**Sec. 21.** *No gift or grant by the decedent shall be deemed to have been made as satisfaction of a testamentary gift unless:*

*1. So expressed in the instrument providing for the gift or grant;*

*2. Charged in a writing by the decedent as partial or complete satisfaction of a testamentary gift; or*

*3. Acknowledged in writing by the donee to be such.*

**Sec. 22.** *If the value of the gift is expressed in the instrument providing for the gift or grant, or in a writing of the decedent, or in an acknowledgment of the donee, that value must be used in the*

*distribution and division of the estate. Otherwise, the gift or grant must be valued as of the time the donee came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first.*

**Sec. 23.** NRS 159.197 is hereby amended to read as follows:

159.197 1. After the winding up of the affairs of the guardianship, the guardian shall deliver physical possession of all of the ward's property to the ward, his executor or administrator or the successor guardian, as the case may be, and obtain a receipt therefor.

2. If the guardianship has terminated by reason of the death of the ward, the court, by order, may authorize the guardian to distribute the deceased ward's property in the same manner as authorized by NRS 146.070, if the gross value of the property, less encumbrances, remaining in the hands of the guardian does not exceed ~~[\$50,000,]~~ **\$75,000**, or as authorized by NRS 146.080, if the gross value of the property remaining in the hands of the guardian does not exceed \$20,000.

**Sec. 24.** NRS 253.0403 is hereby amended to read as follows:

253.0403 1. When the gross value of a decedent's property situated in this state does not exceed \$5,000, a public administrator may, without procuring letters of administration, administer the estate of that person upon filing with the court an affidavit of his right to do so.

2. The affidavit must provide:

(a) The public administrator's name and address, and his attestation that he is entitled by law to administer the estate;

(b) The decedent's place of residence at the time of his death;

(c) That the gross value of the decedent's property in this state does not exceed \$5,000;

(d) That at least 40 days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in this state;

(f) A description of the personal property of the decedent;

(g) Whether there are any heirs or next of kin known to the affiant, and if known, the name and address of each such person;

(h) If heirs or next of kin are known to the affiant, a description of the method of service he used to provide to each of them notice of the affidavit and that at least 10 days have elapsed since the notice was provided;

(i) That all debts of the decedent, including funeral and burial expenses, have been paid or provided for; and

(j) The name of each person to whom the affiant intends to distribute the decedent's property.

3. Before filing the affidavit with the court, the public administrator shall take reasonable steps to ascertain whether any of the decedent's heirs or next of kin exist. If the administrator determines that heirs or next of kin exist, he shall serve each of them with a copy of the affidavit. Service must be made personally or by certified mail.

4. If the affiant:

(a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property he receives or distributes is subject to all debts of the decedent, based on the priority for payment of debts and charges specified in ~~[NRS 150.220.]~~ *section 14 of this act.*

(b) Fails to give notice to heirs or next of kin as required by subsection 3, any money or property he holds or distributes to others shall be deemed to be held in trust for those heirs and next of kin who did not receive notice and have an interest in the property.

5. A person who receives an affidavit containing the information required by subsection 2 is entitled to rely upon such information, and if he relies in good faith, he is immune from civil liability for actions based on that reliance.

6. Upon receiving proof of the death of the decedent, an affidavit containing the information required by this section and the written approval of the public administrator to do so:

(a) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to succeed to ownership of that security.

(b) A governmental agency required to issue certificates of ownership or registration to personal property shall issue a new certificate of ownership or registration to the person claiming to succeed to ownership of the property.

**Sec. 25.** NRS 360.480 is hereby amended to read as follows:

360.480 1. The amounts, including interest and penalties, required to be paid by any person under this title shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators or heirs, prior to distribution, is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount by force of such a revenue act are levied upon by process of law.

2. This section does not give the State a preference over:

(a) Any recorded lien which attached prior to the date when the amounts required to be paid became a lien; or

(b) Any costs of administration, funeral expenses, expenses of personal illness, family allowances or debts preferred under federal law or wages as provided in ~~NRS 150.220.~~ *section 14 of this act.*

**Sec. 26.** NRS 360A.090 is hereby amended to read as follows:

360A.090 1. The amounts, including interest and penalties, required to be paid by a person pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840 must be satisfied first if:

- (a) The person is insolvent;
- (b) The person makes a voluntary assignment of his assets;
- (c) The estate of the person in the hands of executors, administrators or heirs, before distribution, is insufficient to pay all the debts due from the deceased; or
- (d) The estate and effects of an absconding, concealed or absent person required to pay any amount by force of such a revenue act are levied upon by process of law.

2. This section does not give the State of Nevada a preference over:

(a) Any recorded lien that attached before the date when the amounts required to be paid became a lien; or

(b) Any costs of administration, funeral expenses, expenses of personal illness, family allowances or debts preferred pursuant to federal law or wages as provided in ~~NRS 150.220.~~ *section 14 of this act.*

**Sec. 27.** NRS 375.220 is hereby amended to read as follows:

375.220 1. The amounts, including interest and penalties, required to be paid by any person pursuant to this chapter must be satisfied first if:

- (a) The person is insolvent;
- (b) The person makes a voluntary assignment of his assets;
- (c) The estate of the person in the hands of executors, administrators or heirs, before distribution, is insufficient to pay all the debts due from the deceased; or
- (d) The estate and effects of an absconding, concealed or absent person required to pay any amount by force of such a revenue act are levied upon by process of law.

2. This section does not give the county recorder a preference over:

(a) Any recorded lien that attached before the date when the amounts required to be paid became a lien; or

(b) Any costs of administration, funeral expenses, expenses of personal illness, family allowances or debts preferred pursuant to federal law or wages as provided in ~~NRS 150.220.~~ *section 14 of this act.*

**Sec. 28.** NRS 150.220 is hereby repealed.