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FIRST REPRINT

A.B. 318

ASSEMBLY BILL NO. 318—ASSEMBLYWOMAN MARZOLA

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to estates.
(BDR 3-805)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to estates; revising provisions relating to certain declaratory relief; exempting certain fiduciaries from the requirement to provide a residential disclosure form in certain circumstances; revising provisions relating to electronic wills; establishing and revising various provisions governing the administration of estates; revising provisions concerning the distribution of small estates; revising provisions relating to the compensation of attorneys for personal representatives; revising the definition of the term “independent attorney”; revising provisions relating to the nomination of a guardian; authorizing a trustee to reimburse a settlor for the payment of tax on trust income or principal; revising various provisions concerning trusts and the administration of trusts; requiring that public administrators or similar persons be given certain information relating to a decedent and access to the safe deposit box of a decedent in certain circumstances; authorizing certain entities to charge a reasonable fee for providing certain information to public administrators or similar persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law authorizes certain persons to obtain declaratory relief under a
- 2 deed, written contract or testamentary instrument or with respect to the
- 3 administration of a trust or certain estates for certain purposes. (NRS 30.040,



4 30.060) **Sections 1 and 2** of this bill authorize a principal or person granted
5 authority to act for a principal under a power of attorney to obtain declaratory relief
6 under the power of attorney.

7 Existing law generally requires a seller of residential property to provide a
8 disclosure form to the purchaser of the property, but provides that such a
9 requirement does not apply in certain circumstances. (NRS 113.130) **Section 3** of
10 this bill exempts from such a requirement certain fiduciaries who take temporary
11 possession or control of or title to residential property solely to facilitate the sale of
12 the property on behalf of a person who is deceased or incapacitated.

13 **Sections 4-14** of this bill revise various provisions governing electronic wills.
14 **Section 9** of this bill revises provisions governing the revocation of an electronic
15 will. **Section 11** of this bill revises provisions relating to a qualified custodian of an
16 electronic will ceasing to serve in that capacity and the appointment of a successor
17 qualified custodian. **Section 13** of this bill revises provisions concerning the
18 destruction of the electronic record of an electronic will. **Section 14** of this bill
19 establishes provisions relating to the conversion of: (1) an electronic will into a
20 certified paper original of the electronic will; and (2) an electronic revocation of a
21 will into a certification of revocation.

22 Existing law authorizes the administration of an estate to be granted to one or
23 more qualified persons not otherwise entitled to serve as an administrator if a
24 qualified person who is entitled to serve as an administrator files a written request
25 with the court. (NRS 139.050) **Section 15** of this bill requires the requester to
26 provide his or her current address and telephone number in the written request and
27 provides that failure to provide such information voids the written request. Existing
28 law requires a petition for letters of administration to include certain information.
29 (NRS 139.090) **Section 16** of this bill additionally requires such a petition to
30 include the names and addresses of the proposed appointed administrators and any
31 associated coadministrator. Existing law also requires notice of the hearing on the
32 petition to be given to the heirs of the decedent and the Director of the Department
33 of Health and Human Services. (NRS 139.100) **Section 16.5** of this bill additionally
34 provides that if the petitioner is not the surviving spouse or certain kindred or
35 nominated by the surviving spouse or such kindred, notice must be given to the
36 public administrator of the county or a similar person.

37 **Section 18** of this bill establishes the circumstances in which a person is
38 required to accept or not accept certified letters of administration or letters
39 testamentary and provides that a person who unlawfully refuses to accept such
40 certified letters is subject to a court order requiring acceptance of the certified
41 letters and liability for reasonable attorney's fees and costs incurred in an action or
42 proceeding confirming the validity or mandating the acceptance of the certified
43 letters. **Section 18** authorizes a person, after accepting certified letters of
44 administration or letters testamentary, to subsequently request newly certified
45 letters after a certain period for the purpose of validating the continued authority of
46 the personal representative.

47 **Section 19** of this bill authorizes a person holding property of a decedent to
48 request the presentation of only certain items as a prerequisite to transferring such
49 property in accordance with a court order providing to whom such property is to be
50 transferred. **Section 19** requires the person to accept and comply with such a court
51 order not later than 10 days after the presentation of all requested items unless
52 certain circumstances exist or, if the person does not request the presentation of any
53 items, not later than 10 days after being presented with such a court order. **Section**
54 **19** provides that a person who unlawfully refuses to accept and comply with such a
55 court order is subject to a court order requiring acceptance of the order, liability for
56 reasonable attorney's fees and costs incurred in an action or proceeding confirming
57 the validity of the court order and any damages resulting from the delay.



58 Existing law establishes provisions concerning the effect of the absence or
59 disability of a personal representative on acts taken by one or more other personal
60 representatives when more than one personal representative has been appointed.
61 (NRS 143.010) **Section 20** of this bill provides that if there are two personal
62 representatives, one of whom has a conflict of interest, the acts of the other
63 personal representative alone are valid, and if there are more than two personal
64 representatives, the acts of a majority of the personal representatives are sufficient.

65 Existing law establishes provisions concerning the continuation of the operation
66 of a decedent's business by a personal representative. (NRS 143.050, 143.520)
67 **Sections 21 and 26** of this bill make various changes to such provisions.

68 Existing law authorizes a court to require a person to post a bond when
69 obtaining an ex parte order that restrains a personal representative from performing
70 certain actions, exercising any powers or discharging any duties of the office, or
71 any other order to secure proper performance of the duties of the office. (NRS
72 143.165) **Section 22** of this bill provides that a public administrator or similar
73 person must not be required to post a bond for obtaining any such order.

74 Existing law requires the notice of a hearing on a petition filed by a personal
75 representative for full or limited authority to administer an estate to be given to
76 certain persons in certain circumstances. (NRS 143.345) Existing law generally
77 requires the court to grant the authority requested unless an interested person timely
78 objects and shows good cause why the authority should not be granted. (NRS
79 143.350) **Section 24** of this bill requires notice to be given to the public
80 administrator of the county or a similar person in certain circumstances, and **section**
81 **25** of this bill provides that a person who receives notice is an interested person for
82 purposes of having the ability to object to the granting of authority. **Section 25** also
83 authorizes, instead of requires, the court to grant the requested authority.

84 Existing law generally authorizes a personal representative who has been
85 granted full authority to administer an estate to sell property of the estate for such a
86 price and upon such terms and conditions as he or she determines. (NRS 143.380)
87 **Section 25.5** of this bill provides that if the personal representative determines that
88 the sale of real property of the estate will be less than 90 percent of the appraised
89 value: (1) all interested persons must consent in writing to the sale; and (2) the sale
90 must be confirmed by the court.

91 Existing law authorizes a decedent's estate to be set aside without
92 administration if the value of the estate does not exceed \$100,000. (NRS 146.070)
93 **Section 27** of this bill additionally authorizes all or part of a decedent's estate to be
94 set aside without administration if the decedent's will directs that such portion be
95 distributed to the trustee of a nontestamentary trust established by the decedent and
96 in existence at the decedent's death, and provides that the portion of the estate that
97 is set aside is generally subject to creditors of the estate.

98 Existing law entitles an attorney for a personal representative to reasonable
99 compensation for his or her services, paid from a decedent's estate, and sets forth
100 the calculation for determining the allowable compensation in certain
101 circumstances. (NRS 150.060) **Section 28** of this bill requires a court to allow the
102 compensation of the attorney in the amount calculated.

103 Existing law provides that the transfer of property for less than fair market
104 value is generally presumed to be void if the transfer is made to certain transferees,
105 including the person who drafted the transfer instrument, and establishes the
106 circumstances in which such a presumption does not apply, including if a transfer
107 instrument is reviewed by an independent attorney who takes certain actions. (NRS
108 155.097, 155.0975) **Section 29** of this bill revises the definition of the term
109 "independent attorney" to include the drafting attorney representing the transferor
110 in preparation of the transfer instrument if the drafting attorney is not otherwise
111 disqualified from being an independent attorney.



Existing law authorizes any person requesting to nominate another person to be appointed as his or her guardian to complete a form requesting to nominate a guardian. (NRS 159.0753) Existing law also authorizes the nomination of a guardian of the estate in a power of attorney and a guardian of the person in a power of attorney for health care in certain circumstances. (NRS 162A.250, 162A.800) **Section 30** of this bill revises provisions concerning a form requesting to nominate a guardian to reference the nomination of a guardian in any such power of attorney.

Section 31 of this bill allows a governing trust instrument to authorize a trustee to reimburse a settlor for all or a portion of tax on trust income or principal that is to be paid by the settlor and authorizes the trustee to pay the settlor directly or pay the appropriate taxing authority on behalf of the settlor. **Section 31** also provides that the power of a trustee to make such a payment or the decision of a trustee to exercise such power in favor of the settlor must not cause the settlor to be treated as a beneficiary for the purposes of Nevada law.

Existing law authorizes a trust to be created by a declaration by the owner of property that he or she or another person holds the property as trustee. (NRS 163.002) **Section 32** of this bill provides that a declaration by the owner of property that he or she or another person holds all the property of the declarant in trust is sufficient to create a trust over all the property of the declarant that is reliably identified as belonging to the declarant at the time of his or her death.

Existing law provides that: (1) a trust is irrevocable unless a right to amend or revoke the trust is expressly reserved by the settlor or granted to one or more other persons under the terms of the trust instrument; and (2) the power of appointment or power to add or remove beneficiaries, appoint, remove or replace the trustee or make administrative amendments does not make a trust revocable. (NRS 163.004) **Section 33** of this bill instead provides that a trust is irrevocable unless a right to revoke the trust is expressly reserved by the settlor under the terms of the trust instrument, and that any authority, power or right granted to any person other than the settlor under the terms of the trust instrument or by law, including the power or right to amend the trust, does not render or make a trust revocable. **Section 47** of this bill provides that such provisions apply to any trust created or amended before, on or after October 1, 2021.

Section 34 of this bill establishes the circumstances in which the custodian of an electronic trust may convert the electronic trust into a certified paper original of the electronic trust and the method by which an electronic trust may be converted into a certified paper original. **Section 34** also authorizes the custodian to destroy the electronic record of the electronic trust after converting the electronic trust into a certified paper original if the custodian first takes certain actions.

Existing law generally authorizes a trustee to combine two or more trusts into a single trust or divide a trust into two or more separate trusts in certain circumstances after giving notice to certain persons. (NRS 163.025) **Section 35** of this bill provides that if the terms of the trust instrument do not expressly authorize such a combination or division of trusts, the combination or division is required to be made by court order or after giving such notice.

Existing law provides that a trust instrument may grant certain powers to an investment trust adviser. (NRS 163.5557) **Section 37** of this bill provides that the power to value non-publicly traded investments held in trust that are subject to the investment management authority of the investment trust adviser may also be granted to an investment trust adviser.

Existing law prohibits a creditor of a settlor from seeking to satisfy a claim against the settlor from the assets of a trust in certain circumstances unless the creditor can prove that trust property transferred by the settlor was transferred fraudulently or was otherwise wrongful as to the creditor. (NRS 163.5559) **Section 38** of this bill establishes additional circumstances that generally prohibit a creditor



167 from seeking to satisfy a claim against the settlor from the assets of the trust and
168 provides that such a prohibition does not preclude a creditor from seeking to satisfy
169 a claim against the settlor of a spendthrift trust if the creditor can prove by clear and
170 convincing evidence that trust property transferred by the settlor was fraudulent as
171 to the creditor or violates a legal obligation owed to the creditor under a contract or
172 valid court order.

173 **Section 39** of this bill provides that a trustee may act at the direction or with the
174 consent of another party pursuant to the terms of a trust instrument to appoint
175 property of one trust to another trust and revises other provisions relating to the
176 appointment of such property. **Section 39** also revises the definition of the term
177 "second trust" for the purposes of the appointment of such property.

178 Existing law authorizes a trustee to provide notice to certain persons after a
179 revocable trust becomes irrevocable and generally prohibits any person who is
180 provided notice from bringing an action to contest the validity of the trust more
181 than 120 days after notice is served. (NRS 164.021) **Section 40** of this bill provides
182 that such a prohibition exists regardless of whether a petition for the assumption of
183 jurisdiction of a trust by a court is served upon the person after such notice is
184 provided.

185 Existing law authorizes a trustee of a nontestamentary trust to provide notice to
186 creditors after the death of the settlor, establishes forms for a claim against the
187 settlor or the trust and requires a creditor to file a claim with the trustee within a
188 certain period or the claim is barred. (NRS 164.025) **Section 41** of this bill
189 establishes a form for a claim against the settlor and the trust and provides that a
190 claim filed with the trustee is presumed to be timely filed if it meets certain
191 requirements. **Section 41** also establishes provisions concerning the discovery of
192 the existence of an additional creditor after the initial notice to creditors is
193 provided.

194 Existing law provides that if a trust has an unrepresented minor or incapacitated
195 beneficiary, the custodial parent or guardian of the estate of the minor or
196 incapacitated beneficiary is authorized to provide representation in any judicial
197 proceeding or nonjudicial matter pertaining to the trust. (NRS 164.038) **Section 42**
198 of this bill instead provides that any custodial parent or the guardian of the estate
199 can provide such representation.

200 **Section 44** of this bill requires a lender, trustee or assignee of an encumbrance
201 against real property to provide to the Director of the Department of Health and
202 Human Services or a public administrator or similar person a statement containing
203 the identifying number and account balance of any encumbrance against real
204 property on which the name of a decedent appears and authorizes a reasonable fee
205 to be charged for providing such a statement to a public administrator or similar
206 person. **Section 45** of this bill requires a financial institution to provide a public
207 administrator or similar person with access to a safe deposit box of a decedent for
208 the purpose of inspecting and removing any will or instructions for disposition of
209 the remains of the decedent. **Section 46** of this bill requires county health officers
210 to include the residential addresses of all deceased persons in a written list filed
211 with a public administrator or similar person.

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

1 **Section 1.** NRS 30.040 is hereby amended to read as follows:
2 30.040 1. Any person interested under a deed, written
3 contract or other writings constituting a contract, or whose rights,



1 status or other legal relations are affected by a statute, municipal
2 ordinance, contract or franchise, may have determined any question
3 of construction or validity arising under the instrument, statute,
4 ordinance, contract or franchise and obtain a declaration of rights,
5 status or other legal relations thereunder.

6 2. A maker or legal representative of a maker of a will, trust or
7 other writings constituting a testamentary instrument may have
8 determined any question of construction or validity arising under the
9 instrument and obtain a declaration of rights, status or other legal
10 relations thereunder. Any action for declaratory relief under this
11 subsection may only be made in a proceeding commenced pursuant
12 to the provisions of title 12 or 13 of NRS, as appropriate.

13 **3. A principal or a person granted authority to act for a**
14 **principal under power of attorney, whether denominated an agent,**
15 **attorney-in-fact or otherwise, may have determined any question**
16 **of construction or validity arising under the instrument and obtain**
17 **a declaration of rights, status or other legal relations thereunder.**
18 **Any action for declaratory relief under this subsection may only be**
19 **made in a proceeding commenced pursuant to the provisions of**
20 **title 12 or 13 of NRS, as appropriate.**

21 **Sec. 2.** NRS 30.060 is hereby amended to read as follows:

22 30.060 1. Any person interested as or through an executor,
23 administrator, trustee, guardian, ~~or~~ other fiduciary, **including,**
24 **without limitation, a person granted authority to act for a**
25 **principal under a power of attorney, whether denominated an**
26 **agent, attorney-in-fact or otherwise,** creditor, devisee, legatee, heir,
27 next of kin or cestui que trust, in the administration of a trust ~~or~~
28 ~~or~~ the estate of a decedent, an infant, lunatic or insolvent, **or in the**
29 **actions taken pursuant to a power of attorney,** may have a
30 declaration of rights or legal relations in respect thereto:

31 (a) To ascertain any class of creditors, devisees, legatees, heirs,
32 next of kin or others;

33 (b) To direct ~~the executors, administrators or trustees~~ **an**
34 **executor, administrator, trustee or person granted authority to act**
35 **for a principal under a power of attorney, whether denominated**
36 **an agent, attorney-in-fact or otherwise,** to do or abstain from doing
37 any particular act in ~~their~~ **his or her** fiduciary capacity; or

38 (c) To determine any question arising in the administration of
39 the estate or trust, including questions of construction of wills, trusts
40 and other writings.

41 2. Any action for declaratory relief under this section may only
42 be made in a proceeding commenced pursuant to the provisions of
43 title 12 or 13 of NRS, as appropriate.

44 **Sec. 3.** NRS 113.130 is hereby amended to read as follows:

45 113.130 1. Except as otherwise provided in subsection 2:



1 (a) At least 10 days before residential property is conveyed to a
2 purchaser:

3 (1) The seller shall complete a disclosure form regarding the
4 residential property; and

5 (2) The seller or the seller's agent shall serve the purchaser
6 or the purchaser's agent with the completed disclosure form.

7 (b) If, after service of the completed disclosure form but before
8 conveyance of the property to the purchaser, a seller or the seller's
9 agent discovers a new defect in the residential property that was not
10 identified on the completed disclosure form or discovers that a
11 defect identified on the completed disclosure form has become
12 worse than was indicated on the form, the seller or the seller's agent
13 shall inform the purchaser or the purchaser's agent of that fact, in
14 writing, as soon as practicable after the discovery of that fact but in
15 no event later than the conveyance of the property to the purchaser.
16 If the seller does not agree to repair or replace the defect, the
17 purchaser may:

18 (1) Rescind the agreement to purchase the property; or

19 (2) Close escrow and accept the property with the defect as
20 revealed by the seller or the seller's agent without further recourse.

21 2. Subsection 1 does not apply to a sale or intended sale of
22 residential property:

23 (a) By foreclosure pursuant to chapter 107 of NRS.

24 (b) Between any co-owners of the property, spouses or persons
25 related within the third degree of consanguinity.

26 (c) Which is the first sale of a residence that was constructed by
27 a licensed contractor.

28 (d) By a person who takes temporary possession or control of or
29 title to the property solely to facilitate the sale of the property on
30 behalf of a person who relocates to another county, state or country
31 before title to the property is transferred to a purchaser.

32 (e) *By a fiduciary under title 12 or 13 of NRS, including,*
33 *without limitation, a personal representative, guardian, trustee or*
34 *person acting under a power of attorney, who takes temporary*
35 *possession or control of or title to the property solely to facilitate*
36 *the sale of the property on behalf of a person who is deceased or*
37 *incapacitated.*

38 3. A purchaser of residential property may not waive any of the
39 requirements of subsection 1. A seller of residential property may
40 not require a purchaser to waive any of the requirements of
41 subsection 1 as a condition of sale or for any other purpose.

42 4. If a sale or intended sale of residential property is exempted
43 from the requirements of subsection 1 pursuant to paragraph (a) of
44 subsection 2, the trustee and the beneficiary of the deed of trust
45 shall, not later than at the time of the conveyance of the property to



1 the purchaser of the residential property, or upon the request of the
2 purchaser of the residential property, provide:

3 (a) Written notice to the purchaser of any defects in the property
4 of which the trustee or beneficiary, respectively, is aware; and

5 (b) If any defects are repaired or replaced or attempted to be
6 repaired or replaced, the contact information of any asset
7 management company who provided asset management services for
8 the property. The asset management company shall provide a
9 service report to the purchaser upon request.

10 5. As used in this section:

11 (a) "Seller" includes, without limitation, a client as defined in
12 NRS 645H.060.

13 (b) "Service report" has the meaning ascribed to it in
14 NRS 645H.150.

15 **Sec. 4.** Chapter 132 of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 *1. For the purposes of this title, being "in the presence" of a*
18 *testator, settlor, principal or witness includes, without limitation,*
19 *being in the same location at the same time or appearing in the*
20 *same location at the same time by means of audio-video*
21 *communication.*

22 *2. As used in this section, "audio-video communication" has*
23 *the meaning ascribed to it in paragraph (b) of subsection 3 of*
24 *NRS 133.088.*

25 **Sec. 5.** NRS 132.117 is hereby amended to read as follows:

26 132.117 "Electronic record" ~~means a record created,~~
27 ~~generated, sent, communicated, received or stored by electronic~~
28 ~~means.] has the meaning ascribed to it in NRS 719.090.~~

29 **Sec. 6.** NRS 132.118 is hereby amended to read as follows:

30 132.118 "Electronic signature" ~~means an electronic sound,~~
31 ~~symbol or process attached to or logically associated with a record~~
32 ~~and executed or adopted by a person with the intent to sign the~~
33 ~~record.] has the meaning ascribed to it in NRS 719.100.~~

34 **Sec. 7.** NRS 132.119 is hereby amended to read as follows:

35 132.119 "Electronic will" means ~~an instrument, including,~~
36 ~~without limitation, a codicil, that is executed by a person in~~
37 ~~accordance with the requirements of NRS 133.085 and which~~
38 ~~disposes of the property of the person upon or after his or her death.]~~
39 *a will that is created and maintained in an electronic record.*

40 **Sec. 8.** NRS 133.086 is hereby amended to read as follows:

41 133.086 1. An electronic will is self-proving if:

42 (a) The declarations or affidavits of the attesting witnesses are
43 incorporated as part of, attached to or logically associated with the
44 electronic will, as described in NRS 133.050;



1 (b) The electronic will designates a qualified custodian to
2 maintain custody of the electronic record of the electronic will; and

3 (c) Before ~~[being offered for probate or]~~ being reduced to a
4 certified paper original, ~~[that is offered for probate,]~~ the electronic
5 will was at all times under the custody of a qualified custodian.

6 2. A declaration or affidavit of an attesting witness made
7 pursuant to NRS 133.050 and an affidavit of a person made pursuant
8 to NRS 133.340 must be accepted by a court as if made before the
9 court.

10 **Sec. 9.** NRS 133.120 is hereby amended to read as follows:

11 133.120 1. A written will other than an electronic will may
12 ~~[only]~~ be revoked by:

13 (a) Burning, tearing, cancelling or obliterating the will, with the
14 intention of revoking it, by the testator, or by some person in the
15 presence and at the direction of the testator;

16 (b) Another will or codicil in writing, executed as prescribed in
17 this chapter; ~~[or]~~

18 (c) An electronic will, executed as prescribed in this chapter ~~[]~~ ;
19 *or*

20 *(d) An electronic revocation that meets the electronic*
21 *requirements set forth in paragraphs (a) and (b) of subsection 1 of*
22 *NRS 133.085.*

23 2. An electronic will may ~~[only]~~ be revoked by:

24 (a) ~~[Another]~~ *A subsequent* will, codicil, electronic will or other
25 writing, executed as prescribed in this chapter ~~[; or]~~, *that revokes*
26 *all or part of the electronic will expressly or by inconsistency;*

27 (b) ~~[Cancelling, rendering unreadable]~~ *If the electronic will has*
28 *been converted to a certified paper original, burning, tearing,*
29 *cancelling or obliterating the ~~[will]~~ certified paper original,* with
30 the intention of revoking ~~[it,]~~ *the electronic will,* by ~~[]~~

31 ~~—(1) The]~~ *the* testator, or ~~[a]~~ *by some* person in the presence
32 and at the direction of the testator; or

33 ~~[(2) If the will is in the custody of a qualified custodian, the~~
34 ~~qualified custodian at the direction of a testator in an electronic~~
35 ~~will.]~~

36 *(c) An electronic revocation that meets the electronic*
37 *requirements set forth in paragraphs (a) and (b) of subsection 1 of*
38 *NRS 133.085.*

39 3. This section does not prevent the revocation implied by law
40 from subsequent changes in the condition or circumstances of the
41 testator.

42 **Sec. 10.** NRS 133.300 is hereby amended to read as follows:

43 133.300 1. A person must execute a written statement
44 affirmatively agreeing to serve as the qualified custodian of an
45 electronic will before he or she may serve in such a capacity.



1 2. ~~Except as otherwise provided in paragraph (a) of subsection~~
2 ~~1 of NRS 133.310, a~~ A qualified custodian may not cease serving in
3 such a capacity until ~~fa successor qualified custodian executes the~~
4 ~~written statement required by subsection 1.]~~ *the requirements of*
5 *NRS 133.310 have been met.*

6 **Sec. 11.** NRS 133.310 is hereby amended to read as follows:

7 133.310 1. A qualified custodian may cease serving in such a
8 capacity by:

9 (a) ~~If not designating a successor qualified custodian, providing~~
10 ~~to the testator:~~

11 ~~— (1) Thirty days' written notice that the qualified custodian~~
12 ~~has decided to cease serving in such a capacity; and~~

13 ~~— (2)]~~ *The conversion of an electronic will into a* certified
14 *paper original [of, and all records concerning, the electronic will.] in*
15 *accordance with NRS 133.340;*

16 (b) ~~If designating]~~ *The conversion of an electronic revocation*
17 *into a certification of revocation of the electronic will in*
18 *accordance with subsection 7 of NRS 133.340; or*

19 (c) *The appointment of a successor qualified custodian [:*
20 ~~— (1) Providing]~~ *in accordance with subsection 2.*

21 2. *A successor qualified custodian may be appointed as*
22 *follows:*

23 (a) *The successor qualified custodian is designated by:*

24 (1) *The testator; or*

25 (2) *Except as otherwise provided in subsection 4, the*
26 *qualified custodian, by providing the testator 30 days' written*
27 *notice that the qualified custodian has decided to cease serving in*
28 *such a capacity [to:*

29 ~~— (I) The testator; and~~

30 ~~— (II) The designated]~~ *and designating the* successor
31 *qualified custodian [; and*

32 ~~— (2) Providing];~~

33 (b) *The qualified custodian provides* to the successor qualified
34 *custodian the electronic record of the electronic will and an affidavit*
35 *which states:*

36 ~~(I)]~~ (1) That the qualified custodian ceasing to act in
37 such a capacity is eligible to act as a qualified custodian in this State
38 and is the qualified custodian designated by the testator in the
39 electronic will or was designated to act in such a capacity by another
40 qualified custodian pursuant to this ~~[paragraph;~~

41 ~~(II)]~~ *subsection;*

42 (2) That an electronic record was created at the time the
43 testator executed the electronic will;

44 ~~(III)]~~ (3) That the electronic record has been in the
45 custody of one or more qualified custodians since the execution of



1 the electronic will and has not been altered since the time it was
2 created; and

3 ~~[(IV)]~~ (4) The identity of all qualified custodians who
4 have had custody of the electronic record since the execution of the
5 electronic will ~~[-~~

6 ~~— 2. For purposes of making the affidavit pursuant to~~
7 ~~subparagraph (2) of paragraph (b) of subsection 1, a qualified~~
8 ~~custodian is entitled to rely conclusively on any affidavits provided~~
9 ~~by a predecessor qualified custodian if all such affidavits are~~
10 ~~provided to the]; and~~

11 (c) *The successor qualified custodian [-] executes a written*
12 *statement pursuant to subsection 1 of NRS 133.300.*

13 3. ~~[Subject to the provisions of NRS 133.300, if the testator~~
14 ~~designates a successor] *If the* qualified custodian ~~[in a writing~~
15 ~~executed with the same formalities required for the execution] *has*~~
16 ~~custody of the testator's electronic revocation of [an] the~~ electronic
17 will, ~~[a] the~~ qualified custodian shall ~~[cease serving in such a~~
18 ~~capacity and] provide to the [designated] successor qualified~~
19 ~~custodian [-] the electronic record of the electronic revocation and~~
20 ~~an affidavit stating:~~~~

21 (a) ~~[The] That an~~ electronic record ~~[- and] was created at the~~
22 ~~time the testator revoked the will;~~

23 (b) ~~[The affidavit described in subparagraph (2) of paragraph (b)~~
24 ~~of subsection 1.] *That the electronic record has been in the custody*~~
25 ~~of one or more qualified custodians since the execution of the~~
26 ~~electronic revocation and has not been altered since the time it~~
27 ~~was created; and~~

28 (c) *The identity of all qualified custodians who have had*
29 *custody of the electronic record since the execution of the*
30 *electronic revocation.*

31 4. ~~[(H)]~~ *Before the expiration of the 30 days after the qualified*
32 *custodian gives notice designating a successor qualified custodian*
33 *pursuant to subparagraph (2) of paragraph (a) of subsection 2, if*
34 *the testator designates a different successor qualified custodian, [is*
35 ~~an entity, an affidavit of a duly authorized officer or agent of such~~
36 ~~entity constitutes the affidavit of] the successor qualified custodian~~
37 ~~[-] whom the testator designates must be the appointed successor~~
38 ~~qualified custodian.~~

39 **Sec. 12.** NRS 133.320 is hereby amended to read as follows:

40 133.320 A qualified custodian of an electronic will:

41 1. Must not be an heir of the testator or a beneficiary or devisee
42 under the electronic will.

43 2. Shall consistently employ, and store electronic records of
44 electronic wills in, a system that protects electronic records from



1 destruction, alteration or unauthorized access and detects any
2 change to an electronic record.

3 3. Shall store in the electronic record of an electronic will each
4 of the following:

5 (a) A photograph or other visual record of the testator and the
6 attesting witnesses that was taken contemporaneously with the
7 execution of the electronic will;

8 (b) A photocopy, photograph, facsimile or other visual record of
9 any documentation that was taken contemporaneously with the
10 execution of the electronic will and provides satisfactory evidence
11 of the identities of the testator and the attesting witnesses, including,
12 without limitation, documentation of the methods of identification
13 used pursuant to subsection 4 of NRS 240.1655; and

14 (c) An audio and video recording of the testator, attesting
15 witnesses and notary public, as applicable, taken at the time the
16 testator, each attesting witness and notary public, as applicable,
17 placed his or her electronic signature on the electronic will, as
18 required pursuant to paragraph (b) of subsection 1 of NRS 133.085.

19 4. Shall provide to any court that is hearing a matter involving
20 an electronic will which is currently or was previously stored by the
21 qualified custodian any information requested by the court
22 pertaining to the qualifications of the qualified custodian and the
23 policies and practices of the qualified custodian concerning the
24 maintenance, storage and production of electronic wills.

25 *5. For the purposes of this title, if a qualified custodian or*
26 *other person is required to provide written notice to a testator,*
27 *notice shall be deemed to be provided if the qualified custodian or*
28 *other person delivers written notice to the last known address of*
29 *the testator.*

30 *6. Except as otherwise provided by law, the requirements*
31 *governing an electronic will also govern an electronic codicil and*
32 *electronic revocation of a will.*

33 **Sec. 13.** NRS 133.330 is hereby amended to read as follows:

34 133.330 1. With regard to an electronic record of an
35 electronic will, a qualified custodian ~~f~~

36 ~~—(a) Shall~~ shall provide access to or information concerning the
37 electronic will or the certified paper original of the electronic will
38 only to:

39 ~~[(1)]~~ (a) The testator or another person as directed by the
40 written instructions of the testator; and

41 ~~[(2)]~~ (b) After the death of the testator, the nominated
42 personal representative of the testator or any interested person . ~~f~~
43 and

44 ~~—(b) May,]~~



1 2. *A qualified custodian may, in the absolute discretion of the*
2 *qualified custodian, destroy the electronic record of an electronic*
3 *will at any time:*

4 ~~— (1) Five or more years of the following times:~~

5 (a) *One year after [the admission] notice of entry of an order*
6 *admitting any will [of the testator] to probate;*

7 ~~(2) Five or more years after the revocation of the electronic~~
8 ~~will;~~

9 ~~— (3) Five or more years after]~~

10 (b) *After ceasing to serve as the qualified custodian of the*
11 *electronic record of the electronic will upon the appointment of a*
12 *successor qualified custodian pursuant to NRS 133.310;*

13 ~~(4) Ten or more years after the death of the testator; or~~

14 ~~— (5) One hundred and fifty years after the execution of the~~
15 ~~electronic will.~~

16 ~~— 2. At]~~

17 (c) *If the electronic will has been converted to a certified paper*
18 *original in accordance with NRS 133.340 and the qualified*
19 *custodian complies with subsection 4, after 30 days' written notice*
20 *to the testator;*

21 (d) *If a certification of revocation has been created in*
22 *accordance with subsection 7 of NRS 133.340 and the qualified*
23 *custodian complies with subsection 4, after 30 days' written notice*
24 *to the testator;*

25 (e) *Pursuant to the direction of a testator in a writing executed*
26 *with the same formalities required for the execution of a will or an*
27 *electronic will [;]; or*

28 (f) *Upon court order authorizing the destruction of the*
29 *electronic will.*

30 3. *Subject to the provisions of subsection 4, if a certification*
31 *of revocation has been created pursuant to subsection 7 of NRS*
32 *133.340, a qualified custodian [shall cancel, render unreadable or*
33 *obliterate] may, in the absolute discretion of the qualified*
34 *custodian, destroy the electronic record [;] of an electronic*
35 *revocation at any of the following times:*

36 (a) *One year after notice of entry of an order admitting any*
37 *will to probate;*

38 (b) *If the requirements of subsection 3 of NRS 133.310 are*
39 *met, after ceasing to serve as the qualified custodian of the*
40 *electronic will upon the appointment of a successor qualified*
41 *custodian pursuant to NRS 133.310;*

42 (c) *Pursuant to the direction of a testator in a writing executed*
43 *with the same formalities required for the execution of a will or an*
44 *electronic will;*

45 (d) *After 30 days' written notice to the testator; or*



1 (e) Upon court order authorizing the destruction of the
2 electronic record of the electronic will.

3 4. Before destroying an electronic will or an electronic
4 revocation, the qualified custodian shall make reasonable efforts
5 to provide to the testator the electronic record of the electronic will
6 and electronic revocation.

7 **Sec. 14.** NRS 133.340 is hereby amended to read as follows:

8 133.340 1. ~~Upon the creation of~~ A qualified custodian may
9 cause an electronic will to be converted into a certified paper
10 original of ~~an~~ the electronic will ~~;~~ under the following
11 circumstances:

12 (a) ~~At the direction of the testator;~~ or

13 (b) Except as otherwise provided in subsection 9, with 30 days'
14 written notice to the testator that the qualified custodian intends to
15 convert the electronic will ~~has always been in the custody of a~~
16 ~~qualified custodian, the qualified custodian shall state in an~~ into a
17 certified paper original.

18 2. An electronic will may be converted into a certified paper
19 original by creating a tangible document that contains the
20 following:

21 (a) The text of the electronic will; and

22 (b) An affidavit ~~;-~~

23 ~~(1) That the~~ satisfying the requirements of subsections 3, 4
24 and 5, as applicable.

25 3. A qualified custodian ~~is eligible to act as a~~ converting an
26 electronic will into a certified paper original shall state all of the
27 following in an affidavit:

28 (a) That the qualified custodian ~~in this State;~~

29 ~~(2)~~ is not a person described in subsection 1 of
30 NRS 133.320;

31 (b) That the qualified custodian is the qualified custodian
32 designated by the testator in the electronic will or was designated to
33 act in such a capacity pursuant to ~~paragraph (b) of~~ subsection ~~H~~ 2
34 or 4 of NRS 133.310;

35 ~~(3)~~ (c) That an electronic record was created at the time the
36 testator executed the electronic will;

37 ~~(4)~~ (d) That the electronic record has been in the custody
38 of one or more qualified custodians since the execution of the
39 electronic will, and has not been altered since the time it was
40 created;

41 ~~(5)~~ (e) The identity of all qualified custodians who have
42 had custody of the electronic record since the execution of the
43 electronic will;

44 ~~(6)~~ (f) That the certified paper original is a true, correct
45 and complete tangible manifestation of the electronic will; and



1 ~~[(7)]~~ (g) That the records described in subsection 3 of NRS
2 133.320 are in the custody of the qualified custodian.

3 ~~[(b)]~~ 4. *In addition to the statements required pursuant to*
4 *subsection 3, a qualified custodian converting a self-proving*
5 *electronic will to a certified paper original shall state all of the*
6 *following in the affidavit:*

7 (a) *That the declaration or affidavits of the attesting witnesses*
8 *satisfying the requirements of NRS 133.050 were created at the*
9 *time the testator executed the electronic will and were*
10 *incorporated as part of, attached to or logically associated with the*
11 *electronic will as required pursuant to NRS 133.086;*

12 (b) *That the declarations or affidavits of the attesting witnesses*
13 *have been in the possession of a qualified custodian since the*
14 *execution of the electronic will and have not been altered since the*
15 *time they were created;*

16 (c) *The identity of all qualified custodians who have had*
17 *possession of the declarations or affidavits of the attesting*
18 *witnesses since their creation; and*

19 (d) *That the certified paper original contains a true, correct*
20 *and complete tangible manifestation of the original declarations*
21 *or affidavits of the attesting witnesses.*

22 5. If the electronic will has not always been under the custody
23 of a qualified custodian, the person who discovered the electronic
24 will ~~[and the person who reduced]~~ *may cause* the electronic will to
25 ~~[the]~~ *be converted into a* certified paper original ~~[shall each state in~~
26 ~~an affidavit]~~ *by creating a tangible document that contains* the
27 following ~~[information.]~~ :

28 (a) *The text of the electronic will; and*

29 (b) *An affidavit that states,* to the best of their knowledge:

30 (1) When the electronic will was created, if not indicated in
31 the electronic will;

32 (2) When, how and by whom the electronic will was
33 discovered;

34 (3) The identities of each person who has had access to the
35 electronic will;

36 (4) The method in which the electronic will was stored and
37 the safeguards in place to prevent alterations to the electronic will;

38 (5) Whether the electronic will has been altered since its
39 execution; and

40 (6) That the certified paper original is a true, correct and
41 complete tangible manifestation of the electronic will.

42 ~~[(2)]~~ 6. For purposes of making an affidavit pursuant to
43 ~~[paragraph (a) of]~~ subsection ~~[(1)]~~ 3, 4 or 5, the qualified custodian
44 may rely conclusively on any affidavits delivered by a predecessor
45 qualified custodian.



1 7. *If a testator has revoked a will through an electronic*
2 *record, the qualified custodian may convert the electronic*
3 *revocation into a certification of revocation by creating:*

4 (a) *A certified paper original of the electronic will; and*

5 (b) *A tangible document that contains the following:*

6 (1) *The text of the electronic revocation; and*

7 (2) *An affidavit stating:*

8 (I) *That an electronic record was created at the time the*
9 *testator revoked the will;*

10 (II) *That the electronic record has been in the custody of*
11 *one or more qualified custodians since the execution of the*
12 *electronic revocation, and has not been altered since the time it*
13 *was created;*

14 (III) *The identity of all qualified custodians who have*
15 *had custody of the electronic record since the execution of the*
16 *electronic revocation;*

17 (IV) *That the certified paper original is a true, correct*
18 *and complete tangible manifestation of the electronic revocation;*
19 *and*

20 (V) *That the records described in subsection 3 of NRS*
21 *133.320 pertaining to the electronic revocation are presently in the*
22 *custody of the qualified custodian.*

23 8. *A certified paper original of an electronic will satisfying*
24 *the requirements of subsection 2 or 5, as applicable, may be*
25 *offered for and admitted into probate in the same manner as if it*
26 *were an original will. A certified paper original of an electronic*
27 *will is presumed to be valid and, absent any objection, must be*
28 *admitted to probate expeditiously without requiring further proof*
29 *of validity.*

30 9. *Before the expiration of the 30 days after the qualified*
31 *custodian gives notice to the testator of the qualified custodian's*
32 *intent to convert the electronic will into a certified paper original*
33 *pursuant to paragraph (b) of subsection 1, if the testator objects to*
34 *the conversion and designates a successor qualified custodian in*
35 *accordance with NRS 133.310, the qualified custodian shall not*
36 *convert the electronic will into a certified paper original and shall*
37 *instead comply with paragraph (b) of subsection 2 of*
38 *NRS 133.310.*

39 **Sec. 15.** NRS 139.050 is hereby amended to read as follows:

40 139.050 Administration may be granted upon petition to one or
41 more qualified persons, although not otherwise entitled to serve, at
42 the written request of the person entitled, filed in the court. *The*
43 *qualified person making the written request must provide his or*
44 *her current address and phone number in the written request.*
45 *Failure to provide such information voids the written request.*



1 **Sec. 16.** NRS 139.090 is hereby amended to read as follows:

2 139.090 1. A petition for letters of administration must be in
3 writing, signed by the petitioner or the attorney for the petitioner
4 and filed with the clerk of the court, and must state:

5 (a) The jurisdictional facts;

6 (b) The names and addresses of the heirs of the decedent and
7 their relationship to the decedent, so far as known to the petitioner,
8 and the age of any who is a minor;

9 (c) The character and estimated value of the property of the
10 estate; ~~and~~

11 (d) *The names and personal addresses of the proposed*
12 *appointed administrators and the name and personal address of*
13 *any associated coadministrator under paragraph (a) of subsection*
14 *2 of NRS 139.040 or, if the coadministrator is an attorney who is*
15 *licensed in this State or a banking corporation authorized to do*
16 *business in this State, the business address of the coadministrator;*
17 *and*

18 (e) Whether the person to be appointed as administrator has
19 been convicted of a felony.

20 2. No defect of form or in the statement of jurisdictional facts
21 actually existing voids an order appointing an administrator or any
22 of the subsequent proceedings.

23 **Sec. 16.5.** NRS 139.100 is hereby amended to read as follows:

24 139.100 The clerk shall set the petition for hearing, and notice
25 must be given to the heirs of the decedent, ~~and to~~ the Director of
26 the Department of Health and Human Services as provided in NRS
27 155.020 ~~and~~ *and, if the petitioner is not the surviving spouse or any*
28 *kindred specified in NRS 139.040 or nominated by the surviving*
29 *spouse or any such kindred, the public administrator of the county*
30 *or a person employed or contracted with pursuant to NRS 253.125,*
31 *as applicable.* The notice must state the filing of the petition, the
32 object and the time for hearing.

33 **Sec. 17.** Chapter 143 of NRS is hereby amended by adding
34 thereto the provisions set forth as sections 18 and 19 of this act.

35 **Sec. 18. 1. Except as otherwise provided in subsection 2:**

36 (a) *A person shall either accept letters of administration or*
37 *letters testamentary that have been certified within 60 days after*
38 *presentation of the certified letters of administration or letters*
39 *testamentary for acceptance, or request a translation or an*
40 *opinion of counsel, not later than 10 days after such presentation;*

41 (b) *If a person requests a translation or an opinion of counsel,*
42 *the person shall accept the certified letters of administration or*
43 *letters testamentary not later than 5 days after receipt of the*
44 *translation or opinion of counsel; and*



1 (c) A person may not require an additional or different form of
2 certified letters of administration or letters testamentary for
3 authority granted in the letters presented.

4 2. A person is not required to accept certified letters of
5 administration or letters testamentary if:

6 (a) The person is not otherwise required to engage in a
7 transaction with the personal representative in the same
8 circumstances;

9 (b) Engaging in a transaction with the personal representative
10 in the same circumstances would be inconsistent with federal law;

11 (c) The person has actual knowledge of the termination of the
12 personal representative's authority before the exercise of
13 authority; or

14 (d) A request for a translation or an opinion of counsel is
15 refused.

16 3. A person who refuses to accept certified letters of
17 administration or letters testamentary in violation of this section is
18 subject to:

19 (a) A court order mandating acceptance of the certified letters
20 of administration or letters testamentary; and

21 (b) Liability for reasonable attorney's fees and costs incurred
22 in any action or proceeding that confirms the validity of the
23 certified letters of administration or letters testamentary or
24 mandates acceptance of the certified letters of administration or
25 letters testamentary.

26 4. After accepting certified letters of administration or letters
27 testamentary, a person may request newly certified letters of
28 administration or letters testamentary any time after the 6-month
29 period following the date of the previous acceptance of certified
30 letters of administration or letters testamentary for the purpose of
31 validating the continued authority of the personal representative.

32 **Sec. 19. 1.** A person holding property that is attributable to
33 a decedent may only request the presentation of the following
34 items before transferring such property in accordance with a court
35 order providing to whom such property is to be transferred:

36 (a) A certified copy of the court order providing to whom such
37 property is to be transferred;

38 (b) A certified copy of letters of administration or letters
39 testamentary;

40 (c) The identification and contact information of the personal
41 representative;

42 (d) Tax information, if necessary; and

43 (e) Documents evidencing the death of the decedent.

44 2. Except as otherwise provided in subsection 3, if a person
45 holding property that is attributable to a decedent:



1 (a) Requests the presentation of any of the items set forth in
2 subsection 1, the person must accept and comply with the court
3 order providing to whom such property is to be transferred not
4 later than 10 days after the presentation of all items requested
5 pursuant to subsection 1.

6 (b) Does not request the presentation of any of the items set
7 forth in subsection 1, the person must accept and comply with the
8 court order providing to whom such property is to be transferred
9 not later than 10 days after being presented with the court order.

10 3. A person holding property that is attributable to a decedent
11 is not required to transfer such property if:

12 (a) The certification of the court order, letters of
13 administration or letters testamentary presented is older than 180
14 days;

15 (b) The court order is inconsistent with federal law; or

16 (c) The person has actual knowledge that the person
17 presenting the court order is not a personal representative of the
18 estate of the decedent.

19 4. The lack of legal or actual notice of the court proceeding
20 resulting in the issuance of the court order providing to whom
21 property is to be transferred is not a defense to not complying with
22 the order unless an actual dispute exists over title to the property.

23 5. A person who timely complies with a court order in
24 accordance with this section shall be held harmless.

25 6. A person who refuses to accept and comply with a court
26 order in violation of this section is subject to:

27 (a) A court order requiring acceptance of the order; and

28 (b) Liability for reasonable attorney's fees and costs incurred
29 in an action or proceeding confirming the validity of the court
30 order, and any damages resulting from the delay beginning on the
31 day of the presentation of all items requested pursuant to
32 subsection 1.

33 **Sec. 20.** NRS 143.010 is hereby amended to read as follows:

34 143.010 If there are two personal representatives, the acts of
35 one alone are valid if the other is absent from the state, or for any
36 cause is laboring under any legal disability ~~[;]~~ or conflict of interest,
37 and if there are more than two, the acts of a majority are sufficient.

38 **Sec. 21.** NRS 143.050 is hereby amended to read as follows:

39 143.050 1. Except as otherwise provided in subsection 2,
40 NRS 143.520 ~~[;]~~ or the decedent's will, after notice given as
41 provided in NRS 155.010 or in such other manner as the court
42 directs ~~[, the court may authorize]:~~

43 (a) Subject to the partnership agreement and the applicable
44 provisions of chapter 87, 87A or 88 of NRS, the personal
45 representative ~~[to]~~ may continue ~~[the operation of the decedent's~~



1 ~~business to such an extent and subject to such restrictions as may~~
2 ~~seem to the court to be for the best interest of the estate and any~~
3 ~~interested persons.] as a general partner in any partnership in~~
4 ~~which the decedent was a general partner at the time of death;~~

5 (b) *Subject to the operating agreement and the applicable*
6 *provisions of chapter 86 of NRS, the personal representative may*
7 *continue as a manager or managing member in any limited-*
8 *liability company in which the decedent was a manager or*
9 *managing member at the time of death;*

10 (c) *The personal representative may continue operation of any*
11 *of the following:*

12 (1) *An unincorporated business or joint venture in which*
13 *the decedent was engaged at the time of death; or*

14 (2) *An unincorporated business or joint venture which was*
15 *wholly or partly owned by the decedent at the time of death; and*

16 (d) *The personal representative may continue to exercise any*
17 *shareholder, partnership or membership rights owned by the*
18 *decedent at the time of death to which the personal representative*
19 *has succeeded during the administration of the estate.*

20 2. The ~~[provisions of]~~ court may, upon its own motion or
21 upon the petition of an interested person, restrict the actions of the
22 personal representative set forth in subsection 1 ~~[do not apply to~~
23 ~~passive investments or the exercise of any shareholder or~~
24 ~~membership rights to which the personal representative has~~
25 ~~succeeded.] as the court determines to be in the best interest of the~~
26 ~~estate and any interested persons.~~

27 3. Unless specifically authorized by the will or by the court, the
28 personal representative may not receive any separate compensation
29 for continuing the operation of the decedent's business pursuant to
30 this section.

31 **Sec. 22.** NRS 143.165 is hereby amended to read as follows:

32 143.165 1. ~~[On]~~ *Except as otherwise provided in subsection*
33 *6, on* petition or ex parte application of an interested person, the
34 court, with or without bond, may enter an ex parte order restraining
35 a personal representative from performing specified acts of
36 administration, disbursement or distribution, or exercising any
37 powers or discharging any duties of the office, or enter any other
38 order to secure proper performance of the duties of the office to be
39 effective until further order of the court. Notwithstanding any other
40 provision of law, if it appears to the court that the personal
41 representative otherwise may take action that would jeopardize
42 unreasonably the interest of the petitioner, of some other interested
43 person or the estate, the court may enter the ex parte order. A person
44 with whom the personal representative may transact business may
45 be made a party to the ex parte order.



1 2. Any ex parte orders entered pursuant to subsection 1 must be
2 set for hearing within 10 days after entry of the ex parte order,
3 unless the parties otherwise agree, or on a date the court otherwise
4 determines is in the best interest of the estate.

5 3. Notice of entry of the ex parte order entered pursuant to
6 subsection 1 must be given by the petitioner or applicant to the
7 personal representative and the attorney of record of the personal
8 representative, if any, to any other party named as a party in the ex
9 parte order and as otherwise directed by the court.

10 4. The court may impose a fine on an interested person who
11 obtains an ex parte order pursuant to this section without probable
12 cause.

13 5. The court may, at any time, terminate an ex parte order
14 entered pursuant to subsection 1 on its own motion or upon petition
15 of the personal representative if it no longer appears to the court that
16 the personal representative otherwise may take action that would
17 jeopardize unreasonably the interest of the petitioner, of some other
18 interested person or the estate.

19 *6. A public administrator or a person employed or contracted*
20 *with pursuant to NRS 253.125, as applicable, must not be required*
21 *to post a bond for obtaining any order pursuant to this section.*

22 **Sec. 23.** NRS 143.305 is hereby amended to read as follows:

23 143.305 As used in NRS 143.300 to 143.815, inclusive, *and*
24 *section 19 of this act*, unless the context otherwise requires, the
25 words and terms defined in NRS 143.310, 143.315 and 143.320
26 have the meanings ascribed to them in those sections.

27 **Sec. 24.** NRS 143.345 is hereby amended to read as follows:

28 143.345 1. If the authority to administer the estate pursuant
29 to NRS 143.300 to 143.815, inclusive, *and section 19 of this act* is
30 requested in a petition for appointment of the personal
31 representative, notice of the hearing on the petition must be given
32 for the period and in the manner applicable to the petition for
33 appointment.

34 2. Where proceedings for the administration of the estate are
35 pending at the time a petition is filed pursuant to NRS 143.340,
36 notice of the hearing on the petition must be given for the period and
37 in the manner provided in NRS 155.010 to all the following persons:

38 (a) Each person specified in NRS 155.010;

39 (b) Each known heir whose interest in the estate would be
40 affected by the petition;

41 (c) Each known devisee whose interest in the estate would be
42 affected by the petition; ~~and~~

43 (d) Each person named as personal representative in the will of
44 the decedent ~~and~~; *and*



1 (e) *The public administrator of the county or a person*
2 *employed or contracted with pursuant to NRS 253.125, as*
3 *applicable, if the decedent died intestate and the petitioner is not*
4 *the surviving spouse or kindred under NRS 139.040, regardless of*
5 *any nomination by an heir.*

6 3. The notice of hearing of the petition for authority to
7 administer the estate pursuant to NRS 143.300 to 143.815,
8 inclusive, *and section 19 of this act*, whether included in the
9 petition for appointment or in a separate petition, must include a
10 statement in substantially the following form:

11
12 The petition requests authority to administer the estate
13 under the Independent Administration of Estates Act. This
14 will avoid the need to obtain court approval for many actions
15 taken in connection with the estate. However, before taking
16 certain actions, the personal representative will be required to
17 give notice to interested persons unless they have waived
18 notice or have consented to the proposed action. Independent
19 administration authority will be granted unless good cause is
20 shown why it should not be.

21 **Sec. 25.** NRS 143.350 is hereby amended to read as follows:

22 143.350 1. Except as otherwise provided in subsection 2,
23 unless an interested person, *including, without limitation, a person*
24 *who receives notice under NRS 143.345*, objects in writing at or
25 before the hearing to the granting of authority to administer the
26 estate pursuant to NRS 143.300 to 143.815, inclusive, *and section*
27 *19 of this act* and the court determines that the interested person has
28 shown good cause why the authority to administer the estate under
29 those provisions should not be granted, the court ~~{shall}~~ *may* grant
30 the requested authority.

31 2. If the interested person has shown good cause why only
32 limited authority should be granted, the court ~~{shall}~~ *may* grant
33 limited authority.

34 **Sec. 25.5.** NRS 143.380 is hereby amended to read as follows:

35 143.380 1. ~~{Subject}~~ *Except as otherwise provided in*
36 *subsection 4, and subject* to the limitations and requirements of
37 NRS 143.370, when the personal representative exercises the
38 authority to sell property of the estate after being granted full
39 authority pursuant to NRS 143.300 to 143.815, inclusive, the
40 personal representative may sell the property at public auction or
41 private sale, and with or without notice, for cash or on credit, for
42 such price and upon such terms and conditions as the personal
43 representative may determine.



1 2. The requirements applicable to court confirmation of sales
2 of real property referenced in subsection 1 include, without
3 limitation:

4 (a) Publication of the notice of sale;

5 (b) Court approval of agents' and brokers' commissions;

6 (c) The sale being not less than 90 percent of appraised value of
7 the real property;

8 (d) An examination by the court into the necessity for the sale of
9 the real property, including, without limitation, any advantage to the
10 estate and benefit to interested persons; and

11 (e) The efforts of the personal representative to obtain the
12 highest and best price for the property reasonably attainable.

13 3. The requirements applicable to court confirmation of sales
14 of real property and sales of personal property do not apply to a sale
15 pursuant to this section.

16 *4. If the personal representative determines that the sale of*
17 *real property pursuant to this section will be less than 90 percent*
18 *of the appraised value of the real property:*

19 (a) *All interested persons must consent in writing to the sale*
20 *before the personal representative may proceed with the sale; and*

21 (b) *The sale must be confirmed by the court pursuant to*
22 *NRS 148.060.*

23 **Sec. 26.** NRS 143.520 is hereby amended to read as follows:

24 143.520 1. Subject to the partnership agreement , ~~and~~ the
25 applicable provisions of chapter 87 , *87A or 88* of NRS ~~and~~ *and the*
26 *decedent's will*, the personal representative who has limited
27 authority or full authority has the power to continue as a general
28 partner in any partnership in which the decedent was a general
29 partner at the time of death.

30 2. *Subject to the operating agreement, the applicable*
31 *provisions of chapter 86 of NRS and the decedent's will, the*
32 *personal representative who has limited authority or full authority*
33 *has the power to continue as a manager or managing member in*
34 *any limited-liability company in which the decedent was a*
35 *manager or managing member at the time of death.*

36 3. The personal representative who has limited authority or full
37 authority has the power to continue operation of any of the
38 following:

39 (a) An unincorporated business or joint venture in which the
40 decedent was engaged at the time of ~~the decedent's~~ death.

41 (b) An unincorporated business or joint venture which was
42 wholly or partly owned by the decedent at the time of ~~the~~
43 ~~decedent's~~ death.

44 ~~{3-}~~ 4. *The personal representative who has limited authority*
45 *or full authority has the power to continue to exercise any*



1 *shareholder, partnership or membership rights owned by the*
2 *decedent at the time of death to which the personal representative*
3 *has succeeded during the administration of the estate.*

4 5. Except as otherwise provided in subsection ~~[4,] 6~~, the
5 personal representative may exercise the powers described in
6 subsections 1 ~~[and 2]~~ to 4, inclusive, without giving notice of the
7 proposed action pursuant to NRS 143.700 to 143.760, inclusive.

8 ~~[4,] 6~~. The personal representative shall give notice of a
9 proposed action pursuant to NRS 143.700 to 143.760, inclusive, if
10 the personal representative continues as a general partner under
11 subsection 1 ~~[,] or a manager or managing member under~~
12 *subsection 2* or continues the operation of any unincorporated
13 business or joint venture under subsection ~~[2,] 3~~, for a period of
14 more than 6 months after the date on which letters are first issued to
15 a personal representative.

16 **Sec. 27.** NRS 146.070 is hereby amended to read as follows:

17 146.070 1. *All or part of the estate of a decedent may be set*
18 *aside without administration by the order of the court as follows:*

19 (a) If the value of a decedent's estate does not exceed \$100,000,
20 the estate may be set aside without administration by the order of
21 the court ~~[,] ; or~~

22 (b) *If a decedent's will directs that all or part of the decedent's*
23 *estate is to be distributed to the trustee of a nontestamentary trust*
24 *established by the decedent and in existence at the decedent's*
25 *death, the portion of the estate subject to such direction may be set*
26 *aside without administration. Any portion of a decedent's estate*
27 *set aside to the nontestamentary trust pursuant to this paragraph*
28 *is subject to creditors of the estate unless the petitioner provides*
29 *proof to the court that the trustee has published or mailed the*
30 *requisite notice to such creditors on behalf of the nontestamentary*
31 *trust and settlor pursuant to NRS 164.025.*

32 2. Except as otherwise provided in subsection 3, the whole
33 estate *set aside pursuant to paragraph (a) of subsection 1* must be
34 assigned and set apart in the following order:

35 (a) To the payment of the petitioner's attorney's fees and costs
36 incurred relative to the proceeding under this section;

37 (b) To the payment of funeral expenses, expenses of last illness,
38 money owed to the Department of Health and Human Services as a
39 result of payment of benefits for Medicaid and creditors, if there are
40 any;

41 (c) To the payment of other creditors, if any; and

42 (d) Any balance remaining to the claimant or claimants entitled
43 thereto pursuant to a valid will of the decedent, and if there is no
44 valid will, pursuant to intestate succession in accordance with
45 chapter 134 of NRS.



1 3. If *the value of the estate does not exceed \$100,000 and* the
2 decedent is survived by a spouse or one or more minor children, the
3 court must set aside the estate for the benefit of the surviving spouse
4 or the minor child or minor children of the decedent, subject to any
5 reduction made pursuant to subsection 4 or 5. The court may
6 allocate the entire estate to the surviving spouse, the entire amount
7 to the minor child or minor children, or may divide the estate among
8 the surviving spouse and minor child or minor children.

9 4. As to any amount set aside to or for the benefit of the
10 surviving spouse or minor child or minor children of the decedent
11 pursuant to subsection 3, the court must set aside the estate without
12 the payment of creditors except as the court finds necessary to
13 prevent a manifest injustice.

14 5. To prevent an injustice to creditors when there are
15 nonprobate transfers that already benefit the surviving spouse or
16 minor child or minor children of the decedent, the court has the
17 discretion to reduce the amount set aside under subsection 3 to the
18 extent that the value of the estate, when combined with the value of
19 nonprobate transfers, as defined in NRS 111.721, from the decedent
20 to or for the benefit of the surviving spouse or minor child or minor
21 children of the decedent exceeds \$100,000.

22 6. In exercising the discretion granted in this section, the court
23 shall consider the needs and resources of the surviving spouse and
24 minor child or minor children, including any assets received by or
25 for the benefit of the surviving spouse or minor child or minor
26 children from the decedent by nonprobate transfers.

27 7. For the purpose of this section, a nonprobate transfer from
28 the decedent to one or more trusts or custodial accounts for the
29 benefit of the surviving spouse or minor child or minor children
30 shall be considered a transfer for the benefit of such spouse or minor
31 child or minor children.

32 8. Proceedings taken under this section must not begin until at
33 least 30 days after the death of the decedent and must be originated
34 by a petition containing:

35 (a) A specific description of all property in the decedent's estate;
36 (b) A list of all known liens and encumbrances against estate
37 property at the date of the decedent's death, with a description of
38 any that the petitioner believes may be unenforceable;

39 (c) An estimate of the value of the property, together with an
40 explanation of how the estimated value was determined;

41 (d) A statement of the debts of the decedent so far as known to
42 the petitioner;

43 (e) The names and residences of the heirs and devisees of the
44 decedent and the age of any who is a minor and the relationship of



1 the heirs and devisees to the decedent, so far as known to the
2 petitioner; and

3 (f) If the decedent left a will, a statement concerning all
4 evidence known to the petitioner that tends to prove that the will is
5 valid.

6 9. If the petition seeks to have the estate set aside for the
7 benefit of the decedent's surviving spouse or minor child or minor
8 children without payment to creditors, the petition must also
9 contain:

10 (a) A specific description and estimated value of property
11 passing by one or more nonprobate transfers from the decedent to
12 the surviving spouse or minor child or minor children; or

13 (b) An allegation that the estimated value of the property sought
14 to be set aside, combined with the value of all nonprobate transfers
15 from the decedent to the surviving spouse or minor child or minor
16 children who are seeking to receive property pursuant to this
17 section, is less than \$100,000.

18 10. When property is distributed pursuant to an order granted
19 under this section, the court may allocate the property on a pro rata
20 basis or a non-pro rata basis.

21 11. The clerk shall set the petition for hearing and the
22 petitioner shall give notice of the petition and hearing in the manner
23 provided in NRS 155.010 to the decedent's heirs and devisees and
24 to the Director of the Department of Health and Human Services. If
25 a complete copy of the petition is not enclosed with the notice, the
26 notice must include a statement setting forth to whom the estate is
27 being set aside.

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

31 13. At the hearing on a petition under this section, the court
32 may require such additional evidence as the court deems necessary
33 to make the findings required under subsection 14.

34 14. The order granting the petition shall include:

35 (a) The court's finding as to the validity of any will presented;

36 (b) The court's finding as to the value of the estate and, if
37 relevant for the purposes of subsection 5, the value of any property
38 subject to nonprobate transfers;

39 (c) The court's determination of any property set aside under
40 subsection 2;

41 (d) The court's determination of any property set aside under
42 subsection 3, including, without limitation, the court's determination
43 as to any reduction made pursuant to subsection 4 or 5; and

44 (e) The name of each distributee and the property to be
45 distributed to the distributee.



1 15. As to the distribution of the share of a minor child set aside
2 pursuant to this section, the court may direct the manner in which
3 the money may be used for the benefit of the minor child as is
4 deemed in the court's discretion to be in the best interests of the
5 minor child, and the distribution of the minor child's share shall be
6 made as permitted for the minor child's share under the terms of the
7 decedent's will or to one or more of the following:

8 (a) A parent of such minor child, with or without the filing of
9 any bond;

10 (b) A custodian under chapter 167 of NRS; or

11 (c) A court-appointed guardian of the estate, with or without
12 bond.

13 16. For the purposes of this section, the value of property must
14 be the fair market value of that property, reduced by the value of all
15 enforceable liens and encumbrances. Property values and the values
16 of liens and encumbrances must be determined as of the date of the
17 decedent's death.

18 **Sec. 28.** NRS 150.060 is hereby amended to read as follows:

19 150.060 1. An attorney for a personal representative is
20 entitled to reasonable compensation for the attorney's services, to be
21 paid out of the decedent's estate.

22 2. An attorney for a personal representative may be
23 compensated based on:

24 (a) The applicable hourly rate of the attorney;

25 (b) The value of the estate accounted for by the personal
26 representative;

27 (c) An agreement as set forth in subsection 4 of NRS 150.061;
28 or

29 (d) Any other method preapproved by the court pursuant to a
30 request in the initial petition for the appointment of the personal
31 representative.

32 3. If the attorney is requesting compensation based on the
33 hourly rate of the attorney, he or she may include, as part of that
34 compensation for ordinary services, a charge for legal services or
35 paralegal services performed by a person under the direction and
36 supervision of the attorney.

37 4. If the attorney is requesting compensation based on the
38 value of the estate accounted for by the personal representative, the
39 ~~allowable~~ court shall allow compensation of the attorney for
40 ordinary services ~~must be determined~~ as follows:

41 (a) For the first \$100,000, at the rate of 4 percent;

42 (b) For the next \$100,000, at the rate of 3 percent;

43 (c) For the next \$800,000, at the rate of 2 percent;

44 (d) For the next \$9,000,000, at the rate of 1 percent;

45 (e) For the next \$15,000,000, at the rate of 0.5 percent; and



1 (f) For all amounts above \$25,000,000, a reasonable amount to
2 be determined by the court.

3 5. Before an attorney may receive compensation based on the
4 value of the estate accounted for by the personal representative, the
5 personal representative must sign a written agreement as required by
6 subsection 8. The agreement must be prepared by the attorney and
7 must include detailed information, concerning, without limitation:

8 (a) The schedule of fees to be charged by the attorney;

9 (b) The manner in which compensation for extraordinary
10 services may be charged by the attorney; and

11 (c) The fact that the court is required to approve the
12 compensation of the attorney pursuant to subsection 8 before the
13 personal representative pays any such compensation to the attorney.

14 6. For the purposes of determining the compensation of an
15 attorney pursuant to subsection 4, the value of the estate accounted
16 for by the personal representative:

17 (a) Is the total amount of the appraisal of property in the
18 inventory, plus:

19 (1) The gains over the appraisal value on sales; and

20 (2) The receipts, less losses from the appraisal value on sales;

21 and

22 (b) Does not include encumbrances or other obligations on the
23 property of the estate.

24 7. In addition to the compensation for ordinary services of an
25 attorney set forth in this section, an attorney may also be entitled to
26 receive compensation for extraordinary services as set forth in
27 NRS 150.061.

28 8. The compensation of the attorney must be fixed by written
29 agreement between the personal representative and the attorney, and
30 is subject to approval by the court, after petition, notice and hearing
31 as provided in this section. If the personal representative and the
32 attorney fail to reach agreement, or if the attorney is also the
33 personal representative, the amount must be determined and allowed
34 by the court. The petition requesting approval of the compensation
35 of the attorney must contain specific and detailed information
36 supporting the entitlement to compensation, including:

37 (a) If the attorney is requesting compensation based upon the
38 value of the estate accounted for by the personal representative, the
39 attorney must provide the manner of calculating the compensation in
40 the petition; and

41 (b) If the attorney is requesting compensation based on an
42 hourly basis, or is requesting compensation for extraordinary
43 services, the attorney must provide the following information to the
44 court:

45 (1) Reference to time and hours;



- 1 (2) The nature and extent of services rendered;
- 2 (3) Claimed ordinary and extraordinary services;
- 3 (4) The complexity of the work required; and
- 4 (5) Other information considered to be relevant to a
- 5 determination of entitlement.

6 9. The clerk shall set the petition for hearing, and the petitioner
7 shall give notice of the petition to the personal representative if he
8 or she is not the petitioner and to all known heirs in an intestacy
9 proceeding and devisees in a will proceeding. The notice must be
10 given for the period and in the manner provided in NRS 155.010. If
11 a complete copy of the petition is not attached to the notice, the
12 notice must include a statement of the amount of the fee which the
13 court will be requested to approve or allow.

14 10. On similar petition, notice and hearing, the court may make
15 an allowance to an attorney for services rendered up to a certain
16 time during the proceedings. If the attorney is requesting
17 compensation based upon the value of the estate as accounted for by
18 the personal representative, the court may apportion the
19 compensation as it deems appropriate given the amount of work
20 remaining to close the estate.

21 11. An heir or devisee may file objections to a petition filed
22 pursuant to this section, and the objections must be considered at the
23 hearing.

24 12. Except as otherwise provided in this subsection, an
25 attorney for minor, absent, unborn, incapacitated or nonresident
26 heirs is entitled to compensation primarily out of the estate of the
27 distributee so represented by the attorney in those cases and to such
28 extent as may be determined by the court. If the court finds that all
29 or any part of the services performed by the attorney for the minor,
30 absent, unborn, incapacitated or nonresident heirs was of value to
31 the decedent's entire estate as such and not of value only to those
32 heirs, the court shall order that all or part of the attorney's fee be
33 paid to the attorney out of the money of the decedent's entire estate
34 as a general administrative expense of the estate. The amount of
35 these fees must be determined in the same manner as the other
36 attorney's fees provided for in this section.

37 **Sec. 29.** NRS 155.094 is hereby amended to read as follows:

38 155.094 **1.** "Independent attorney" means an attorney, other
39 than an attorney who:

40 ~~(1)~~ **(a)** Is a transferee described in subsection 2 of NRS
41 155.097; or

42 ~~(2)~~ **(b)** Served as an attorney for a person who is described in
43 subsection 2 of NRS 155.097 at the time of the execution of the
44 transfer instrument.



1 **2. The term includes, without limitation, the drafting attorney**
2 **representing the transferor in preparation of the transfer**
3 **instrument if the drafting attorney is not a person described in**
4 **paragraph (a) or (b) of subsection 1.**

5 **Sec. 30.** NRS 159.0753 is hereby amended to read as follows:

6 159.0753 1. Any person who wishes to request to nominate
7 another person to be appointed as his or her guardian may do so
8 ~~by~~ :

9 **(a) If nominating a guardian of the estate, pursuant to**
10 **NRS 162A.250;**

11 **(b) If nominating a guardian of the person, pursuant to NRS**
12 **162A.800; or**

13 **(c) By completing a form requesting to nominate a guardian in**
14 **accordance with this section.**

15 2. A form requesting to nominate a guardian **pursuant to this**
16 **section** must be:

17 (a) Signed by the person requesting to nominate a guardian;

18 (b) Signed by two impartial adult witnesses who have no
19 interest, financial or otherwise, in the estate of the person requesting
20 to nominate a guardian and who attest that the person has the mental
21 capacity to understand and execute the form; and

22 (c) Notarized.

23 3. A request to nominate a guardian **pursuant to this section**
24 **may be in substantially the following form, and must be witnessed**
25 **and executed in the same manner as the following form:**

26
27 **REQUEST TO NOMINATE GUARDIAN**

28
29 I, (insert your name), residing at
30 (insert your address), am executing this notarized document
31 as my written declaration and request for the person(s)
32 designated below to be appointed as my guardian should it
33 become necessary. I am advising the court and all persons
34 and entities as follows:

35 1. As of the date I am executing this request to nominate
36 a guardian, I have the mental capacity to understand and
37 execute this request.

38 2. This request pertains to a (circle one): (guardian of the
39 person)/(guardian of the estate)/(guardian of the person and
40 estate).

41 3. Should the need arise, I request that the court give my
42 preference to the person(s) designated below to serve as my
43 appointed guardian.

44 4. I request that my (insert relation),
45 (insert name), serve as my appointed guardian.



5. If (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my (insert relation), (insert name), serve as my appointed guardian.

6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.

(YOU MUST DATE AND SIGN THIS DOCUMENT)

I sign my name to this document on (date)

.....

(Signature)

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....

(Signature of first witness)

.....

(Print name)

.....

(Date)

.....

(Signature of second witness)

.....

(Print name)

.....

(Date)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Nevada }

County of }



On this day of, in the year, before me, (insert name of notary public), personally appeared (insert name of principal), (insert name of first witness) and (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument.

.....
(Signature of notarial officer)
(Seal, if any)

4. The Secretary of State shall make the form established in subsection 3 available on the Internet website of the Secretary of State.

5. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.


Sec. 31. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing trust instrument may authorize the trustee, in the sole discretion of the trustee or at the direction or with the consent of a directing trust adviser, to reimburse a settlor for all or a portion of tax on trust income or principal that is payable by the settlor under the law imposing such tax. In the sole discretion of the trustee, the trustee may pay such amount to the settlor directly or to an appropriate taxing authority on behalf of the settlor.

2. A trustee or directing trust adviser is not liable to any person in exercising such discretion to reimburse or not reimburse a settlor for tax payable by the settlor on trust income or principal pursuant to subsection 1.

3. The power of a trustee to make a payment to or for the benefit of a settlor in accordance with subsection 1 or the decision of a trustee to exercise such power in favor of the settlor must not cause the settlor to be treated as a beneficiary for purposes of the laws of this State. As used in this subsection, "beneficiary" has the meaning ascribed to it in NRS 163.4147.

Sec. 32. NRS 163.002 is hereby amended to read as follows:

163.002 1. Except as otherwise provided by specific statute  or any regulatory or contractual restrictions, a trust may be created by any of the following methods:

(a) A declaration by the owner of property that he or she or another person holds the property as trustee. In the absence of a contrary declaration by the owner of the property or of a transfer of



1 the property to a third party and regardless of formal title to the
2 property:

3 (1) Property declared to be trust property, together with all
4 income therefrom and the reinvestment thereof, must remain trust
5 property; and

6 (2) If the property declared to be trust property includes an
7 account, contract, certificate, note, judgment, business interest,
8 contents of a safe deposit box or other property interest that is
9 subject to additions or contributions, all subsequent additions and
10 contributions to the property are also trust property.

11 (b) A transfer of property by the owner during his or her lifetime
12 to another person as trustee.

13 (c) A testamentary transfer of property by the owner to another
14 person as trustee.

15 (d) An exercise of a power of appointment in trust.

16 (e) An enforceable promise to create a trust.

17 2. A declaration pursuant to paragraph (a) of subsection 1 may
18 *, but is not required, to* include a schedule or list of trust assets that
19 is signed by the owner of the property or that is incorporated by
20 reference into a document that is signed by the owner of the
21 property.

22 *3. A declaration by the owner of property pursuant to*
23 *paragraph (a) of subsection 1 that he or she or another person*
24 *holds all the property of the declarant in trust is sufficient to*
25 *create a trust over all the property of the declarant that is reliably*
26 *identified through the use of extrinsic evidence as belonging to the*
27 *declarant at the time of his or her death.*

28 **Sec. 33.** NRS 163.004 is hereby amended to read as follows:

29 163.004 1. Except as otherwise provided by law, the terms of
30 a trust instrument may expand, restrict, eliminate or otherwise vary
31 the rights and interests of beneficiaries in any manner that is not
32 illegal or against public policy, including, without limitation:

33 (a) The right to be informed of the beneficiary's interest for a
34 period of time;

35 (b) The grounds for the removal of a fiduciary;

36 (c) The circumstances, if any, in which the fiduciary must
37 diversify investments;

38 (d) A fiduciary's powers, duties, standards of care, rights of
39 indemnification and liability to persons whose interests arise from
40 the trust instrument; and

41 (e) The provisions of general applicability to trusts and trust
42 administration.

43 2. A trust is irrevocable except to the extent that ~~fa right to~~
44 ~~amend the trust or~~ a right to revoke the trust is expressly reserved
45 by the settlor ~~for is granted to one or more other persons~~ under the



1 terms of the trust instrument. ~~[Notwithstanding the provisions of this~~
2 ~~subsection, the following powers do]~~ *Any authority, power or right*
3 *granted to any person other than the settlor under the terms of the*
4 *trust instrument or by law, including, without limitation, the power*
5 *or right to amend the trust, does not render or* make a trust
6 revocable. ‡

- 7 ~~—(a) Power of appointment;~~
8 ~~—(b) Power to add or remove beneficiaries;~~
9 ~~—(c) Power to appoint, remove or replace the trustee; or~~
10 ~~—(d) Power to make administrative amendments.]~~

11 3. Nothing in this section shall be construed to:

- 12 (a) Authorize the exculpation or indemnification of a fiduciary
13 for the fiduciary's own willful misconduct or gross negligence; or
14 (b) Preclude a court of competent jurisdiction from removing a
15 fiduciary because of the fiduciary's willful misconduct or gross
16 negligence.

17 4. The rule that statutes in derogation of the common law are to
18 be strictly construed has no application to this section. This section
19 must be liberally construed to give maximum effect to the principle
20 of freedom of disposition and to the enforceability of trust
21 instruments.

22 **Sec. 34.** NRS 163.0095 is hereby amended to read as follows:

23 163.0095 1. An electronic trust is a trust instrument that:

- 24 (a) Is created and maintained in an electronic record in such a
25 manner that any alteration thereto is detectable;
26 (b) Contains the electronic signature of the settlor and the date
27 and time thereof;
28 (c) Includes, without limitation, an authentication method which
29 is attached to or logically associated with the trust instrument to
30 identify the settlor or is electronically notarized in accordance with
31 all applicable provisions of law;
32 (d) Is subject to the provisions of chapter 719 of NRS; and
33 (e) Meets the requirements set forth in this chapter for a valid
34 trust.

35 2. Regardless of the physical location of the settlor, an
36 electronic trust shall be deemed to be executed in this State and will
37 be governed by the laws of this State and subject to the jurisdiction
38 of the courts of this State if the electronic trust is:

- 39 (a) Transmitted to and maintained by a custodian designated in
40 the trust instrument at the custodian's place of business in this State
41 or at the custodian's residence in this State; or
42 (b) Maintained by the settlor at the settlor's place of business in
43 this State or at the settlor's residence in this State, or by the trustee
44 at the trustee's place of business in this State or at the trustee's
45 residence in this State.



1 3. Notwithstanding the provisions of subsection 2, the validity
2 of a notarial act performed by an electronic notary public must be
3 determined by applying the laws of the jurisdiction in which the
4 electronic notary public is commissioned or appointed.

5 4. The provisions of this section do not apply to a testamentary
6 trust.

7 5. *The custodian of an electronic trust may convert the*
8 *electronic trust into a certified paper original of the electronic*
9 *trust under the following circumstances:*

10 (a) *At the direction of the settlor or the trustee; or*

11 (b) *Except as otherwise provided in subsection 8, with 30 days'*
12 *written notice, delivered to the last known address of the settlor or*
13 *trustee, that the custodian intends to convert the electronic trust*
14 *into a certified paper original.*

15 6. *An electronic trust may be converted into a certified paper*
16 *original by creating a tangible document that contains the*
17 *following:*

18 (a) *The text of the electronic trust; and*

19 (b) *An affidavit of the custodian or an employee of the*
20 *custodian stating:*

21 (1) *That the electronic record was created at the time the*
22 *settlor executed the electronic trust;*

23 (2) *The identities of all custodians who have had custody of*
24 *the electronic record since the execution of the electronic trust;*

25 (3) *That the certified paper original is a true, correct and*
26 *complete tangible manifestation of the electronic trust; and*

27 (4) *That the electronic record of the electronic trust is*
28 *presently in the custody of the custodian.*

29 7. *The custodian of an electronic trust may destroy the*
30 *electronic record of the electronic trust after converting the*
31 *electronic trust into a certified paper original if the custodian:*

32 (a) *Provides 30 days' written notice, delivered to the last*
33 *known address of the settlor or trustee, that the custodian intends*
34 *to destroy the record and the settlor or trustee does not object*
35 *within the 30-day period; and*

36 (b) *Makes a reasonable effort to provide the electronic record*
37 *to the settlor or trustee before destroying the electronic record.*

38 8. *Before the expiration of the 30 days after the custodian*
39 *gives notice to the settlor or trustee pursuant to paragraph (b) of*
40 *subsection 5, if the settlor or trustee objects to the conversion of*
41 *the electronic trust into a certified paper original and agrees to*
42 *take custody of the electronic trust, the custodian shall not convert*
43 *the electronic trust into a certified paper original and shall deliver*
44 *the electronic record of the electronic trust to the settlor or trustee*
45 *or to such other person as the settlor or trustee may direct.*



1 **9.** As used in this section:

2 (a) "Authentication characteristic" has the meaning ascribed to it
3 in NRS 133.085.

4 (b) "Authentication method" means a method of identification
5 using any applicable method authorized or required by law,
6 including, without limitation, a digital certificate using a public key
7 or a physical device, including, without limitation, a smart card,
8 flash drive or other type of token, an authentication characteristic or
9 another commercially reasonable method.

10 (c) *"Certified paper original" means a tangible document that*
11 *contains the text of an electronic trust.*

12 (d) "Public key" has the meaning ascribed to it in NRS 720.110.

13 **Sec. 35.** NRS 163.025 is hereby amended to read as follows:

14 163.025 1. Except as otherwise provided by the terms of the
15 trust instrument, a trustee may combine two or more trusts into a
16 single trust or divide a trust into two or more separate trusts if the
17 combination or division does not:

18 (a) Impair the rights of any beneficiary;

19 (b) Substantially affect the accomplishment of the purposes of
20 the trust or trusts; or

21 (c) Violate the rule against perpetuities applicable to the trust or
22 trusts.

23 2. ~~The~~ *If the terms of the trust instrument do not expressly*
24 *authorize the combination or division of trusts, then the*
25 *combination or division of trusts must be made ~~only~~ by court*
26 *order or* after giving notice of the proposed action and following the
27 procedure set forth in NRS 164.725. The notice of the proposed
28 action must include a summary of the anticipated tax consequences,
29 if any, of the proposed combination or division.

30 **Sec. 36.** NRS 163.553 is hereby amended to read as follows:

31 163.553 As used in NRS 163.553 to 163.556, inclusive, *and*
32 *section 31 of this act*, unless the context otherwise requires, the
33 words and terms defined in NRS 163.5533 to 163.5547, inclusive,
34 have the meanings ascribed to them in those sections.

35 **Sec. 37.** NRS 163.5557 is hereby amended to read as follows:

36 163.5557 1. An instrument may provide for the appointment
37 of a person to act as an investment trust adviser or a distribution
38 trust adviser with regard to investment decisions or discretionary
39 distributions.

40 2. An investment trust adviser may exercise the powers
41 provided to the investment trust adviser in the instrument in the best
42 interests of the trust. The powers exercised by an investment trust
43 adviser are at the sole discretion of the investment trust adviser and
44 are binding on all other persons. The powers granted to an



1 investment trust adviser may include, without limitation, the power
2 to:

3 (a) Direct the trustee with respect to the retention, purchase, sale
4 or encumbrance of trust property and the investment and
5 reinvestment of principal and income of the trust.

6 (b) Vote proxies for securities held in trust.

7 (c) Select one or more investment advisers, managers or
8 counselors, including the trustee, and delegate to such persons any
9 of the powers of the investment trust adviser.

10 (d) *Value non-publicly traded investments held in trust that*
11 *are subject to the investment management authority of the*
12 *investment trust adviser.*

13 3. A distribution trust adviser may exercise the powers
14 provided to the distribution trust adviser in the instrument in the best
15 interests of the trust. The powers exercised by a distribution trust
16 adviser are at the sole discretion of the distribution trust adviser and
17 are binding on all other persons. Except as otherwise provided in the
18 instrument, the distribution trust adviser shall direct the trustee with
19 regard to all discretionary distributions to a beneficiary.

20 **Sec. 38.** NRS 163.5559 is hereby amended to read as follows:

21 163.5559 1. Except as otherwise provided in subsection 2, a
22 creditor of a settlor may not seek to satisfy a claim against the settlor
23 from the assets of a trust ~~[if the settlor's sole interest in the trust is]~~
24 *because of* the existence of ~~[a]~~ :

25 (a) *A discretionary power granted to a person other than the*
26 *settlor by the terms of the trust or by operation of law or to*
27 *reimburse the settlor for any tax on trust income or principal which*
28 *is payable by the settlor under the law imposing such tax* ~~[]~~ ;

29 (b) *A power allowing the settlor to reacquire the trust corpus*
30 *by substituting other property of an equivalent value; or*

31 (c) *A power allowing the settlor to borrow trust corpus or*
32 *income, directly or indirectly, without adequate interest or without*
33 *adequate security.*

34 2. The provisions of subsection 1 do not ~~[apply to]~~ *preclude a*
35 *creditor from seeking to satisfy a claim against the settlor of a*
36 *spendthrift trust from* trust property transferred by the settlor to the
37 extent ~~[a]~~ *the creditor can prove by clear and convincing evidence*
38 *that the transfer was fraudulent as to that creditor pursuant to*
39 *chapter 112 of NRS or* ~~[was otherwise wrongful as to]~~ *violates a*
40 *legal obligation owed to that creditor under a contract or a valid*
41 *court order that is legally enforceable by* that creditor.

42 3. For purposes of this section, a beneficiary of a trust shall be
43 deemed to not be a settlor of a trust because of a lapse, waiver or
44 release of the beneficiary's right to withdraw part or all of the trust
45 property if the value of the property which could have been



1 withdrawn by exercising the right of withdrawal in any calendar
2 year does not, at the time of the lapse, waiver or release, exceed the
3 greater of the amount provided in 26 U.S.C. § 2041(b)(2), 26 U.S.C.
4 § 2503(b) or 26 U.S.C. § 2514(e), as amended, or any successor
5 provision.

6 **Sec. 39.** NRS 163.556 is hereby amended to read as follows:

7 163.556 1. Except as otherwise provided in this section,
8 unless the terms of a testamentary instrument or irrevocable trust
9 provide otherwise, a trustee with discretion or authority to distribute
10 trust income or principal to or for a beneficiary of the trust, *whether*
11 *acting in the trustee's own discretion or at the direction or with the*
12 *consent of another party pursuant to the terms of the trust*
13 *instrument*, may exercise such discretion or authority by appointing
14 the property subject to such discretion or authority in favor of a
15 second trust as provided in this section.

16 2. The second trust to which a trustee appoints property of the
17 original trust may only have as beneficiaries one or more of the
18 beneficiaries of the original trust:

19 (a) To or for whom a distribution of income or principal may be
20 made from the original trust;

21 (b) To or for whom a distribution of income or principal may be
22 made in the future from the original trust at a time or upon the
23 happening of an event specified under the original trust; or

24 (c) Both paragraphs (a) and (b).

25 ↪ For purposes of this subsection, a permissible appointee of a
26 power of appointment exercised by a beneficiary of the second trust
27 is not considered a beneficiary of the second trust.

28 3. A trustee may not appoint property of the original trust to a
29 second trust if:

30 (a) Appointing the property will reduce any income interest of
31 any income beneficiary of the original trust if the original trust is:

32 (1) A trust for which a marital deduction has been taken for
33 federal or state income, gift or estate tax purposes;

34 (2) A trust for which a charitable deduction has been taken
35 for federal or state income, gift or estate tax purposes; or

36 (3) A grantor-retained annuity trust or unitrust under
37 26 C.F.R. § 25.2702-3(b) and (c).

38 ↪ As used in this paragraph, "unitrust" has the meaning ascribed to
39 it in NRS 164.700.

40 (b) The property to be appointed is subject to a power of
41 withdrawal which is held by a beneficiary of the original trust and
42 may be executed at the time of the proposed appointment, unless
43 after the exercise of such appointment, the beneficiary of the
44 original trust's power of withdrawal is unchanged with respect to
45 the trust property.



1 (c) ~~Property specifically allocated for one beneficiary of the~~
2 ~~original trust is no longer allocated for that beneficiary under either~~
3 ~~or both trusts, unless the beneficiary consents in writing.~~

4 ~~(d)~~ A contribution made to the original trust qualified for a gift
5 tax exclusion as described in section 2503(b) of the Internal
6 Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of
7 section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c),
8 unless the second trust provides that the beneficiary's remainder
9 interest must vest not later than the date upon which such interest
10 would have vested under the terms of the original trust.

11 4. A trustee who is a beneficiary of the original trust may not
12 exercise the authority to appoint property of the original trust to a
13 second trust if:

14 (a) Under the terms of the original trust or pursuant to law
15 governing the administration of the original trust:

16 (1) The trustee does not have discretion to make distributions
17 to himself or herself;

18 (2) The trustee's discretion to make distributions to himself
19 or herself is limited by an ascertainable standard, and under the
20 terms of the second trust, the trustee's discretion to make
21 distributions to himself or herself is not limited by the same
22 ascertainable standard; or

23 (3) The trustee's discretion to make distributions to himself
24 or herself can only be exercised with the consent of a cotrustee or a
25 person holding an adverse interest and under the terms of the second
26 trust the trustee's discretion to make distributions to himself or
27 herself is not limited by an ascertainable standard and may be
28 exercised without consent; or

29 (b) Under the terms of the original trust or pursuant to law
30 governing the administration of the original trust, the trustee of the
31 original trust does not have discretion to make distributions that will
32 discharge the trustee's legal support obligations but under the
33 second trust the trustee's discretion is not limited.

34 5. Notwithstanding the provisions of subsection 1, a trustee
35 who may be removed by the beneficiary or beneficiaries of the
36 original trust and replaced with a trustee that is related to or
37 subordinate, as described in section 672 of the Internal Revenue
38 Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the
39 authority to appoint property of the original trust to a second trust to
40 the extent that the exercise of the authority by such trustee would
41 have the effect of increasing the distributions that can be made from
42 the second trust to such beneficiary or group of beneficiaries that
43 held the power to remove the trustee of the original trust and replace
44 such trustee with a related or subordinate person, unless the
45 distributions that may be made from the second trust to such



1 beneficiary or group of beneficiaries described in paragraph (a) of
2 subsection 4 are limited by an ascertainable standard.

3 6. The provisions of subsections 4 and 5 do not prohibit a
4 trustee who is not a beneficiary of the original trust or who may not
5 be removed by the beneficiary or beneficiaries and replaced with a
6 trustee that is related to or subordinate to a beneficiary from
7 exercising the authority to appoint property of the original trust to a
8 second trust pursuant to the provisions of subsection 1.

9 7. Before appointing property pursuant to subsection 1, a
10 trustee may give notice of a proposed action pursuant to
11 NRS 164.725 or may petition a court for approval pursuant to NRS
12 153.031, 164.015 or 164.725. Any notice of a proposed action or a
13 petition for a court's approval must include the trustee's opinion of
14 how the appointment of property will affect the trustee's
15 compensation and the administration of other trust expenses.

16 8. The trust instrument of the second trust may:

17 (a) Grant a general or limited power of appointment to one or
18 more of the beneficiaries of the second trust who are beneficiaries of
19 the original trust.

20 (b) Provide that, at a time or occurrence of an event specified in
21 the trust instrument, the remaining trust assets in the second trust
22 must be held for the beneficiaries of the original trust upon terms
23 and conditions that are substantially identical to the terms and
24 conditions of the original trust.

25 9. The power to appoint the property of the original trust
26 pursuant to subsection 1 must be exercised by a writing, signed by
27 the trustee and filed with the records of the trust.

28 10. The exercise of the power to invade principal of the
29 original trust pursuant to subsection 1 is considered the exercise of a
30 power of appointment, other than power to appoint the property to
31 the trustee, the trustee's creditors, the trustee's estate or the creditors
32 of the trustee's estate and the provisions of NRS 111.1031 apply to
33 such power of appointment.

34 11. The provisions of this section do not abridge the right of
35 any trustee who has the power to appoint property which arises
36 under any other law **[] or under the terms of the original trust.**

37 12. The provisions of this section do not impose upon a trustee
38 a duty to exercise the power to appoint property pursuant to
39 subsection 1.

40 13. The power to appoint property to another trust pursuant to
41 subsection 1 is not a power to amend the trust and a trustee is not
42 prohibited from appointing property to another trust pursuant to
43 subsection 1 if the original trust is irrevocable or provides that it
44 may not be amended.



1 14. A trustee's power to appoint property to another trust
2 pursuant to subsection 1 is not limited by the existence of a
3 spendthrift provision in the original trust.

4 15. A trustee exercising any power granted pursuant to this
5 section may designate himself or herself or any other person
6 permitted to act as a trustee as the trustee of the second trust.

7 16. The trustee of a second trust, resulting from the exercise of
8 the power to appoint property to another trust pursuant to subsection
9 1, may also exercise the powers granted pursuant to this section with
10 respect to the second trust.

11 17. ~~[This]~~ *Except as otherwise provided under the terms of*
12 *the trust, the power of a trustee to appoint property to another*
13 *trust is in addition to any other powers conferred by the terms of*
14 *the trust or under the laws of this State. This section does not*
15 *expand, restrict, eliminate or otherwise alter any power that, with*
16 *respect to a trust, a person holds in a nonfiduciary capacity.*

17 18. *The power of a trustee to appoint property to another trust*
18 *is an administrative act under this section and, therefore,*
19 *regardless of whether a trust applies the laws of this State for*
20 *construction or validity issues, this* section applies to a trust that is
21 governed by, sitused in or administered under the laws of this State,
22 whether the trust is initially governed by, sitused in or administered
23 under the laws of this State pursuant to the terms of the trust
24 instrument or whether the governing law, situs or administration of
25 the trust is moved to this State from another state or foreign
26 jurisdiction.

27 ~~[18.]~~ 19. The power to appoint *property* to a second trust
28 pursuant to this section may be exercised to appoint *property* to a
29 second trust that is a special needs trust, pooled trust or third-party
30 trust.

31 ~~[19.]~~ 20. As used in this section:

32 (a) "Ascertainable standard" means a standard relating to a
33 person's health, education, support or maintenance within the
34 meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal
35 Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any
36 regulations of the United States Treasury promulgated thereunder.

37 (b) "Pooled trust" means a trust described in 42 U.S.C. §
38 1396p(d)(4)(C) that meets the requirements for such a trust under
39 any law or regulation of this State relating to the treatment of trusts
40 for purposes of eligibility for Medicaid or other needs-based public
41 assistance.

42 (c) "Second trust" means an irrevocable trust that receives trust
43 income or principal appointed by the trustee of the original trust,
44 and may be established by any person, including, without limitation,
45 a new trust created by the trustee, acting in that capacity, of the



1 original trust. If the trustee of the original trust establishes the
2 second trust, then for purposes of creating the new second trust,
3 the requirement of NRS 163.008 that the instrument be signed by
4 the settlor shall be deemed to be satisfied by the signature of the
5 trustee of the original trust. The second trust may be a trust created
6 under ~~f~~:

7 ~~(1) The~~ *the* original trust instrument, as modified after an
8 appointment of property made pursuant to this section, ~~f~~ or ~~f~~

9 ~~(2) A~~ *a* different trust instrument. *If the second trust is
10 created under the original trust instrument, as modified after an
11 appointment of property made pursuant to this section, and is
12 therefore the modified original trust, a trustee may exercise the
13 power to appoint the trust property from the original trust to the
14 second trust without an actual distribution of the property subject
15 to the appointment.*

16 (d) "Special needs trust" means a trust under 42 U.S.C. §
17 1396p(d)(4)(A) that meets the requirements for such a trust under
18 any law or regulation of this State relating to the treatment of trusts
19 for purposes of eligibility for Medicaid or other needs-based public
20 assistance.

21 (e) "Third-party trust" means a trust that is:

22 (1) Established by a third party with the assets of the third
23 party to provide for the supplemental needs of a person who is
24 eligible for needs-based public assistance at or after the time of the
25 creation of the trust; and

26 (2) Exempt from the provisions of any law or regulation of
27 this State relating to the treatment of trusts for purposes of eligibility
28 for Medicaid.

29 **Sec. 40.** NRS 164.021 is hereby amended to read as follows:

30 164.021 1. When a revocable trust becomes irrevocable
31 because of the death of a settlor or by the express terms of the trust,
32 the trustee may, after the trust becomes irrevocable, provide notice
33 to any beneficiary of the irrevocable trust, any heir of the settlor or
34 to any other interested person.

35 2. The notice provided by the trustee must contain:

36 (a) The identity of the settlor of the trust and the date of
37 execution of the trust instrument;

38 (b) The name, mailing address and telephone number of any
39 trustee of the trust;

40 (c) Any provision of the trust instrument which pertains to the
41 beneficiary or notice that the heir or interested person is not a
42 beneficiary under the trust;



(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is ~~served upon~~ *provided to* you."

3. The trustee shall ~~serve the~~ *cause* notice pursuant to *this section to be provided in accordance with* the provisions of NRS 155.010.

4. No person upon whom notice is ~~served~~ *provided* pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice *pursuant to this section is provided, regardless of whether a petition under NRS 164.010 is subsequently* served upon the person ~~[-]~~ *after the notice is provided,* unless the person proves that he or she ~~did~~ *was* not ~~receive actual~~ *provided* notice ~~[-]~~ *in accordance with this section.*

Sec. 41. NRS 164.025 is hereby amended to read as follows:

164.025 1. ~~The~~ *Regardless of the filing of a petition under NRS 164.010, the* trustee of a nontestamentary trust may after the death of the settlor of the trust cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily ascertainable creditors.

2. The notice must be in substantially the following form:

(a) For a claim against the settlor:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the trust., the settlor of that trust died on A creditor having a claim against the settlor must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated

.....
Trustee

.....
Address

(b) For a claim against the trust:



NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the trust., the settlor of that trust died on A creditor having a claim against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated

.....
Trustee

.....
Address

(c) For a claim against the settlor and the trust:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the trust., the settlor of that trust died on A creditor having a claim against the settlor and against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated.....

*.....
Trustee*

*.....
Address*

3. ~~[A]~~ *Except as otherwise provided in subsection 4, a person having a claim, due or to become due, against a settlor or the trust, as applicable, must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. A claim filed within the applicable period is presumed timely filed if it contains on the first page of the claim a title stating it is a "Claim Pursuant to NRS 164.025" in a minimum 12-point bold type and it is mailed to the trustee at the address set forth in the notice with a return receipt or the creditor obtains written confirmation of receipt signed by*



1 *the trustee or trustee's counsel.* Any claim against a settlor or the
2 trust estate, as applicable, *that is* not *timely* filed ~~[within that time]~~
3 is forever barred. After the expiration of the time to file a claim as
4 provided in this ~~[section.]~~ *subsection or, if applicable, subsection 4,*
5 the trustee may distribute the assets of the trust to its beneficiaries
6 without personal liability for any claim which has not been timely
7 filed with the trustee. *A claim not complying with the requirements*
8 *of this subsection is rebuttably presumed to be untimely.*

9 4. *Notwithstanding the provisions of subsection 3, if the*
10 *existence of an additional creditor who was not known or readily*
11 *ascertainable at the time of the first publication of the notice to*
12 *creditors is discovered by the trustee before the last day that*
13 *creditors who were provided such notice may file a claim with the*
14 *trustee pursuant to subsection 3, the trustee shall immediately mail*
15 *a copy of the notice to the additional creditor, who must file a*
16 *claim with the trustee in accordance with the provisions of*
17 *subsection 3 within the applicable time period set forth in*
18 *subsection 3 or 30 days from the date the trustee mailed such*
19 *subsequent notice to the creditor, whichever is later.*

20 5. If the trustee knows or has reason to believe that the settlor
21 received public assistance during the lifetime of the settlor, the
22 trustee shall, whether or not the trustee gives notice to other
23 creditors, give notice within 30 days after the death to the
24 Department of Health and Human Services in the manner provided
25 in NRS 155.010. If notice to the Department is required by this
26 subsection but is not given, the trust estate and any assets transferred
27 to a beneficiary remain subject to the right of the Department to
28 recover public assistance received.

29 ~~[5.]~~ 6. If a claim is rejected by the trustee, in whole or in part,
30 the trustee must, within 10 days after the rejection, notify the
31 claimant of the rejection by written notice forwarded by registered
32 or certified mail to the mailing address of the claimant. The claimant
33 must bring suit in the proper court against the trustee within 60 days
34 after the notice is given, whether the claim is due or not, or the
35 claim is barred forever and the trustee may distribute the assets of
36 the trust to its beneficiaries without personal liability to any creditor
37 whose claim is barred forever.

38 ~~[6.]~~ 7. As used in this section, "nontestamentary trust" has the
39 meaning ascribed to it in NRS 163.0016.

40 **Sec. 42.** NRS 164.038 is hereby amended to read as follows:

41 164.038 1. Unless otherwise represented by counsel, a minor,
42 incapacitated person, unborn person or person whose identity or
43 location is unknown and not reasonably ascertainable may be
44 represented by another person who has a substantially similar
45 interest with respect to the question or dispute.



1 2. A person may only be represented by another person
2 pursuant to subsection 1 if there is no material conflict of interest
3 between the person and the representative with respect to the
4 question or dispute for which the person is being represented. If a
5 person is represented pursuant to subsection 1, the results of that
6 representation in the question or dispute will be binding on the
7 person.

8 3. A presumptive remainder beneficiary may represent and
9 bind a beneficiary with a contingent remainder for the same
10 purpose, in the same circumstance and to the same extent as an
11 ascertainable beneficiary may bind a minor, incapacitated person,
12 unborn person or person who cannot be ascertained.

13 4. A powerholder may represent and bind a person who is a
14 permissible appointee or taker in default of appointment.

15 5. If a trust has a minor or incapacitated beneficiary who may
16 not be represented by another person pursuant to this section, ~~the~~ a
17 custodial parent or *the* guardian of the estate of the minor or
18 incapacitated beneficiary may represent the minor or incapacitated
19 beneficiary in any judicial proceeding or nonjudicial matter
20 pertaining to the trust. A minor or incapacitated beneficiary may
21 only be represented by a parent or guardian if there is no material
22 conflict of interest between the minor or incapacitated beneficiary
23 and the parent or guardian with respect to the question or dispute. If
24 a minor or incapacitated beneficiary is represented pursuant to this
25 subsection, the results of that representation will be binding on the
26 minor or incapacitated beneficiary. The representation of a minor or
27 incapacitated beneficiary pursuant to this subsection is binding on
28 an unborn person or a person who cannot be ascertained if:

29 (a) The unborn person or a person who cannot be ascertained
30 has an interest substantially similar to the minor or incapacitated
31 person; and

32 (b) There is no material conflict of interest between the unborn
33 person or a person who cannot be ascertained and the minor or
34 incapacitated person with respect to the question or dispute.

35 6. As used in this section:

36 (a) "Permissible appointee" has the meaning ascribed to it in
37 NRS 162B.065.

38 (b) "Powerholder" has the meaning ascribed to it in
39 NRS 162B.080.

40 (c) "Presumptive remainder beneficiary" means:

41 (1) A beneficiary who would receive income or principal of
42 the trust if the trust were to terminate as of that date, regardless of
43 the exercise of a power of appointment; or



1 (2) A beneficiary who, if the trust does not provide for
2 termination, would receive or be eligible to receive distributions of
3 income or principal of the trust if all beneficiaries of the trust who
4 were receiving or eligible to receive distributions were deceased.

5 (d) "Taker in default of appointment" has the meaning ascribed
6 to it in NRS 162B.095.

7 **Sec. 43.** Chapter 239A of NRS is hereby amended by adding
8 thereto the provisions set forth as sections 44 and 45 of this act.

9 **Sec. 44.** *Upon presentation of a death certificate, affidavit of
10 death or other proof of death, a lender, trustee or assignee of an
11 encumbrance against real property shall provide the Director of
12 the Department of Health and Human Services or a public
13 administrator or a person employed or contracted with pursuant to
14 NRS 253.125, as applicable, with a statement which sets forth the
15 identifying number and account balance of any encumbrance
16 against real property on which the name of the deceased person
17 appears. A lender, trustee or assignee may charge a reasonable
18 fee, not to exceed \$2, to provide a public administrator or a person
19 employed or contracted with pursuant to NRS 253.125, as
20 applicable, with a statement pursuant to the provisions of this
21 section.*

22 **Sec. 45.** *Upon presentation of a death certificate, affidavit of
23 death or other proof of death, a financial institution shall provide
24 a public administrator or a person employed or contracted with
25 pursuant to NRS 253.125, as applicable, with access to a safe
26 deposit box rented in the sole name of the decedent, or jointly
27 owned with a predeceased person for whom proof of death has
28 been provided, for the purpose of the inspection and removal of
29 any will or instructions for disposition of the remains of the
30 decedent. The estate of the decedent is responsible for any costs
31 and expenses incurred by drilling or forcing open a safe deposit
32 box.*

33 **Sec. 46.** NRS 440.250 is hereby amended to read as follows:

34 440.250 1. Not later than the fifth day of each month, deputy
35 county health officers shall file with the county health officer all
36 original birth and death certificates executed by them.

37 2. Within 5 days after receipt of the original death certificates,
38 the county health officer shall file with the public administrator or a
39 person employed or contracted with pursuant to NRS 253.125, as
40 applicable, a written list of the names, ~~and~~ social security numbers
41 *and residential addresses* of all deceased persons and the names of
42 their next of kin as those names appear on the certificates.

43 **Sec. 47.** 1. The amendatory provisions of section 4 of this
44 act apply to any power of attorney, will or other estate planning
45 document that is executed on or after January 1, 2020.



1 2. The amendatory provisions of section 33 of this act apply to
2 any trust created or amended before, on or after October 1, 2021.

Ⓢ

