

Amendment No. 743

Assembly Amendment to Senate Bill No. 221 First Reprint (BDR 2-78)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

RRY/BJE



Date: 5/24/2011

S.B. No. 221—Makes various changes relating to trusts, estates and probate.
(BDR 2-78)



SENATE BILL NO. 221—SENATOR WIENER

MARCH 7, 2011

JOINT SPONSOR: ASSEMBLYMAN SEGERBLOM

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to trusts, estates and probate.
(BDR 2-78)

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 personal financial administration; providing for nonprobate transfers of property to take effect on the death of the owner of the property; establishing provisions relating to transfers of property which are found or presumed to be void and providing the effect of such transfers; providing for the independent administration of estates; revising provisions concerning the administration of trusts and estates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-3 of this bill provide for the exemption of certain trust property, interests or powers from execution and attachment. **Sections 6-47** of this bill provide for nonprobate transfers of property, including certain real property, at the death of the owner of the property. Specifically, **sections 41 and 42** govern the registration of property in beneficiary form and the extent to which the designation of a beneficiary may be revoked or changed during the lifetime of the owner of the property or in the owner's will. **Sections 40 and 45** set forth the rights of the beneficiary during the lifetime of the owner of the property and at the owner's death. **Sections 48-64** of this bill adopt provisions governing accounts in financial institutions in which one or more persons have an interest. **Section 49** provides that an account may: (1) be owned by a single party or by multiple parties; and (2) include a payable-on-death beneficiary designation or an agency designation, or both. **Section 50** provides sample forms for establishing multiple-person accounts. **Section 53** provides that an account is owned by the parties during their lifetimes in accordance with each party's net contribution to the account. **Section 54** sets forth the rights of the parties with respect to an account upon the death of a party.

Existing law generally provides for the enforcement of a no-contest clause in a will or a trust. (NRS 137.005, 163.00195) **Sections 73 and 177** of this bill provide, with certain exceptions, that a devisee's or beneficiary's share may be reduced or eliminated under a no-contest clause by conduct that is set forth by the testator in the will or by the settlor in the trust. Similarly, **sections 70 and 176** of this bill provide that a disposition of property and the appointment of a fiduciary including, without limitation, a personal representative and a trustee, may be dependent on conditions set forth by the testator in a will or by the settlor in

the trust. **Sections 76-144** of this bill set forth the Independent Administration of Estates Act, which allows a personal representative to administer most aspects of a decedent's estate without court supervision. Pursuant to **sections 86 and 88**, the court may: (1) grant the personal representative full authority or limited authority to administer the decedent's estate; or (2) revoke the personal representative's authority to administer the decedent's estate without court supervision. **Section 90** provides that if a personal representative is granted limited authority to administer the estate, court supervision is required for certain actions, including the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate. **Section 90** further provides that if the personal representative has been granted full authority to administer the estate, court supervision for the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate is required only under certain circumstances. **Sections 93-106 and 128** of this bill require the personal representative to give notice of a proposed action when exercising certain powers without court supervision, including selling real property of the estate. **Sections 107-115** of this bill require the personal representative to give notice of the proposed action under certain circumstances when exercising certain powers. **Sections 116-127** of this bill authorize the personal representative to exercise certain powers without giving notice of the proposed action, including the power to pay taxes and assessments and expenses incurred in the collection, care and administration of the estate.

Sections 202 and 203 of this bill adopt provisions concerning spendthrift trusts. Further, **sections 204-206** of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust.

Section 209 of this bill repeals the Uniform TOD Security Registration Act and other statutes related to nonprobate transfers of certain accounts because those issues are addressed in **sections 32-64** of this bill which govern nonprobate transfers on death.

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1 1. Payments received pursuant to the federal Social Security Act,
2 including, without limitation, retirement and survivors' benefits,
3 supplemental security income benefits and disability insurance benefits.

4 2. Payments for benefits or the return of contributions under the
5 Public Employees' Retirement System.

6 3. Payments for public assistance granted through the Division of
7 Welfare and Supportive Services of the Department of Health and Human
8 Services or a local governmental entity.

9 4. Proceeds from a policy of life insurance.

10 5. Payments of benefits under a program of industrial insurance.

11 6. Payments received as disability, illness or unemployment benefits.

12 7. Payments received as unemployment compensation.

13 8. Veteran's benefits.

14 9. A homestead in a dwelling or a mobile home, not to exceed
15 \$550,000, unless:

16 (a) The judgment is for a medical bill, in which case all of the primary
17 dwelling, including a mobile or manufactured home, may be exempt.

18 (b) Allodial title has been established and not relinquished for the
19 dwelling or mobile home, in which case all of the dwelling or mobile home
20 and its appurtenances are exempt, including the land on which they are
21 located, unless a valid waiver executed pursuant to NRS 115.010 is
22 applicable to the judgment.

23 10. All money reasonably deposited with a landlord by you to secure
24 an agreement to rent or lease a dwelling that is used by you as your primary
25 residence, except that such money is not exempt with respect to a landlord
26 or landlord's successor in interest who seeks to enforce the terms of the
27 agreement to rent or lease the dwelling.

28 11. A vehicle, if your equity in the vehicle is less than \$15,000.

29 12. Seventy-five percent of the take-home pay for any workweek,
30 unless the weekly take-home pay is less than 50 times the federal minimum
31 hourly wage, in which case the entire amount may be exempt.

32 13. Money, not to exceed \$500,000 in present value, held in:

33 (a) An individual retirement arrangement which conforms with the
34 applicable limitations and requirements of section 408 or 408A of the
35 Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

36 (b) A written simplified employee pension plan which conforms with
37 the applicable limitations and requirements of section 408 of the Internal
38 Revenue Code, 26 U.S.C. § 408;

39 (c) A cash or deferred arrangement that is a qualified plan pursuant to
40 the Internal Revenue Code;

41 (d) A trust forming part of a stock bonus, pension or profit-sharing
42 plan that is a qualified plan pursuant to sections 401 et seq. of the Internal
43 Revenue Code, 26 U.S.C. §§ 401 et seq.; and

44 (e) A trust forming part of a qualified tuition program pursuant to
45 chapter 353B of NRS, any applicable regulations adopted pursuant to
46 chapter 353B of NRS and section 529 of the Internal Revenue Code, 26
47 U.S.C. § 529, unless the money is deposited after the entry of a judgment
48 against the purchaser or account owner or the money will not be used by
49 any beneficiary to attend a college or university.

50 14. All money and other benefits paid pursuant to the order of a court
51 of competent jurisdiction for the support, education and maintenance of a
52 child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust ~~that is a contingent interest~~, if the ~~interest~~ contingency has not been ~~distributed from the trust;~~ *satisfied or removed;*

(b) A ~~remainder~~ *present or future* interest in the *income or principal of a* trust ~~[whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~—(c) A] for which~~ discretionary power *is* held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

~~[(d)] (c)~~ The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

~~[(e)] (d)~~ Certain powers held by a trust protector or certain other persons;

~~[(f)] and~~

(e) Any power held by the person who created the trust, ~~[(f)] and~~

~~—(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

17. If a trust contains a spendthrift provision:

(a) A *present or future interest in the income or principal of a trust that is a* mandatory interest ~~[in the trust]~~ in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; *and*

(b) A *present or future interest in the income or principal of a trust that is a* support interest ~~[in the trust]~~ in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust. ~~[(f)] and~~

~~—(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably

1 necessary for the support of the judgment debtor and any dependent of the
2 judgment debtor.

3 23. Payments received as restitution for a criminal act.

4 24. Personal property, not to exceed \$1,000 in total value, if the
5 property is not otherwise exempt from execution.

6 25. A tax refund received from the earned income credit provided by
7 federal law or a similar state law.

8 26. Stock of a corporation described in subsection 2 of NRS 78.746
9 except as set forth in that section.

10 ➤ These exemptions may not apply in certain cases such as a proceeding to
11 enforce a judgment for support of a person or a judgment of foreclosure on
12 a mechanic's lien. You should consult an attorney immediately to assist you
13 in determining whether your property or money is exempt from execution.
14 If you cannot afford an attorney, you may be eligible for assistance through
15 (name of organization in county providing legal services to
16 indigent or elderly persons).

17 18 PROCEDURE FOR CLAIMING EXEMPT PROPERTY 19

20 If you believe that the money or property taken from you is exempt,
21 you must complete and file with the clerk of the court a notarized affidavit
22 claiming the exemption. A copy of the affidavit must be served upon the
23 sheriff and the judgment creditor within 8 days after the notice of execution
24 is mailed. The property must be returned to you within 5 days after you file
25 the affidavit unless you or the judgment creditor files a motion for a hearing
26 to determine the issue of exemption. If this happens, a hearing will be held
27 to determine whether the property or money is exempt. The motion for the
28 hearing to determine the issue of exemption must be filed within 10 days
29 after the affidavit claiming exemption is filed. The hearing to determine
30 whether the property or money is exempt must be held within 10 days after
31 the motion for the hearing is filed.

32
33 IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME
34 SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY
35 GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY
36 OR MONEY IS EXEMPT.

37 **Sec. 2.** NRS 21.090 is hereby amended to read as follows:

38 21.090 1. The following property is exempt from execution, except as
39 otherwise specifically provided in this section or required by federal law:

40 (a) Private libraries, works of art, musical instruments and jewelry not to
41 exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the
42 judgment debtor, to be selected by the judgment debtor, and all family pictures and
43 keepsakes.

44 (b) Necessary household goods, furnishings, electronics, wearing apparel, other
45 personal effects and yard equipment, not to exceed \$12,000 in value, belonging to
46 the judgment debtor or a dependent of the judgment debtor, to be selected by the
47 judgment debtor.

48 (c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not
49 to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the
50 judgment debtor.

51 (d) Professional libraries, equipment, supplies, and the tools, inventory,
52 instruments and materials used to carry on the trade or business of the judgment

debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

1 (m) The dwelling of the judgment debtor occupied as a home for himself or
2 herself and family, where the amount of equity held by the judgment debtor in the
3 home does not exceed \$550,000 in value and the dwelling is situated upon lands not
4 owned by the judgment debtor.

5 (n) All money reasonably deposited with a landlord by the judgment debtor to
6 secure an agreement to rent or lease a dwelling that is used by the judgment debtor
7 as his or her primary residence, except that such money is not exempt with respect
8 to a landlord or the landlord's successor in interest who seeks to enforce the terms
9 of the agreement to rent or lease the dwelling.

10 (o) All property in this State of the judgment debtor where the judgment is in
11 favor of any state for failure to pay that state's income tax on benefits received
12 from a pension or other retirement plan.

13 (p) Any vehicle owned by the judgment debtor for use by the judgment debtor
14 or the judgment debtor's dependent that is equipped or modified to provide
15 mobility for a person with a permanent disability.

16 (q) Any prosthesis or equipment prescribed by a physician or dentist for the
17 judgment debtor or a dependent of the debtor.

18 (r) Money, not to exceed \$500,000 in present value, held in:

19 (1) An individual retirement arrangement which conforms with the
20 applicable limitations and requirements of section 408 or 408A of the Internal
21 Revenue Code, 26 U.S.C. §§ 408 and 408A;

22 (2) A written simplified employee pension plan which conforms with the
23 applicable limitations and requirements of section 408 of the Internal Revenue
24 Code, 26 U.S.C. § 408;

25 (3) A cash or deferred arrangement which is a qualified plan pursuant to
26 the Internal Revenue Code;

27 (4) A trust forming part of a stock bonus, pension or profit-sharing plan
28 which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue
29 Code, 26 U.S.C. §§ 401 et seq.; and

30 (5) A trust forming part of a qualified tuition program pursuant to chapter
31 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS
32 and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is
33 deposited after the entry of a judgment against the purchaser or account owner or
34 the money will not be used by any beneficiary to attend a college or university.

35 (s) All money and other benefits paid pursuant to the order of a court of
36 competent jurisdiction for the support, education and maintenance of a child,
37 whether collected by the judgment debtor or the State.

38 (t) All money and other benefits paid pursuant to the order of a court of
39 competent jurisdiction for the support and maintenance of a former spouse,
40 including the amount of any arrearages in the payment of such support and
41 maintenance to which the former spouse may be entitled.

42 (u) Payments, in an amount not to exceed \$16,150, received as compensation
43 for personal injury, not including compensation for pain and suffering or actual
44 pecuniary loss, by the judgment debtor or by a person upon whom the judgment
45 debtor is dependent at the time the payment is received.

46 (v) Payments received as compensation for the wrongful death of a person
47 upon whom the judgment debtor was dependent at the time of the wrongful death,
48 to the extent reasonably necessary for the support of the judgment debtor and any
49 dependent of the judgment debtor.

50 (w) Payments received as compensation for the loss of future earnings of the
51 judgment debtor or of a person upon whom the judgment debtor is dependent at the
52 time the payment is received, to the extent reasonably necessary for the support of
53 the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A ~~beneficial~~ *distribution* interest in the trust as defined in NRS ~~163.4145 if the interest has not been distributed;~~ *163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;*

(2) A ~~remainder~~ *distribution* interest in the trust as defined in NRS ~~163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;~~

~~(3) A~~ *163.4155 that is a* discretionary interest ~~in the trust~~ as described in NRS 163.4185, if the interest has not been distributed;

~~(4)~~ (3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been ~~distributed or transferred;~~
~~(5)~~ *exercised;*

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been ~~distributed or transferred;~~

~~(6)~~ *exercised; and*

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been ~~distributed or transferred; and~~

~~(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.~~ *exercised.*

(dd) If a trust contains a spendthrift provision:

(1) A ~~mandatory~~ *distribution* interest in the trust as *defined in NRS 163.4155 that is a mandatory interest as* described in NRS 163.4185, if the interest has not been distributed; *and*

(2) Notwithstanding a beneficiary's right to enforce a support interest, a ~~support~~ *distribution* interest in the trust as *defined in NRS 163.4155 that is a support interest as* described in NRS 163.4185, if the interest has not been distributed. ~~;~~ *and*

~~(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.~~

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a

resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

☛ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary

residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust ~~that is a contingent interest, if the interest has not been distributed from the trust;~~ *that is a contingent interest, if the interest has not been distributed from the trust;* ~~satisfied or removed;~~

(b) A ~~remainder~~ *present or future* interest in the *income or principal of a* trust ~~{whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~—(c) A} for which~~ discretionary power *is* held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

~~{(d)}~~ (c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

~~{(e)}~~ (d) Certain powers held by a trust protector or certain other persons;

~~{(f)}~~ *and*

(e) Any power held by the person who created the trust. ~~}; and~~

~~—(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.~~

17. If a trust contains a spendthrift provision:

(a) A *present or future interest in the income or principal of a trust that is a* mandatory interest ~~[in the trust]~~ in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; *and*

(b) A *present or future interest in the income or principal of a trust that is a* support interest ~~[in the trust]~~ in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust. ~~[-and~~

~~—(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.]~~

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➤ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the

affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. NRS 41B.090 is hereby amended to read as follows:

41B.090 "Governing instrument" means any of the following:

1. A deed or any other instrument that transfers any property, interest or benefit.
2. An annuity or a policy of insurance.
3. A trust, whether created by an instrument executed during the life of the settlor, a testamentary instrument or any other instrument, judgment or decree, including, without limitation, any of the following:
 - (a) An express trust, whether private or charitable, and any additions to such a trust.
 - (b) A trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust.
4. A will, a codicil or any other testamentary instrument, including, without limitation, a testamentary instrument that:
 - (a) Appoints a person to serve in a fiduciary or representative capacity, nominates a guardian or revokes or revises another will, codicil or testamentary instrument; or
 - (b) Excludes or limits the right of a person or class of persons to succeed to any property, interest or benefit pursuant to the laws of intestate succession.
5. Any account or deposit that is payable or transferable on the death of a person or any instrument that provides for the payment or transfer of any property, interest or benefit on the death of a person.
6. A security registered as transferable on the death of a person. ~~for a security registered in beneficiary form pursuant to NRS 111.480 to 111.650, inclusive.~~
7. Any instrument creating or exercising a power of appointment or a durable or nondurable power of attorney.
8. Any instrument that appoints or nominates a person to serve in any fiduciary or representative capacity, including, without limitation, an agent, guardian, executor, personal representative or trustee.

9. Any public or private plan or system that entitles a person to the payment or transfer of any property, interest or benefit, including, without limitation, a plan or system that involves any of the following:

(a) Pension benefits, retirement benefits or other similar benefits.

(b) Profit-sharing or any other form of participation in profits, revenues, securities, capital or assets.

(c) Industrial insurance, workers' compensation or other similar benefits.

(d) Group insurance.

10. A partnership agreement or an agreement concerning any joint adventure, enterprise or venture.

11. A premarital, antenuptial or postnuptial agreement, a marriage contract or settlement or any other similar agreement, contract or settlement.

12. Any instrument that declares a homestead pursuant to chapter 115 of NRS.

13. Any other dispositive, appointive, nominative or declarative instrument.

Sec. 5. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 64, inclusive, of this act.

Sec. 6. *As used in sections 6 to 64, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 31, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7. *"Account" means an agreement of deposit between a depositor and a financial institution and includes a checking account, savings account, certificate of deposit and share account.*

Sec. 8. *"Agent" has the meaning ascribed to it in NRS 132.045.*

Sec. 9. *"Beneficiary" has the meaning ascribed to it in NRS 132.050.*

Sec. 10. *"Contract" includes an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account, custodial agreement, deposit agreement, compensation agreement, deferred compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement or other written instrument of a similar nature.*

Sec. 11. *"Devisee" has the meaning ascribed to it in NRS 132.100.*

Sec. 12. *"Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions and includes a bank, thrift company, trust company, savings bank, building and loan association, savings and loan company or association and credit union.*

Sec. 13. *"Governing instrument" has the meaning ascribed to it in NRS 132.155.*

Sec. 14. *"Heirs" has the meaning ascribed to it in NRS 132.165.*

Sec. 15. *"Held in beneficiary form" means the holding of property which has been registered in beneficiary form or another writing that names the owner of the property followed by a transfer-on-death direction and the designation of a beneficiary.*

Sec. 16. *"Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.*

Sec. 17. 1. *"Nonprobate transfer" means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:*

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;

(b) A transfer by deed upon death pursuant to NRS 111.109; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; and

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080.

Sec. 18. "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

Sec. 19. "Payment," as it relates to sums on deposit, includes withdrawal, payment to a party or third person pursuant to a check or other request and a pledge of sums on deposit by a party, or a set-off, reduction or other disposition of all or part of an account pursuant to a pledge.

Sec. 20. "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 21. "POD designation" means the designation of:

1. A beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all the parties to one or more beneficiaries; or

2. A beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

Sec. 22. "Receive," as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established or, if the terms of the account require notice at a particular place, in the place required.

Sec. 23. "Register in beneficiary form" means to title an account record, certificate or other written instrument evidencing ownership of property in the name of the owner followed by a transfer-on-death direction as described in section 42 of this act and the designation of a beneficiary.

Sec. 24. "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. For the purposes of sections 6 to 64, inclusive, of this act, if the terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

Sec. 25. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the jurisdiction of the United States.

Sec. 26. "Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.

Sec. 27. "Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the deposit.

Sec. 28. "Transferring entity" means a person who owes a debt or is obligated to pay money or benefits, render contract performance, deliver or convey property, or change the record of ownership of property on the books, records and accounts of an enterprise or on a certificate or document of title that

1 *evidences property rights, and includes any governmental agency or business*
2 *entity that, or transfer agent who, issues certificates of ownership or title to*
3 *property and a person acting as a custodial agent for an owner's property.*

4 **Sec. 29.** *"Trust" has the meaning ascribed to it in NRS 132.350.*

5 **Sec. 30.** *"Trustee" has the meaning ascribed to it in NRS 132.355.*

6 **Sec. 31.** *"Will" has the meaning ascribed to it in NRS 132.370.*

7 **Sec. 32.** *1. A provision for a nonprobate transfer on death in a contract is*
8 *nontestamentary and includes any written provision that:*

9 *(a) Money or other benefits due to, controlled by or owned by a decedent*
10 *before death must be paid after the decedent's death to a person whom the*
11 *decedent designates in the contract or in a separate writing, including a will,*
12 *executed before or at the same time as the contract, or later;*

13 *(b) Money due or to become due under the contract ceases to be payable in*
14 *the event of death of the promisee or the promisor before payment or demand; or*

15 *(c) Any property controlled by or owned by the decedent before death which*
16 *is the subject of the contract passes to a person whom the decedent designates in*
17 *the contract or in a separate writing, including a will, executed before or at the*
18 *same time as the contract, or later.*

19 *2. A nonprobate transfer described in subsection 1:*

20 *(a) Is exempt from the requirements of chapter 133 of NRS;*

21 *(b) Is not subject to administration as part of the person's estate at death;*

22 *(c) Is not subject to distribution pursuant to the decedent's will or pursuant*
23 *to chapter 134 of NRS, except to the extent that the beneficiary designation fails;*
24 *and*

25 *(d) May be established in conjunction with the ownership registration of an*
26 *asset, as provided in section 36 of this act.*

27 *3. A beneficiary designation that involves an interest in real property must*
28 *be done in the form of a deed that satisfies the requirements of NRS 111.109.*

29 *4. Upon a decedent's death:*

30 *(a) Money or other benefits due to, controlled by or owned by that decedent*
31 *before death must be paid after the decedent's death to the beneficiary whom the*
32 *decedent designates in the contract or in a separate writing, including a will,*
33 *executed before or at the same time as the contract, or later;*

34 *(b) If the contract provides that money due or to become due under the*
35 *contract ceases to be payable in the event of the death of the promisee or the*
36 *promisor before payment or demand, such provision is effective; and*

37 *(c) Any property controlled by or owned by the decedent before death which*
38 *is the subject of the contract passes to the beneficiary whom the decedent*
39 *designates in the contract or in a separate writing, including a will, executed*
40 *before or at the same time as the contract, or later.*

41 *5. Notwithstanding the provisions of this section to the contrary, a writing*
42 *separate from a contract is not effective to the extent it violates the terms of the*
43 *contract unless it is signed or otherwise ratified by all parties to the contract.*

44 *6. Nothing in sections 32 to 64, inclusive, of this act authorizes a married*
45 *person to transfer or otherwise affect the community property rights of that*
46 *person's spouse.*

47 **Sec. 33.** *For the purpose of discharging its duties under sections 32 to 46,*
48 *inclusive, of this act, the authority of a transferring entity acting as agent for an*
49 *owner of property subject to a nonprobate transfer does not cease at the death of*
50 *the owner. The transferring entity shall transfer the property to the designated*
51 *beneficiary in accordance with the contract between the transferring entity and*
52 *the deceased owner and with sections 32 to 46, inclusive, of this act.*

1 **Sec. 34. 1. Provision for a nonprobate transfer is a matter of agreement**
2 *between the owner and the transferring entity, under such rules, terms and*
3 *conditions as the owner and transferring entity may agree. Before a nonprobate*
4 *transfer is effective, the contract may require:*

5 *(a) Submission to the transferring entity of a beneficiary designation under a*
6 *governing instrument;*

7 *(b) Registration by a transferring entity of a transfer-on-death direction on*
8 *any certificate or record evidencing ownership of property;*

9 *(c) The consent of a contract obligor for a transfer of performance due*
10 *under the contract;*

11 *(d) The consent of a financial institution for a transfer of an obligation of*
12 *the financial institution;*

13 *(e) The consent of a transferring entity for a transfer of an interest in the*
14 *transferring entity; or*

15 *(f) Compliance with any other express condition.*

16 **2. Whenever a contract provision relating to a nonprobate transfer requires**
17 *any of the conditions set forth in subsection 1, nothing in sections 32 to 46,*
18 *inclusive, of this act imposes an obligation on a transferring entity to accept an*
19 *owner's request to make provision for a nonprobate transfer of property unless*
20 *the conditions have been met.*

21 **3. When a beneficiary designation, revocation or change is subject to**
22 *acceptance by a transferring entity, the transferring entity's acceptance of the*
23 *beneficiary designation, revocation or change relates back to and is effective as*
24 *of the time when the request was received by the transferring entity.*

25 **Sec. 35. When a transferring entity accepts a beneficiary designation or**
26 *beneficiary assignment or registers in beneficiary form certain property, the*
27 *acceptance or registration constitutes the agreement of the owner and*
28 *transferring entity that, unless the beneficiary designation is revoked or changed*
29 *before the death of the owner, on proof of the death of the owner and compliance*
30 *with the transferring entity's requirements for showing proof of entitlement, the*
31 *property will be transferred to and placed in the name and control of the*
32 *beneficiary in accordance with the beneficiary designation or transfer-on-death*
33 *direction, the agreement of the parties and the provisions of sections 32 to 46,*
34 *inclusive, of this act.*

35 **Sec. 36. A beneficiary designation, under a written instrument or law, that**
36 *authorizes a transfer of property pursuant to a written designation of beneficiary*
37 *transfers the right to receive the property to the designated beneficiary who*
38 *survives, effective on the death of the owner, if the beneficiary designation is*
39 *executed and delivered in proper form to the transferring entity before the death*
40 *of the owner.*

41 **Sec. 37. 1. A written assignment of a contract right which assigns the**
42 *right to receive any performance remaining due under the contract to an assignee*
43 *designated by the owner and which expressly states that the assignment is not to*
44 *take effect until the death of the owner transfers the right to receive performance*
45 *due under the contract to the designated assignee beneficiary, effective on the*
46 *death of the owner, if the assignment is executed and delivered in proper form to*
47 *the contract obligor before the death of the owner or is executed in proper form*
48 *and acknowledged before a notary public or other person authorized to*
49 *administer oaths. A beneficiary assignment need not be supported by*
50 *consideration or be delivered to the assignee beneficiary.*

51 **2. This section does not preclude other methods of assignment which are**
52 *authorized by law and which have the effect of postponing enjoyment of a*
53 *contract right until the death of the owner.*

1 **Sec. 38. 1.** *A deed of gift, bill of sale or other writing intended to transfer*
2 *an interest in tangible personal property which expressly states that the transfer is*
3 *not to take effect until the death of the owner transfers ownership to the*
4 *designated transferee beneficiary, effective on the death of the owner, if the*
5 *instrument is in other respects sufficient to transfer the type of property involved*
6 *and is executed by the owner and acknowledged before a notary public or other*
7 *person authorized to administer oaths. A beneficiary transfer instrument need not*
8 *be supported by consideration or be delivered to any transferee beneficiary.*

9 2. *This section does not preclude other methods of transferring ownership*
10 *of tangible personal property which are authorized by law and which have the*
11 *effect of postponing enjoyment of property until the death of the owner.*

12 **Sec. 39. 1.** *A transferor of property, with or without consideration, may*
13 *directly transfer the property to a transferee to be held in beneficiary form, as*
14 *owner of the property.*

15 2. *A transferee under an instrument described in subsection 1 of section 32*
16 *of this act is the owner of the property for all purposes and has all the rights to*
17 *the property otherwise provided by law to owners, including the right to revoke or*
18 *change the beneficiary designation.*

19 3. *A direct transfer of property to a transferee to be held in beneficiary form*
20 *is effective when the writing perfecting the transfer becomes effective to make the*
21 *transferee the owner.*

22 **Sec. 40. 1.** *Before the death of the owner, a designated beneficiary has no*
23 *rights in the property by reason of the beneficiary designation and the signature*
24 *or agreement of the beneficiary is not required for any transaction respecting the*
25 *property.*

26 2. *On the death of one of two or more joint owners, property with respect to*
27 *which a beneficiary designation has been made belongs to the surviving joint*
28 *owner or owners and the right of survivorship continues as between two or more*
29 *surviving joint owners.*

30 3. *On the death of a sole owner, property passes by operation of law to the*
31 *beneficiary.*

32 4. *If two or more beneficiaries survive, there is no right of survivorship*
33 *among the beneficiaries in the event of the death of a beneficiary thereafter*
34 *unless the beneficiary designation expressly provides for survivorship among*
35 *them and, unless so expressly provided, surviving beneficiaries hold their*
36 *separate interests in the property as tenants in common. The share of any*
37 *subsequently deceased beneficiary belongs to that beneficiary's estate.*

38 5. *If no beneficiary survives the owner, the property belongs to the estate of*
39 *the owner.*

40 **Sec. 41. 1.** *Unless a beneficiary designation is expressly made*
41 *irrevocable, a beneficiary designation may be revoked or changed in whole or in*
42 *part during the lifetime of the owner. A revocation or change of a beneficiary*
43 *designation involving property of joint owners may only be made with the*
44 *agreement of all owners then living.*

45 2. *A subsequent beneficiary designation revokes a previous beneficiary*
46 *designation unless the subsequent beneficiary designation expressly provides*
47 *otherwise.*

48 3. *A revocation or change in a beneficiary designation must comply with*
49 *the terms of the governing instrument, the rules of the transferring entity and the*
50 *applicable law.*

51 4. *A beneficiary designation may not be revoked or changed by the*
52 *provisions of a will unless the beneficiary designation expressly grants the owner*
53 *the right to revoke or change a beneficiary designation by will. If a beneficiary*

1 *designation is revoked by will, it must be revoked by an express provision in the*
2 *will and extrinsic evidence is not admissible to establish the testator's intent*
3 *concerning the beneficiary designation.*

4 *5. A transfer during the owner's lifetime of the owner's interest in property,*
5 *with or without consideration, terminates the beneficiary designation with respect*
6 *to the property transferred.*

7 *6. The effective date of a revocation or change in a beneficiary designation*
8 *must be determined in the same manner as the effective date of a beneficiary*
9 *designation.*

10 **Sec. 42.** *1. Property may be held in beneficiary form or registered in*
11 *beneficiary form by including in the name in which the property is held or*
12 *registered a direction to transfer the property on the death of the owner to a*
13 *beneficiary designated by the owner.*

14 *2. Property is registered in beneficiary form by showing on the account*
15 *record, security certificate or written instrument evidencing ownership of the*
16 *property the name of the owner, and the form of ownership by which two or more*
17 *joint owners hold the property, followed in substance by the words "transfer on*
18 *death to..... (name of beneficiary)." In lieu of the words "transfer on death*
19 *to," the words "pay on death to" or "pay on death to the owner's lineal*
20 *descendants, per stirpes" or the abbreviation "TOD," "POD" or "LDPS" may be*
21 *used. The designation of a person's heirs as beneficiaries does not make the*
22 *property subject to administration as part of the person's estate, but the identities*
23 *of the beneficiaries must be determined pursuant to chapter 134 of NRS as they*
24 *relate to the owner's separate property.*

25 *3. A transfer-on-death direction may only be placed on an account record,*
26 *security certificate or instrument evidencing ownership of property by the*
27 *transferring entity or a person authorized by the transferring entity.*

28 *4. A transfer-on-death direction transfers the owner's interest in the*
29 *property to the designated beneficiary, effective on the death of the owner, if the*
30 *property is registered in beneficiary form before the death of the owner or if the*
31 *request to make the transfer-on-death direction is delivered in proper form to the*
32 *transferring entity before the death of the owner.*

33 *5. An account record, security certificate or written instrument evidencing*
34 *ownership of property that contains a transfer-on-death direction written as part*
35 *of the name in which the property is held or registered is conclusive evidence in*
36 *the absence of fraud, duress, undue influence or evidence of clerical mistake by*
37 *the transferring entity that the direction was regularly made by the owner and*
38 *accepted by the transferring entity and was not revoked or changed before the*
39 *death giving rise to the transfer. The transferring entity has no obligation to*
40 *retain the original writing, if any, by which the owner caused the property to be*
41 *held in beneficiary form or registered in beneficiary form, more than 6 months*
42 *after the transferring entity has mailed or delivered to the owner, at the address*
43 *shown on the registration, an account statement, certificate or instrument that*
44 *shows the manner in which the property is held in beneficiary form or registered*
45 *in beneficiary form.*

46 **Sec. 43.** *Any interest in property that would be distributed by nonprobate*
47 *transfer to or for a beneficiary who is disqualified as a beneficiary pursuant to*
48 *chapter 41B of NRS must be transferred as if the disqualified beneficiary had*
49 *disclaimed the interest immediately upon the decedent's death.*

50 **Sec. 44.** *An agent, guardian of the person or other fiduciary may not make,*
51 *revoke or change a beneficiary designation unless:*

1 1. The power of attorney or other document establishing the agent,
2 guardian or other fiduciary's right to act or a court order expressly authorizes
3 such action; and

4 2. The action complies with the terms of the governing instrument, the rules
5 of the transferring entity and applicable law.

6 Sec. 45. If property subject to a beneficiary designation is lost, destroyed,
7 damaged or involuntarily converted during the owner's lifetime, the beneficiary
8 succeeds to any right with respect to the loss, destruction, damage or involuntary
9 conversion which the owner would have had if the owner had survived but has no
10 interest in any payment or substitute property received by the owner during the
11 owner's lifetime.

12 Sec. 46. 1. Except as otherwise provided in NRS 21.090 and other
13 applicable law, a transferee of a nonprobate transfer is liable to the probate estate
14 of the decedent for allowed claims against that decedent's probate estate to the
15 extent the estate is insufficient to satisfy those claims.

16 2. The liability of a nonprobate transferee may not exceed the value of
17 nonprobate transfers received or controlled by that transferee.

18 3. Nonprobate transferees are liable for the insufficiency described in
19 subsection 1 in the following order of priority:

20 (a) A transferee specified in the decedent's will or any other governing
21 instrument as being liable for such an insufficiency, in the order of priority
22 provided in the will or other governing instrument;

23 (b) The trustee of a trust serving as the principal nonprobate instrument in
24 the decedent's estate plan as shown by its designation as devisee of the decedent's
25 residuary estate or by other facts or circumstances, to the extent of the value of
26 the nonprobate transfer received or controlled; and

27 (c) Other nonprobate transferees, in proportion to the values received.

28 4. Unless otherwise provided by the trust instrument, interests of
29 beneficiaries in all trusts incurring liabilities under this section abate as
30 necessary to satisfy the liability, as if all the trust instruments were a single will
31 and the interests were devised under it.

32 5. If a nonprobate transferee is a spouse or a minor child, the nonprobate
33 transferee may petition the court to be excluded from the liability imposed by this
34 section as if the nonprobate property received by the spouse or minor child were
35 part of the decedent's estate. Such a petition may be made pursuant to the
36 applicable provisions of chapter 146 of NRS, including, without limitation, the
37 provisions of NRS 146.010, NRS 146.020 without regard to the filing of an
38 inventory and subsection 2 of NRS 146.070.

39 6. A provision made in one instrument may direct the apportionment of the
40 liability among the nonprobate transferees taking under that or any other
41 governing instrument. If a provision in one instrument conflicts with a provision
42 in another, the later one prevails.

43 7. Upon due notice to a nonprobate transferee, the liability imposed by this
44 section is enforceable in probate proceedings in this State, whether or not the
45 transferee is located in this State.

46 8. If a probate proceeding is pending, a proceeding under this section may
47 be commenced by the personal representative of the decedent's estate or, if the
48 personal representative declines to do so, by a creditor in the name of the
49 decedent's estate, at the expense of the creditor and not of the estate. If a creditor
50 successfully establishes an entitlement to payment under this section, the court
51 must order the reimbursement of the costs reasonably incurred by the creditor,
52 including attorney's fees, from the transferee from whom the payment is to be
53 made, subject to the limitations of subsection 2, or from the estate as a cost of

1 *administration, or partially from each, as the court deems just. A personal*
2 *representative who declines in good faith to commence a requested proceeding*
3 *incurs no personal liability for declining.*

4 *9. If a probate proceeding is not pending, a proceeding under this section*
5 *may be commenced as a civil action by a creditor at the expense of the creditor.*

6 *10. If a proceeding is commenced pursuant to this section, it must be*
7 *commenced:*

8 *(a) As to a creditor whose claim was allowed after proceedings challenging*
9 *disallowance of the claim by the personal representative, within 60 days after*
10 *final allowance of the claim by the probate court or within 1 year after the*
11 *decedent's death, whichever is later.*

12 *(b) As to a creditor whose claim against the decedent is being adjudicated in*
13 *a separate proceeding that is still pending 1 year after the decedent's death,*
14 *within 60 days after the adjudication of the claim in favor of the creditor is final*
15 *and no longer subject to reconsideration or appeal.*

16 *(c) As to the recovery of benefits paid for Medicaid, within 3 years after the*
17 *decedent's death.*

18 *(d) As to all other creditors, within 1 year after the decedent's death.*

19 *11. Unless a written notice asserting that a decedent's probate estate is*
20 *nonexistent or insufficient to pay allowed claims and statutory allowances has*
21 *been received from the decedent's personal representative, the following rules*
22 *apply:*

23 *(a) Payment or delivery of assets by a financial institution, registrar or other*
24 *obligor to a nonprobate transferee in accordance with the terms of the governing*
25 *instrument controlling the transfer releases the obligor from all claims for*
26 *amounts paid or assets delivered.*

27 *(b) A trustee receiving or controlling a nonprobate transfer is released from*
28 *liability under this section with respect to any assets distributed to the trust's*
29 *beneficiaries. Each beneficiary to the extent of the distribution received becomes*
30 *liable for the amount of the trustee's liability attributable to assets received by the*
31 *beneficiary.*

32 *12. Notwithstanding any provision of this section to the contrary:*

33 *(a) A creditor has no claim against property transferred pursuant to a power*
34 *of appointment exercised by a decedent unless it was exercisable in favor of the*
35 *decedent or the decedent's estate.*

36 *(b) A purchaser for value of property or a lender who acquires a security*
37 *interest in the property from a beneficiary of a nonprobate transfer after the*
38 *death of the owner, in good faith:*

39 *(1) Takes the property free of any claims or of liability to the owner's*
40 *estate, creditors of the owner's estate, persons claiming rights as beneficiaries*
41 *under the nonprobate transfer or heirs of the owner's estate, in absence of actual*
42 *knowledge that the transfer was improper; and*

43 *(2) Has no duty to verify sworn information relating to the nonprobate*
44 *transfer. The protection provided by this subparagraph applies to information*
45 *that relates to the ownership interest of the beneficiary in the property and the*
46 *beneficiary's right to sell, encumber and transfer good title to a purchaser or*
47 *lender and does not relieve a purchaser or lender from the notice imparted by*
48 *instruments of record respecting the property.*

49 *13. As used in this section, "devise" has the meaning ascribed to it in NRS*
50 *132.095.*

51 **Sec. 47. 1. Except as otherwise provided by the express terms of a**
52 **governing instrument, a court order or a contract relating to the division of the**

1 *marital estate made between the divorced persons before or after the marriage,*
2 *divorce or annulment, the divorce or annulment of a marriage:*

3 *(a) Revokes any revocable:*

4 *(1) Disposition or appointment of property made by a divorced person to*
5 *his or her former spouse in a governing instrument and any disposition or*
6 *appointment created by law or in a governing instrument to a relative of the*
7 *divorced person's former spouse;*

8 *(2) Provision in a governing instrument conferring a general or*
9 *nongeneral power of appointment on the divorced person's former spouse or on a*
10 *relative of the divorced person's former spouse; and*

11 *(3) Nomination in a governing instrument that nominates a divorced*
12 *person's former spouse or a relative of the divorced person's former spouse to*
13 *serve in any fiduciary or representative capacity, including a personal*
14 *representative capacity, including a personal representative, executor, trustee,*
15 *conservator, agent or guardian; and*

16 *(b) Severs the interest of the former spouses in property held by them at the*
17 *time of the divorce or annulment as joint tenants with the right of survivorship or*
18 *as community property with a right of survivorship and transforms the interests*
19 *of the former spouses into equal tenancies in common.*

20 *2. A severance under paragraph (b) of subsection 1 does not affect any*
21 *third-party interest in property acquired for value and in good faith reliance on*
22 *an apparent title by survivorship in the survivor of the former spouses unless a*
23 *writing declaring the severance has been noted, registered, filed or recorded in*
24 *records appropriate to the kind and location of the property which records are*
25 *relied upon, in the ordinary course of transactions involving such property, as*
26 *evidence of ownership.*

27 *3. The provisions of a governing instrument are given effect as if the former*
28 *spouse and relatives of the former spouse disclaimed all provisions revoked by*
29 *this section or, in the case of a revoked nomination in a fiduciary or*
30 *representative capacity, as if the former spouse and relatives of the former spouse*
31 *died immediately before the divorce or annulment.*

32 *4. Any provisions revoked solely by this section are revived by the divorced*
33 *person's remarriage to the former spouse or by a nullification of the divorce or*
34 *annulment.*

35 *5. Unless a court in an action commenced pursuant to chapter 125 of NRS*
36 *specifically orders otherwise, a restraining order entered pursuant to NRS*
37 *125.050 does not preclude a party to such an action from making or changing*
38 *beneficiary designations that specify who will receive the party's assets upon the*
39 *party's death.*

40 *6. A payor or other third party is not liable for having made a payment or*
41 *transferred an item of property or any other benefit to a beneficiary designated in*
42 *a governing instrument affected by the provisions of this section or for having*
43 *taken any other action in good faith reliance on the validity of the governing*
44 *instrument before the payor or other third party received written or actual notice*
45 *of any event affecting a beneficiary designation. A payor or other third party is*
46 *liable for a payment made or other action taken after the payor or other third*
47 *party received written or actual notice of a claimed forfeiture or revocation under*
48 *this section.*

49 *7. Written notice of the divorce, annulment or remarriage or written notice*
50 *of a complaint or petition for divorce or annulment must be mailed to the payor's*
51 *or other third party's main office or home by registered or certified mail, return*
52 *receipt requested, or served upon the payor or other third party in the same*
53 *manner as a summons in a civil action. Upon receipt of written notice of the*

1 *divorce, annulment or remarriage, a payor or other third party may pay any*
2 *amount owed or transfer or deposit any item of property held by it to or with the*
3 *court having jurisdiction of the probate proceedings relating to the decedent's*
4 *estate or, if no proceedings have been commenced, to or with the court having*
5 *jurisdiction of probate proceedings relating to decedents' estates located in the*
6 *county of the decedent's residence. The court shall hold the funds or item of*
7 *property and, upon its determination under this section, shall order disbursement*
8 *or transfer in accordance with the determination. Payments, transfers or deposits*
9 *made to or with the court discharge the payor or other third party from all claims*
10 *for the value of amounts paid to or items of property transferred to or deposited*
11 *with the court.*

12 8. *A person who purchases property from a former spouse, relative of a*
13 *former spouse or any other person for value and without notice, or who receives*
14 *from a former spouse, relative of a former spouse or any other person a payment*
15 *or other item of property in partial or full satisfaction of a legally enforceable*
16 *obligation, is neither obligated under this section to return the payment, item of*
17 *property or benefit nor is liable under this section for the amount of the payment*
18 *or the value of the item of property or benefit. A former spouse, relative of a*
19 *former spouse or other person who, not for value, received a payment, item of*
20 *property or any other benefit to which that person is not entitled under this*
21 *section is obligated to return the payment, item of property or benefit or is*
22 *personally liable for the amount of the payment or the value of the item of*
23 *property or benefit to the person who is entitled to it under this section.*

24 9. *If this section or any part of this section is preempted by federal law with*
25 *respect to a payment, an item of property or any other benefit covered by this*
26 *section, a former spouse, relative of the former spouse or any other person who,*
27 *not for value, received a payment, item of property or any other benefit to which*
28 *that person is not entitled under this section is obligated to return that payment,*
29 *item of property or benefit or is personally liable for the amount of the payment*
30 *or the value of the item of property or benefit to the person who would have been*
31 *entitled to it were this section or part of this section not preempted.*

32 10. *As used in this section:*

33 (a) *"Disposition or appointment of property" includes a transfer of an item*
34 *of property or any other benefit to a beneficiary designated in a governing*
35 *instrument.*

36 (b) *"Divorce or annulment" means any divorce or annulment or any*
37 *dissolution or declaration of invalidity of a marriage. A decree of separation that*
38 *does not terminate the status of husband and wife is not a divorce for purposes of*
39 *this section.*

40 (c) *"Divorced person" includes a person whose marriage has been annulled.*

41 (d) *"Governing instrument" means a governing instrument executed by a*
42 *divorced person before the divorce or annulment of the person's marriage to the*
43 *person's former spouse.*

44 (e) *"Relative of the divorced person's former spouse" means a person who is*
45 *related to the divorced person's former spouse by blood, adoption or affinity and*
46 *who, after the divorce or annulment, is not related to the divorced person by*
47 *blood, adoption or affinity.*

48 (f) *"Revocable," with respect to a disposition, appointment, provision or*
49 *nomination, means one under which the divorced person, at the time of the*
50 *divorce or annulment, was alone empowered, by law or under the governing*
51 *instrument, to cancel the designation in favor of the person's former spouse or*
52 *former spouse's relative, whether or not the divorced person was then empowered*
53 *to designate himself or herself in place of his or her former spouse or in place of*

his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power.

Sec. 48. *The provisions of sections 48 to 64, inclusive, of this act:*

1. *Apply to accounts in financial institutions in this State for which ownership is determined under Nevada law.*

2. *Do not apply to:*

(a) *An account established for a partnership, joint venture or other organization for a business purpose;*

(b) *An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association or charitable or civic organization; or*

(c) *A fiduciary or trust account in which the relationship is established other than by the terms of the account.*

Sec. 49. 1. *An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to subsection 3 of section 54 of this act, a single-party account or a multiple-party account may have a POD designation or an agency designation, or both.*

2. *An account established before, on or after October 1, 2011, whether in the form prescribed in subsection 1 of section 50 of this act or in any other form, is a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, and is governed by sections 48 to 64, inclusive, of this act.*

Sec. 50. 1. *An agreement of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to an account of that type:*

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

PARTIES [Name one or more parties]:.....

OWNERSHIP [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

..... **MULTIPLE-PARTY ACCOUNT**

Parties own the account in proportion to net contributions, unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select one and initial]:

..... **SINGLE-PARTY ACCOUNT**

At death of party, ownership passes as part of party's estate.

..... **SINGLE-PARTY ACCOUNT WITH POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

.....
At death of party, ownership passes to POD beneficiaries and is not part of party's estate but may be subject to party's creditors.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY-ON-DEATH) DESIGNATION**

[Name one or more beneficiaries]:

At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

..... MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To add agency designation to account, name one or more agents]:

[Select one and initial]:

*..... AGENCY DESIGNATION SURVIVES
DISABILITY OR INCAPACITY OF PARTIES*

*..... AGENCY DESIGNATION TERMINATES ON
DISABILITY OR INCAPACITY OF PARTIES*

2. An agreement of deposit that does not contain provisions in substantially the form provided in this section is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to the type of account that most nearly conforms to the depositor's intent.

Sec. 51. 1. *By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party to the account.*

2. Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

3. The death of the sole party or last surviving party terminates the authority of an agent.

4. Any designation of an agent on an account is revocable and may be superseded by a subsequent designation:

(a) With regard to a single-party account, by the party; and

(b) With regard to a multiple-party account, by the parties or a surviving party.

Any designation of an agent is superseded by an acknowledged power of attorney, as described in chapter 162A of NRS, when a copy of that power of attorney is delivered to the financial institution.

Sec. 52. *The provisions of sections 52 to 57, inclusive, of this act concerning beneficial ownership as between parties or as between parties and beneficiaries:*

1. Apply only to controversies between those persons and their creditors and other successors.

2. Do not apply to the right of those persons to payment as determined by the terms of the account.

Sec. 53. 1. *During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between*

1 *parties married to each other, in the absence of proof otherwise, the net*
2 *contribution of each is presumed to be an equal amount.*

3 2. *A beneficiary in an account having a POD designation has no right to*
4 *sums on deposit during the lifetime of any party.*

5 3. *An agent in an account with an agency designation has no beneficial*
6 *right to sums on deposit.*

7 4. *As used in this section, "net contribution" of a party means the sum of all*
8 *deposits to an account made by or for the party, less all payments from the*
9 *account made to or for the party which have not been paid to or applied to the use*
10 *of another party and a proportionate share of any charges deducted from the*
11 *account, plus a proportionate share of any interest or dividends earned, whether*
12 *or not included in the current balance. The term includes any deposit life*
13 *insurance proceeds added to the account by reason of the death of the party*
14 *whose net contribution is in question.*

15 **Sec. 54. 1.** *Except as otherwise provided in sections 48 to 64, inclusive, of*
16 *this act or in an applicable contract, on the death of a party, sums on deposit in a*
17 *multiple-party account belong to the surviving party or parties. If two or more*
18 *parties survive and one is the surviving spouse of the decedent, the amount to*
19 *which the decedent, immediately before death, was beneficially entitled under*
20 *section 53 of this act belongs to the surviving spouse. If two or more parties*
21 *survive and none is the surviving spouse of the decedent, the amount to which the*
22 *decedent, immediately before death, was beneficially entitled under section 53 of*
23 *this act belongs to the surviving parties in equal shares and augments the*
24 *proportion to which each survivor, immediately before the decedent's death, was*
25 *beneficially entitled under section 53 of this act, and the right of survivorship*
26 *continues between the surviving parties.*

27 2. *In an account with a POD designation:*

28 (a) *On the death of one of two or more parties, the rights in sums on deposit*
29 *are governed by subsection 1.*

30 (b) *On the death of the sole party or the last survivor of two or more parties,*
31 *sums on deposit belong to the surviving beneficiary or beneficiaries. If two or*
32 *more beneficiaries survive, sums on deposit belong to them in equal and*
33 *undivided shares and there is no right of survivorship in the event of the death of*
34 *a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the*
35 *estate of the last surviving party.*

36 3. *Sums on deposit in a single-party account without a POD designation, or*
37 *in a multiple-party account that, by the terms of the account, is without right of*
38 *survivorship, are not affected by the death of a party, but the amount to which the*
39 *decedent, immediately before death, was beneficially entitled under section 53 of*
40 *this act is transferred as part of the decedent's estate. A POD designation in a*
41 *multiple-party account without right of survivorship is ineffective. For the*
42 *purposes of this section, the designation of an account as a tenancy in common*
43 *establishes that the account is without right of survivorship.*

44 4. *The ownership right of a surviving party or beneficiary, or of the*
45 *decedent's estate, in sums on deposit is subject to requests for payment made by a*
46 *party before the party's death, whether paid by the financial institution before or*
47 *after the death, or unpaid. The surviving party or beneficiary, or the decedent's*
48 *estate, is liable to the payee of an unpaid request for payment. The liability is*
49 *limited to a proportionate share of the amount transferred under this section, to*
50 *the extent necessary to discharge the request for payment.*

51 **Sec. 55. 1.** *The rights at death under section 54 of this act are determined*
52 *by the type of account at the death of a party. The type of account may be altered*
53 *by written notice given by a party to the financial institution to change the type of*

1 *account or to stop or vary payment under the terms of the account. The notice*
2 *must be signed by a party and received by the financial institution during the*
3 *party's lifetime.*

4 *2. A right of survivorship arising from the express terms of the account,*
5 *section 54 of this act or a POD designation may not be altered by a will.*

6 *Sec. 56. A transfer resulting from the application of section 54 of this act is*
7 *effective by reason of the terms of the account involved and sections 48 to 64,*
8 *inclusive, of this act and is not testamentary or subject to estate administration.*
9 *Nonprobate transfers are effective with or without consideration.*

10 *Sec. 57. A deposit of community property in an account does not alter the*
11 *community character of the property or community rights in the property, but a*
12 *right of survivorship between parties married to each other arising from the*
13 *express terms of the account or section 54 of this act may not be altered by a will.*

14 *Sec. 58. A financial institution may enter into an agreement of deposit for*
15 *a multiple-party account to the same extent it may enter into an agreement of*
16 *deposit for a single-party account, and may provide for a POD designation and*
17 *an agency designation in a single-party account or a multiple-party account. A*
18 *financial institution need not inquire as to the source of a deposit to an account*
19 *or as to the proposed application of a payment from an account.*

20 *Sec. 59. A financial institution, on request, may pay sums on deposit in a*
21 *multiple-party account to:*

22 *1. One or more of the parties, whether or not another party is disabled,*
23 *incapacitated or deceased when payment is requested and whether or not the*
24 *party making the request survives another party; or*

25 *2. The personal representative, if any, or, if there is none, the heirs or*
26 *devisees of a deceased party if proof of death is presented to the financial*
27 *institution showing that the deceased party was the survivor of all other persons*
28 *named on the account as a party or beneficiary, unless the account is without*
29 *right of survivorship under section 49 of this act.*

30 *Sec. 60. A financial institution, on request, may pay sums on deposit in an*
31 *account with a POD designation to:*

32 *1. One or more of the parties, whether or not another party is disabled,*
33 *incapacitated or deceased when the payment is requested and whether or not a*
34 *party survives another party;*

35 *2. The beneficiary or beneficiaries, if proof of death is presented to the*
36 *financial institution showing that the beneficiary or beneficiaries survived all*
37 *persons named as parties; or*

38 *3. The personal representative, if any, or, if there is none, the heirs or*
39 *devisees of a deceased party, if proof of death is presented to the financial*
40 *institution showing that the deceased party was the survivor of all other persons*
41 *named on the account as a party or beneficiary.*

42 *Sec. 61. A financial institution, on request of an agent under an agency*
43 *designation for an account, may pay to the agent sums on deposit in the account,*
44 *whether or not a party is disabled, incapacitated or deceased when the request is*
45 *made or received, and whether or not the authority of the agent terminates on the*
46 *disability or incapacity of a party.*

47 *Sec. 62. If a financial institution is required or authorized to make payment*
48 *pursuant to sections 48 to 64, inclusive, of this act to a minor designated as a*
49 *beneficiary, payment may be made pursuant to Nevada's Uniform Act on*
50 *Transfers to Minors, as set forth in chapter 167 of NRS, or an equivalent law in*
51 *another jurisdiction.*

52 *Sec. 63. 1. Payment made pursuant to sections 48 to 64, inclusive, of this*
53 *act, in accordance with the type of account, discharges the financial institution*

1 *from all claims for amounts so paid, whether or not the payment is consistent*
2 *with the beneficial ownership of the account as between parties, beneficiaries or*
3 *their successors. Payment may be made whether or not a party, beneficiary or*
4 *agent is disabled, incapacitated or deceased when payment is requested, received*
5 *or made.*

6 *2. Protection under this section does not extend to payments made after a*
7 *financial institution has received written notice from a party, or from the*
8 *personal representative, surviving spouse, or heir or devisee of a deceased party,*
9 *to the effect that payments in accordance with the terms of the account, including*
10 *one having an agency designation, should not be authorized, and the financial*
11 *institution has had a reasonable opportunity to act on it when the payment is*
12 *made. Unless the notice is withdrawn by the person giving it, the successor of any*
13 *deceased party must concur in a request for payment if the financial institution is*
14 *to be protected under this section. Unless a financial institution has been served*
15 *with process in an action or proceeding, no other notice or other information*
16 *shown to have been available to the financial institution affects its right to*
17 *protection under this section.*

18 *3. A financial institution that receives written notice pursuant to this section*
19 *or otherwise has reason to believe that a dispute exists as to the rights of the*
20 *parties may refuse, without liability, to make payments in accordance with the*
21 *terms of the account.*

22 *4. Protection of a financial institution under this section does not affect the*
23 *rights of parties in disputes between themselves or their successors concerning*
24 *the beneficial ownership of sums on deposit in accounts or payments made from*
25 *accounts.*

26 **Sec. 64.** *A beneficiary of a nonprobate transfer takes the owner's interest*
27 *in the property at death, subject to all conveyances, assignments, contracts,*
28 *setoffs, licenses, easements, liens and security interests made by the owner or to*
29 *which the owner was subject during the owner's lifetime. Subject to the limitation*
30 *of subsection 2 of section 46:*

31 *1. A beneficiary of a nonprobate transfer of an account with a bank,*
32 *savings and loan association, credit union, broker or mutual fund takes the*
33 *owner's interest in the property at death, subject to all requests for payment of*
34 *money issued by the owner before death, whether paid by the transferring entity*
35 *before or after the death or unpaid.*

36 *2. The beneficiary is liable to the payee of an unsatisfied request for*
37 *payment, to the extent that it represents an obligation that was enforceable*
38 *against the owner during the owner's lifetime. To the extent that a claim properly*
39 *paid by the personal representative of the owner's estate includes the amount of*
40 *an unsatisfied request for payment to the claimant, the personal representative is*
41 *subrogated to the rights of the claimant as payee.*

42 *3. Each beneficiary's liability with respect to an unsatisfied request for*
43 *payment is limited to the same proportionate share of the request for payment as*
44 *the beneficiary's proportionate share of the account under the beneficiary*
45 *designation. Beneficiaries have the right of contribution among themselves with*
46 *respect to requests for payment which are satisfied after the death of the owner,*
47 *to the extent the requests for payment would have been enforceable by the payees.*

48 *4. In no event may a beneficiary's liability to payees, to the owner's estate*
49 *and to other beneficiaries pursuant to this section, with respect to all requests for*
50 *payment, exceed the value of the account received by the beneficiary. If a request*
51 *for payment which would not have been enforceable under this section is satisfied*
52 *from a beneficiary's share of the account, the beneficiary:*

(a) Is not liable to any other payee or the owner's estate pursuant to this section for the amount so paid; and

(b) Has no right of contribution against other beneficiaries with respect to that amount.

Sec. 65. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonprobate transfer" has the meaning ascribed to it in section 17 of this act.

Sec. 66. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, *and section 65 of this act* have the meanings ascribed to them in those sections.

Sec. 67. NRS 132.050 is hereby amended to read as follows:

132.050 "Beneficiary," as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;

2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of ~~an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit-sharing, retirement or similar benefit plan or other~~ *any* nonprobate transfer; ~~at death;~~ and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

but does not include a person who receives less than \$100 under a will.

Sec. 68. NRS 132.090 is hereby amended to read as follows:

132.090 "Designation of beneficiary" means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer. ~~at death.~~

Sec. 69. NRS 132.185 is hereby amended to read as follows:

132.185 *1.* "Interested person" includes, without limitation, an heir, devisee, child, spouse, creditor, *settlor*, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

2. The term does not include:

(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.

(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.

(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.

1 **Sec. 70.** Chapter 133 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 *Except to the extent that it violates public policy, a testator may:*

4 1. *Make a devise conditional upon a devisee's action or failure to take*
5 *action or upon the occurrence or nonoccurrence of one or more specified events;*
6 *and*

7 2. *Specify the conditions or actions which would disqualify a person from*
8 *serving or which would constitute cause for removal of a person who is serving in*
9 *any capacity under the will, including, without limitation, as a personal*
10 *representative, guardian or trustee.*

11 **Sec. 71.** NRS 133.200 is hereby amended to read as follows:

12 133.200 ~~[When any estate is devised to any child or other relation of the~~
13 ~~testator, and the devisee dies before the testator, leaving lineal descendants, those~~
14 ~~descendants, in]~~ *In the absence of a provision in the will to the contrary, [take the*
15 ~~estate so given by the will in the same manner as the devisee would have done if~~
16 ~~the devisee had survived the testator.] if any beneficiary who is a descendant of~~
17 ~~the testator dies before the testator, leaving lineal descendants, the property,~~
18 ~~share or beneficial interest that would have been distributed or allocated to that~~
19 ~~deceased beneficiary must be distributed or allocated to that beneficiary's~~
20 ~~descendants then living, by right of representation, to be distributed under the~~
21 ~~same terms that would have applied to the deceased beneficiary.~~

22 **Sec. 72.** Chapter 136 of NRS is hereby amended by adding thereto a new
23 section to read as follows:

24 *The provisions of section 47 of this act concerning the revocation of certain*
25 *transfers based upon divorce or annulment apply to transfers of property made*
26 *pursuant to a will.*

27 **Sec. 73.** NRS 137.005 is hereby amended to read as follows:

28 137.005 1. Except as otherwise provided in subsections 3 and 4, a no-
29 contest clause in a will must be enforced by the court.

30 2. A no-contest clause must be construed to carry out the testator's intent.
31 Except to the extent the will is vague or ambiguous, extrinsic evidence is not
32 admissible to establish the testator's intent concerning the no-contest clause. The
33 provisions of this subsection do not prohibit such evidence from being admitted for
34 any other purpose authorized by law. *Except as otherwise provided in subsections*
35 *3 and 4, a devisee's share may be reduced or eliminated under a no-contest*
36 *clause based upon conduct that is set forth by the testator in the will, including,*
37 *without limitation, any testamentary trust established in the will. Such conduct*
38 *may include, without limitation:*

39 (a) *Conduct other than formal court action; and*

40 (b) *Conduct which is unrelated to the will itself, including, without*
41 *limitation:*

42 (1) *The commencement of civil litigation against the testator's probate*
43 *estate or family members;*

44 (2) *Interference with the administration of a trust or a business entity;*

45 (3) *Efforts to frustrate the intent of the testator's power of attorney; and*

46 (4) *Efforts to frustrate the designation of beneficiaries related to a*
47 *nonprobate transfer by the testator.*

48 3. Notwithstanding any provision to the contrary in the will, a devisee's share
49 must not be reduced or eliminated if the devisee seeks only to:

50 (a) Enforce the terms of the will ~~[+]~~ *or any document referenced in or affected*
51 *by the will;*

52 (b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~there was a substantial likelihood that~~ the will ~~was~~ is invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 74. NRS 141.120 is hereby amended to read as follows:

141.120 ~~Am~~ *Except as otherwise provided in section 170 of this act, an interested person may appear at the hearing and file allegations in writing, showing that the personal representative should be removed.*

Sec. 75. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 144, inclusive, of this act.

Sec. 76. *Sections 76 to 144, inclusive, of this act may be cited as the Independent Administration of Estates Act.*

Sec. 77. *As used in sections 76 to 144, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 78, 79 and 80 of this act have the meanings ascribed to them in those sections.*

Sec. 78. *"Court supervision" means the judicial order, authorization, approval, confirmation or instructions that would be required if authority to administer the estate had not been granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 79. *"Full authority" means the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 80. *"Limited authority" means authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act, except the power to do any of the following:*

- 1. Sell real property.*
- 2. Exchange real property.*
- 3. Grant an option to purchase real property.*
- 4. Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 81. *The personal representative may not be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the decedent's will provides that the estate must not be administered pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 82. *A special administrator may be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the special administrator is appointed with, or has been granted, the powers of a general personal representative.*

Sec. 83. *The provisions of sections 76 to 144, inclusive, of this act apply in any case where authority to administer the estate is granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 84. *1. To obtain authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative must petition*

1 *the court for that authority in a petition for appointment of the personal*
2 *representative or in a separate petition filed in the estate proceedings.*

3 2. *The personal representative may request either of the following:*

4 (a) *Full authority to administer the estate pursuant to sections 76 to 144,*
5 *inclusive, of this act; or*

6 (b) *Limited authority to administer the estate pursuant to sections 76 to 144,*
7 *inclusive, of this act.*

8 **Sec. 85.** 1. *If the authority to administer the estate pursuant to sections 76*
9 *to 144, inclusive, of this act is requested in a petition for appointment of the*
10 *personal representative, notice of the hearing on the petition must be given for*
11 *the period and in the manner applicable to the petition for appointment.*

12 2. *Where proceedings for the administration of the estate are pending at the*
13 *time a petition is filed pursuant to section 84 of this act, notice of the hearing on*
14 *the petition must be given for the period and in the manner provided in NRS*
15 *155.010 to all the following persons:*

16 (a) *Each person specified in NRS 155.010;*

17 (b) *Each known heir whose interest in the estate would be affected by the*
18 *petition;*

19 (c) *Each known devisee whose interest in the estate would be affected by the*
20 *petition; and*

21 (d) *Each person named as personal representative in the will of the decedent.*

22 3. *The notice of hearing of the petition for authority to administer the estate*
23 *pursuant to sections 76 to 144, inclusive, of this act, whether included in the*
24 *petition for appointment or in a separate petition, must include a statement in*
25 *substantially the following form:*

26
27 *The petition requests authority to administer the estate under the*
28 *Independent Administration of Estates Act. This will avoid the need to*
29 *obtain court approval for many actions taken in connection with the*
30 *estate. However, before taking certain actions, the personal representative*
31 *will be required to give notice to interested persons unless they have*
32 *waived notice or have consented to the proposed action. Independent*
33 *administration authority will be granted unless good cause is shown why*
34 *it should not be.*

35 **Sec. 86.** 1. *Except as otherwise provided in subsection 2, unless an*
36 *interested person objects in writing at or before the hearing to the granting of*
37 *authority to administer the estate pursuant to sections 76 to 144, inclusive, of this*
38 *act and the court determines that the interested person has shown good cause*
39 *why the authority to administer the estate under those provisions should not be*
40 *granted, the court shall grant the requested authority.*

41 2. *If the interested person has shown good cause why only limited authority*
42 *should be granted, the court shall grant limited authority.*

43 **Sec. 87.** 1. *If the personal representative is otherwise required to file a*
44 *bond and has full authority, the court shall fix the amount of the bond at not*
45 *more than the estimated value of the personal property, the estimated value of the*
46 *decedent's interest in the real property authorized to be sold pursuant to sections*
47 *76 to 144, inclusive, of this act and the probable annual gross income of the*
48 *estate or, if the bond is to be given by personal sureties, at not less than twice that*
49 *amount.*

50 2. *If the personal representative is otherwise required to file a bond and has*
51 *limited authority, the court shall fix the amount of the bond at not more than the*
52 *estimated value of the personal property and the probable annual gross income of*

1 *the estate or, if the bond is to be given by personal sureties, at not less than twice*
2 *that amount.*

3 **Sec. 88. 1.** *Any interested person may file a petition requesting that the*
4 *court make either of the following orders:*

5 *(a) An order revoking the authority of the personal representative to*
6 *continue administration of the estate pursuant to sections 76 to 144, inclusive, of*
7 *this act; or*

8 *(b) An order revoking the full authority of the personal representative to*
9 *administer the estate pursuant to sections 76 to 144, inclusive, of this act and*
10 *granting the personal representative limited authority to administer the estate*
11 *pursuant to sections 76 to 144, inclusive, of this act.*

12 *2. The petition must set forth the basis for the requested order.*

13 *3. The petitioner shall give notice for the period and in the manner provided*
14 *in NRS 155.010.*

15 *4. If the court determines that good cause has been shown, the court shall*
16 *make an order revoking the authority of the personal representative to continue*
17 *administration of the estate pursuant to sections 76 to 144, inclusive, of this act.*
18 *Upon the making of the order, new letters must be issued without the authority to*
19 *act pursuant to sections 76 to 144, inclusive, of this act.*

20 *5. If the personal representative was granted full authority and the court*
21 *determines that good cause has been shown, the court shall make an order*
22 *revoking the full authority and granting the personal representative limited*
23 *authority. Upon the making of the order, new letters must be issued indicating*
24 *whether the personal representative is authorized to act pursuant to sections 76 to*
25 *144, inclusive, of this act and, if so authorized, whether the independent*
26 *administration authority includes or excludes the power to do any of the*
27 *following:*

28 *(a) Sell real property;*

29 *(b) Exchange real property;*

30 *(c) Grant an option to purchase real property; or*

31 *(d) Borrow money with the loan secured by an encumbrance upon real*
32 *property.*

33 **Sec. 89. 1.** *Subject to the limitations and conditions of sections 76 to 144,*
34 *inclusive, of this act, a personal representative who has been granted authority to*
35 *administer the estate pursuant to sections 76 to 144, inclusive, of this act may*
36 *administer the estate as provided pursuant to sections 76 to 144, inclusive, of this*
37 *act without court supervision, but in all other respects, the personal*
38 *representative shall administer the estate in the same manner as a personal*
39 *representative who has not been granted authority to administer the estate*
40 *pursuant to sections 76 to 144, inclusive, of this act.*

41 *2. Notwithstanding the provisions of subsection 1, the personal*
42 *representative may obtain court supervision of any action to be taken by the*
43 *personal representative during administration of the estate.*

44 **Sec. 90. 1.** *Notwithstanding any provision of sections 76 to 144, inclusive,*
45 *of this act to the contrary, whether the personal representative has been granted*
46 *limited authority or full authority, a personal representative who has obtained*
47 *authority to administer the estate pursuant to sections 76 to 144, inclusive, of this*
48 *act is required to obtain court approval for any of the following actions:*

49 *(a) Allowance of the personal representative's compensation;*

50 *(b) Allowance of compensation of the attorney for the personal*
51 *representative;*

52 *(c) Settlement of accounts;*

53 *(d) Preliminary and final distributions and discharge;*

1 (e) Sale of property of the estate to the personal representative or to the
2 attorney for the personal representative;

3 (f) Exchange of property of the estate for property of the personal
4 representative or for property of the attorney for the personal representative;

5 (g) Grant of an option to purchase property of the estate to the personal
6 representative or to the attorney for the personal representative;

7 (h) Allowance, payment or compromise of a claim of the personal
8 representative, or the attorney for the personal representative, against the estate;

9 (i) Compromise or settlement of a claim, action or proceeding by the estate
10 against the personal representative or against the attorney for the personal
11 representative;

12 (j) Extension, renewal or modification of the terms of a debt or other
13 obligation of the personal representative, or the attorney for the personal
14 representative, owing to or in favor of the decedent or the estate; and

15 (k) Any transaction described in this section that would indirectly benefit the
16 personal representative, a relative of the personal representative, the attorney for
17 the personal representative or the attorney for a relative of the personal
18 representative.

19 2. Notwithstanding any provision of sections 76 to 144, inclusive, of this act
20 to the contrary, a personal representative who has obtained limited authority to
21 administer the estate pursuant to sections 76 to 144, inclusive, of this act is
22 required to obtain court supervision for any of the following actions:

23 (a) Sale of real property;

24 (b) Exchange of real property;

25 (c) Grant of an option to purchase real property; and

26 (d) Borrowing money with the loan secured by an encumbrance upon real
27 property.

28 3. Paragraphs (e) to (k), inclusive, of subsection 1 do not apply to a
29 transaction between the personal representative in his or her capacity as a
30 personal representative and the personal representative as a person if all the
31 following requirements are satisfied:

32 (a) The personal representative is the sole beneficiary of the estate or all the
33 known heirs or devisees have consented to the transaction;

34 (b) The period for filing creditor claims has expired;

35 (c) No request for special notice pursuant to NRS 155.030 is on file or all
36 persons who filed a request for special notice have consented to the transaction;
37 and

38 (d) The claim of each creditor who filed a claim has been paid, settled or
39 withdrawn, or the creditor has consented to the transaction.

40 4. As used in this section, "relative" has the meaning ascribed to it in NRS
41 163.020.

42 **Sec. 91.** 1. Subject to the conditions and limitations of sections 76 to 144,
43 inclusive, of this act and to the duties and liabilities of the personal
44 representative, a personal representative who has been granted authority to
45 administer the estate pursuant to sections 76 to 144, inclusive, of this act has the
46 powers described in:

47 (a) Sections 93 to 106, inclusive, of this act with regard to powers that are
48 exercisable only after giving a notice of proposed action;

49 (b) Sections 107 to 115, inclusive, of this act with regard to powers the
50 exercise of which requires giving a notice of proposed action under certain
51 circumstances; and

52 (c) Sections 116 to 127, inclusive, of this act with regard to powers that are
53 exercisable without giving a notice of proposed action.

1 2. The will may restrict the powers that the personal representative may
2 exercise pursuant to sections 76 to 144, inclusive, of this act.

3 Sec. 92. 1. Subject to the limitations and requirements of sections 76 to
4 144, inclusive, of this act, when the personal representative exercises the
5 authority to sell property of the estate pursuant to sections 76 to 144, inclusive, of
6 this act, the personal representative may sell the property at public auction or
7 private sale, and with or without notice, for cash or on credit, for such price and
8 upon such terms and conditions as the personal representative may determine.

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

11 (a) Publication of the notice of sale;

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

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

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

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

20 3. The requirements applicable to court confirmation of sales of real
21 property and sales of personal property do not apply to a sale pursuant to this
22 section.

23 Sec. 93. The personal representative may exercise the powers described in
24 sections 93 to 106, inclusive, of this act only if the requirements of sections 128 to
25 140, inclusive, of this act are satisfied.

26 Sec. 94. The personal representative who has full authority has the power
27 to sell or exchange real property of the estate.

28 Sec. 95. The personal representative who has limited authority or full
29 authority has the power to sell or incorporate any of the following:

30 1. An unincorporated business or joint venture in which the decedent was
31 engaged at the time of the decedent's death; and

32 2. An unincorporated business or joint venture which was wholly or partly
33 owned by the decedent at the time of the decedent's death.

34 Sec. 96. The personal representative who has limited authority or full
35 authority has the power to abandon tangible personal property where the cost of
36 collecting, maintaining and safeguarding the property would exceed its fair
37 market value.

38 Sec. 97. 1. Subject to the limitations provided in subsection 2 and NRS
39 143.180, the personal representative who has limited authority or full authority
40 has the following powers:

41 (a) The power to borrow; and

42 (b) The power to place, replace, renew or extend any encumbrance upon any
43 property of the estate.

44 2. Only a personal representative who has full authority has the power to
45 borrow money with the loan secured by an encumbrance upon real property.

46 Sec. 98. The personal representative who has full authority has the power
47 to grant an option to purchase real property of the estate for a period within or
48 beyond the period of administration.

49 Sec. 99. If the will gives a person the option to purchase real or personal
50 property and the person has complied with the terms and conditions stated in the
51 will, the personal representative who has limited authority or full authority has
52 the power to convey or transfer the property to the person.

1 **Sec. 100.** *The personal representative who has limited authority or full*
2 *authority has the power to convey or transfer real or personal property to*
3 *complete a contract entered into by the decedent to convey or transfer the*
4 *property.*

5 **Sec. 101.** *The personal representative who has limited authority or full*
6 *authority has the power to allow, compromise or settle any of the following:*

7 1. *A third-party claim to real or personal property if the decedent died in*
8 *possession of, or holding title to, the property; or*

9 2. *The decedent's claim to real or personal property, title to or possession of*
10 *which is held by another.*

11 **Sec. 102.** *The personal representative who has limited authority or full*
12 *authority has the power to make a disclaimer.*

13 **Sec. 103.** *If the time for filing creditor claims has expired and it appears*
14 *that the distribution may be made without loss to creditors or injury to the estate*
15 *or any interested person, the personal representative who has limited authority or*
16 *full authority has the power to make preliminary distributions of the following:*

17 1. *Income received during administration to the persons entitled thereto*
18 *pursuant to the decedent's will or by intestate succession.*

19 2. *Household furniture and furnishings, motor vehicles, clothing, jewelry*
20 *and other tangible articles of a personal nature to the persons entitled to the*
21 *property under the decedent's will, not to exceed an aggregate fair market value*
22 *to all persons of \$50,000 computed cumulatively through the date of distribution.*
23 *Fair market value must be determined on the basis of the inventory and*
24 *appraisal.*

25 3. *Cash to general pecuniary devisees entitled to it under the decedent's*
26 *will, not to exceed \$10,000 to any one person.*

27 **Sec. 104.** *The personal representative who has limited authority or full*
28 *authority has the power to do all the following:*

29 1. *Allow, pay, reject or contest any claim by or against the estate.*

30 2. *Compromise or settle a claim, action or proceeding by or for the benefit*
31 *of, or against, the decedent, the personal representative or the estate.*

32 3. *Release, in whole or in part, any claim belonging to the estate to the*
33 *extent that the claim is uncollectible.*

34 4. *Allow a claim to be filed after the expiration of the time for filing the*
35 *claim.*

36 **Sec. 105.** *The personal representative who has limited authority or full*
37 *authority has the power to do all the following:*

38 1. *Commence and maintain actions and proceedings for the benefit of the*
39 *estate.*

40 2. *Defend actions and proceedings against the decedent, the personal*
41 *representative or the estate.*

42 **Sec. 106.** *The personal representative who has limited authority or full*
43 *authority has the power to extend, renew or in any manner modify the terms of*
44 *an obligation owing to or in favor of the decedent or the estate.*

45 **Sec. 107.** *Except as otherwise provided in sections 107 to 115, inclusive, of*
46 *this act, the personal representative who has limited authority or full authority*
47 *may exercise the powers described in sections 107 to 115, inclusive, of this act*
48 *without giving notice of the proposed action pursuant to sections 128 to 140,*
49 *inclusive, of this act.*

50 **Sec. 108.** 1. *The personal representative who has limited authority or full*
51 *authority has the power to manage and control property of the estate, including*
52 *making allocations and determinations pursuant to NRS 164.780 to 164.925,*
53 *inclusive. Except as otherwise provided in subsection 2, such a personal*

representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act, and shall give notice of a proposed action in any case where a provision of sections 93 to 103, inclusive, of this act governing the exercise of a specific power so requires.

Sec. 109. 1. The personal representative who has limited authority or full authority has the power to enter into a contract to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act, including, without limitation, the powers granted by sections 108 and 117 of this act. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act and shall give notice of a proposed action where the contract is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the contract, except that the personal representative is not required to comply with those requirements if the personal representative has the unrestricted right under the contract to terminate the contract within 2 years after the date the parties entered into the contract.

3. Nothing in this section excuses compliance with the requirements of sections 128 to 140, inclusive, of this act when the contract is made to carry out the exercise of a specific power, and the provision that grants that power requires compliance with sections 128 to 140, inclusive, of this act for the exercise of the power.

Sec. 110. 1. The personal representative who has limited authority or full authority has the power to do all the following:

(a) Deposit money belonging to the estate in an insured account in a financial institution in this State;

(b) Invest money of the estate in any one or more of the following:

(1) Direct obligations of the United States, or of the State of Nevada, maturing not later than 1 year after the date of making the investment;

(2) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(3) Interest-bearing obligations of, or fully guaranteed by, the United States;

(4) Interest bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(5) Interest-bearing obligations of this State or of a county, city or school district of this State; or

(6) Money-market mutual funds that are invested only in obligations listed in subparagraphs (1) to (5), inclusive; or

(c) Invest money of the estate in any manner provided by the will.

2. The personal representative may exercise the powers described in subsection 1 without giving notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 111. 1. Subject to the partnership agreement and the applicable provisions of chapter 87 of NRS, the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.

2. The personal representative who has limited authority or full authority has the power to continue operation of any of the following:

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

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

3. Except as otherwise provided in subsection 4, the personal representative may exercise the powers described in subsections 1 and 2 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act if the personal representative continues as a general partner under subsection 1, or continues the operation of any unincorporated business or joint venture under subsection 2, for a period of more than 6 months after the date on which letters are first issued to a personal representative.

Sec. 112. 1. The personal representative who has limited authority or full authority has the power to pay a reasonable family allowance. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act for all the following:

(a) Making the first payment of a family allowance.

(b) Making the first payment of a family allowance for a period commencing more than 12 months after the death of the decedent.

(c) Making any increase in the amount of the payment of a family allowance.

Sec. 113. 1. The personal representative who has limited authority or full authority has the power to enter as lessor into a lease of property of the estate for:

(a) Any purpose, including, without limitation, exploration for and production or removal of minerals, oil, gas or other hydrocarbon substances or geothermal energy, including a community oil lease or a pooling or unitization agreement;

(b) A period within or beyond the period of administration; and

(c) Rental or royalty, or both, and upon such other terms and conditions as the personal representative may determine.

2. Except as otherwise provided in subsections 3 and 4, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of real property for a term in excess of 1 year. If the lease gives the lessee the right to extend the term of the lease, the lease must be considered as if the right to extend has been exercised.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of personal property and the lease is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the lease, except that the personal representative is not required to give notice of a proposed action if the personal representative has the unrestricted right under the lease to terminate the lease within 2 years after the date the parties entered into the lease.

Sec. 114. 1. The personal representative who has limited authority or full authority has the power to sell personal property of the estate or to exchange

1 *personal property of the estate for other property upon such terms and conditions*
2 *as the personal representative may determine. Except as otherwise provided in*
3 *subsection 2, the personal representative shall give notice of the proposed action*
4 *pursuant to sections 128 to 140, inclusive, of this act in exercising this power.*

5 2. *The personal representative may exercise the power granted by*
6 *subsection 1 without giving notice of the proposed action pursuant to sections 128*
7 *to 140, inclusive, of this act in case of the sale or exchange of any of the*
8 *following:*

9 (a) *A security sold on an established stock or bond exchange;*

10 (b) *A security designated as a national market system security on an*
11 *interdealer quotation system, or subsystem thereof, by the National Association of*
12 *Securities Dealers Automated Quotations System, NASDAQ, sold through a*
13 *broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. §§*
14 *78a et seq., during the regular course of business of the broker-dealer;*

15 (c) *Subscription rights for the purchase of additional securities which are*
16 *owned by the estate by reason of the estate's ownership in securities if those*
17 *rights are sold for cash; or*

18 (d) *Personal property which is perishable if the property is sold for cash.*

19 **Sec. 115.** 1. *The personal representative who has limited authority or full*
20 *authority has the following powers:*

21 (a) *The power to grant an exclusive right to sell property for a period not to*
22 *exceed 90 days.*

23 (b) *The power to grant to the same broker one or more extensions of an*
24 *exclusive right to sell property, each extension being for a period not to exceed 90*
25 *days.*

26 2. *Except as otherwise provided in subsection 3, the personal representative*
27 *may exercise the powers described in subsection 1 without giving notice of the*
28 *proposed action pursuant to sections 128 to 140, inclusive, of this act.*

29 3. *The personal representative shall give notice of a proposed action*
30 *pursuant to sections 128 to 140, inclusive, of this act where the personal*
31 *representative grants to the same broker an extension of an exclusive right to sell*
32 *property and the period of the extension, together with the periods of the original*
33 *exclusive right to sell the property and any previous extensions of that right, is*
34 *more than 270 days.*

35 **Sec. 116.** *The personal representative who has limited authority or full*
36 *authority may exercise the powers described in sections 116 to 127, inclusive, of*
37 *this act without giving notice of the proposed action pursuant to sections 128 to*
38 *140, inclusive, of this act.*

39 **Sec. 117.** *In addition to the powers granted to the personal representative*
40 *pursuant to sections 76 to 144, inclusive, of this act, the personal representative*
41 *who has limited authority or full authority has all the powers that the personal*
42 *representative could exercise without court supervision if the personal*
43 *representative had not been granted authority to administer the estate pursuant to*
44 *sections 76 to 144, inclusive, of this act.*

45 **Sec. 118.** *The personal representative who has limited authority or full*
46 *authority has the power to convey or transfer property to carry out the exercise of*
47 *a specific power granted pursuant to sections 76 to 144, inclusive, of this act.*

48 **Sec. 119.** *The personal representative who has limited authority or full*
49 *authority has the power to pay all the following:*

50 1. *Taxes and assessments.*

51 2. *Expenses incurred in the collection, care and administration of the*
52 *estate.*

1 **Sec. 120.** *The personal representative who has limited authority or full*
2 *authority has the power to purchase an annuity from an insurer admitted to do*
3 *business in this State to satisfy a devise of an annuity or other direction in the will*
4 *for periodic payments to a devisee.*

5 **Sec. 121.** *The personal representative who has limited authority or full*
6 *authority has the power to exercise an option right that is property of the estate.*

7 **Sec. 122.** *The personal representative who has limited authority or full*
8 *authority has the power to purchase securities or commodities required to*
9 *perform an incomplete contract of sale where the decedent died having sold but*
10 *not delivered securities or commodities not owned by the decedent.*

11 **Sec. 123.** *The personal representative who has limited authority or full*
12 *authority has the power to hold a security in the name of a nominee or in any*
13 *other form without disclosure of the estate, so that title to the security may pass by*
14 *delivery.*

15 **Sec. 124.** *The personal representative who has limited authority or full*
16 *authority has the power to exercise security subscription or conversion rights.*

17 **Sec. 125.** *The personal representative who has limited authority or full*
18 *authority has the power to make repairs and improvements to real and personal*
19 *property of the estate.*

20 **Sec. 126.** *The personal representative who has limited authority or full*
21 *authority has the power to accept a deed to property which is subject to a*
22 *mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the*
23 *deed of trust.*

24 **Sec. 127.** *The personal representative who has limited authority or full*
25 *authority has the power to give a partial satisfaction of a mortgage or to cause a*
26 *partial reconveyance to be executed by a trustee under a deed of trust held by the*
27 *estate.*

28 **Sec. 128.** 1. *A personal representative who has been granted authority to*
29 *administer the estate pursuant to sections 76 to 144, inclusive, of this act shall*
30 *give notice of a proposed action as provided in sections 128 to 140, inclusive, of*
31 *this act before taking the proposed action without court supervision if the*
32 *provisions of sections 89 to 127, inclusive, of this act giving the personal*
33 *representative the power to take the action so require. Nothing in this subsection*
34 *authorizes a personal representative to take an action pursuant to sections 76 to*
35 *144, inclusive, of this act if the personal representative does not have the power to*
36 *take the action pursuant to those provisions.*

37 2. *A personal representative who has been granted authority to administer*
38 *the estate pursuant to sections 76 to 144, inclusive, of this act may give notice of a*
39 *proposed action as provided in sections 128 to 140, inclusive, of this act, even if*
40 *the provisions of sections 89 to 127, inclusive, of this act giving the personal*
41 *representative the power to take the action authorize the personal representative*
42 *to take the action without giving notice of the proposed action. Nothing in this*
43 *subsection requires the personal representative to give notice of a proposed action*
44 *where not required under subsection 1 or authorizes a personal representative to*
45 *take any action that the personal representative is not otherwise authorized to*
46 *take.*

47 **Sec. 129.** *Except as otherwise provided in sections 130 and 131 of this act,*
48 *notice of a proposed action must be given to all the following:*

49 1. *Each known devisee whose interest in the estate would be affected by the*
50 *proposed action.*

51 2. *Each known heir whose interest in the estate would be affected by the*
52 *proposed action.*

1 3. *Each person who has filed a request for special notice pursuant to NRS*
2 *155.030.*

3 4. *The Attorney General, at the Office of the Attorney General in Carson*
4 *City, if any portion of the estate is to escheat to the State and its interest in the*
5 *estate would be affected by the proposed action.*

6 Sec. 130. *Notice of a proposed action need not be given to any person who*
7 *consents in writing to the proposed action. The consent may be executed at any*
8 *time before or after the proposed action is taken.*

9 Sec. 131. 1. *Notice of a proposed action need not be given to any person*
10 *who, in writing, waives the right to notice of a proposed action with respect to the*
11 *particular proposed action. The waiver may be executed at any time before or*
12 *after the proposed action is taken. The waiver must describe the particular*
13 *proposed action and may waive particular aspects of the notice, such as the*
14 *delivery, mailing or time requirements of section 134 of this act or the giving of*
15 *the notice in its entirety for the particular proposed action.*

16 2. *Notice of a proposed action need not be given to any person who has*
17 *made either of the following:*

18 (a) *A general waiver of the right to notice of a proposed action.*

19 (b) *A waiver of the right to notice of a proposed action for all transactions of*
20 *a type which includes the particular proposed action.*

21 Sec. 132. 1. *A waiver or consent pursuant to section 130 or 131 of this act*
22 *may be revoked only in writing and is effective only when the writing is received*
23 *by the personal representative.*

24 2. *A copy of the revocation may be filed with the court, but the effectiveness*
25 *of the revocation is not dependent upon a copy being filed with the court.*

26 Sec. 133. 1. *The notice of proposed action must state all the following:*

27 (a) *The name and mailing address of the personal representative.*

28 (b) *The person and telephone number to call to get additional information.*

29 (c) *The action proposed to be taken, with a reasonably specific description of*
30 *the action. If the proposed action involves the sale or exchange of real property*
31 *or the granting of an option to purchase real property, the notice of proposed*
32 *action must state the material terms of the transaction, including, if applicable,*
33 *the sale price and the amount of, or method of calculating, any commission or*
34 *compensation paid or to be paid to an agent or broker in connection with the*
35 *transaction.*

36 (d) *The date on or after which the proposed action is to be taken.*

37 2. *The notice of proposed action must include a form for objecting to the*
38 *proposed action.*

39 Sec. 134. *The notice of proposed action must be mailed or personally*
40 *delivered to each person required to be given notice of the proposed action not*
41 *less than 15 days before the date specified in the notice of proposed action on or*
42 *after which the proposed action is to be taken. If mailed, the notice of proposed*
43 *action must be addressed to the person at the person's last known address. The*
44 *notice of proposed action must be mailed or delivered in the manner provided in*
45 *NRS 155.010.*

46 Sec. 135. 1. *Any person entitled to notice of a proposed action under*
47 *section 129 of this act may object to the proposed action as provided in this*
48 *section.*

49 2. *The objection to the proposed action must be made by delivering or*
50 *mailing a written objection to the proposed action to the personal representative*
51 *at the address stated in the notice of proposed action. The person objecting to the*
52 *proposed action may use the form provided in section 143 of this act or may make*
53 *the objection in any other writing that identifies the proposed action with*

1 *reasonable certainty and indicates that the person objects to the taking of the*
2 *proposed action.*

3 *3. The personal representative is deemed to have notice of the objection to*
4 *the proposed action if the notice is delivered or received at the address stated in*
5 *the notice of proposed action before:*

6 *(a) The date specified in the notice of proposed action on or after which the*
7 *proposed action is to be taken; or*

8 *(b) The date on which the proposed action is actually taken,*
9 *↳ whichever occurs later.*

10 **Sec. 136.** *1. Any person who is entitled to notice of a proposed action for*
11 *a proposed action described in subsection 1 of section 128 of this act, or any*
12 *person who is given notice of a proposed action described in subsection 2 of*
13 *section 128 of this act, may apply to the court having jurisdiction over the*
14 *proceeding for an order restraining the personal representative from taking the*
15 *proposed action without court supervision. The court shall grant the requested*
16 *order without requiring notice to the personal representative and without cause*
17 *being shown for the order.*

18 *2. The personal representative is deemed to have notice of the restraining*
19 *order if the notice is given and served upon the personal representative in the*
20 *manner provided in NRS 155.040 and 155.050, or in the manner authorized by*
21 *the court, before:*

22 *(a) The date specified in the notice of proposed action on or after which the*
23 *proposed action is to be taken; or*

24 *(b) The date on which the proposed action is actually taken,*
25 *↳ whichever occurs later.*

26 **Sec. 137.** *1. If the proposed action is one that would require court*
27 *supervision if the personal representative had not been granted authority to*
28 *administer the estate pursuant to sections 76 to 144, inclusive, of this act, and the*
29 *personal representative has notice of a written objection made pursuant to section*
30 *135 of this act or a restraining order issued pursuant to section 136 of this act,*
31 *the personal representative shall, if the personal representative desires to take the*
32 *proposed action, petition the court to obtain approval from the court.*

33 *2. If the proposed action is one that would not require court supervision*
34 *even if the personal representative had not been granted authority to administer*
35 *the estate pursuant to sections 76 to 144, inclusive, of this act, but the personal*
36 *representative has given notice of the proposed action and has notice of a written*
37 *objection made pursuant to section 135 of this act or a restraining order issued*
38 *pursuant to section 136 of this act, the personal representative shall, if he or she*
39 *desires to take the proposed action, request instructions from the court*
40 *concerning the proposed action. The personal representative may take the*
41 *proposed action only under such order as may be entered by the court.*

42 *3. A person who objects to a proposed action as provided in section 135 of*
43 *this act or serves a restraining order issued pursuant to section 136 of this act in*
44 *the manner provided in that section must be given notice of any hearing on a*
45 *petition for court authorization or confirmation of the proposed action.*

46 **Sec. 138.** *1. Except as otherwise provided in subsection 3, only a person*
47 *described in section 129 of this act has a right to have the court review the*
48 *proposed action after it has been taken or otherwise to object to the proposed*
49 *action after it has been taken. Except as otherwise provided in subsections 2 and*
50 *3, a person described in section 129 of this act waives the right to have the court*
51 *review the proposed action after it has been taken, or otherwise to object to the*
52 *proposed action after it has been taken, if:*

1 (a) The person has been given notice of the proposed action, as provided in
2 sections 128 to 134, inclusive, of this act, and fails to object as provided in
3 subsection 4; or

4 (b) The person has waived notice of or consented to the proposed action as
5 provided in sections 130 and 131 of this act.

6 2. Unless the person has waived notice of or consented to the proposed
7 action as provided in sections 130 and 131 of this act, the court may review the
8 action taken upon a petition filed by a person described in section 129 of this act
9 who establishes that he or she did not actually receive the notice of proposed
10 action before the time to object pursuant to subsection 4 expired.

11 3. The court may review the action of the personal representative upon a
12 petition filed by an heir or devisee who establishes all the following:

13 (a) At the time notice of the proposed action was given, the heir or devisee
14 lacked capacity to object to the proposed action or was a minor;

15 (b) No notice of proposed action was actually received by the guardian,
16 conservator or other legal representative of the heir or devisee;

17 (c) The guardian, conservator or other legal representative did not waive
18 notice of the proposed action; and

19 (d) The guardian, conservator or other legal representative did not consent to
20 the proposed action.

21 4. For the purposes of this section, an objection to a proposed action is
22 made only by one or both of the following methods:

23 (a) Delivering or mailing a written objection as provided in section 135 of
24 this act within the time specified in subsection 3 of that section; or

25 (b) Serving a restraining order obtained pursuant to section 136 of this act in
26 the manner prescribed and within the time specified in subsection 2 of that
27 section.

28 Sec. 139. 1. The failure of the personal representative who has limited
29 authority or full authority to comply with subsection 1 of section 128 of this act
30 and with sections 129, 133, 134 and 137 of this act, and the taking of the action
31 by the personal representative without such compliance, does not affect the
32 validity of the action so taken or the title to any property conveyed or transferred
33 to bona fide purchasers or the rights of third persons who, dealing in good faith
34 with the personal representative, changed their position in reliance upon the
35 action, conveyance or transfer without actual notice of the failure of the personal
36 representative to comply with those provisions.

37 2. A person dealing with the personal representative does not have any duty
38 to inquire or investigate whether the personal representative has complied with
39 the provisions listed in subsection 1.

40 Sec. 140. 1. In a case where notice of a proposed action is required by
41 sections 128 to 140, inclusive, of this act, the court, in its discretion, may remove
42 the personal representative from office unless the personal representative:

43 (a) Gives notice of the proposed action as provided in sections 128 to 140,
44 inclusive, of this act;

45 (b) Obtains a waiver of notice of the proposed action as provided in sections
46 128 to 140, inclusive, of this act; or

47 (c) Obtains a consent to the proposed action as provided in sections 128 to
48 140, inclusive, of this act.

49 2. The court, in its discretion, may remove the personal representative from
50 office if the personal representative takes a proposed action in violation of section
51 137 of this act.

Sec. 141. *Letters testamentary or letters of administration pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

LETTERS TESTAMENTARY / ADMINISTRATION

On....., 20....., the court entered an order admitting the decedent's will to probate and appointing [.....] as personal representative of the decedent's estate. The order includes:

[] full authority for the personal representative to administer the estate pursuant to the Independent Administration of Estates Act.

[] limited authority to administer the estate pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

[] a directive for the establishment of a blocked account for sums in excess of \$.....;

*[] a directive for the posting of a bond in the sum of \$.....;
or*

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

The personal representative, after being duly qualified, may act and has the authority and duties of a personal representative.

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

CLERK OF THE COURT

By:

Deputy Clerk

Date:

OATH

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

*.....
[.....], Personal Representative*

SUBSCRIBED AND AFFIRMED

before me this..... (day) of....., 20.....

By:.....

NOTARY PUBLIC

County of....., State of Nevada

Sec. 142. A notice of proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

NOTICE OF PROPOSED ACTION
Independent Administration of Estates Act

1. The personal representative of the estate of the deceased is.....

2. The personal representative has authority to administer the estate without court supervision pursuant to the Independent Administration of Estates Act:

[] with full authority pursuant to the Independent Administration of Estates Act; or

[] with limited authority pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

3. On or after.....(date), the personal representative will take the following action without court supervision:

Describe in specific terms the proposed action.

If the action involves the sale or exchange of or a grant of an option to purchase real property, provide the sale price, the amount of or method of calculating any commission or compensation of the real estate broker and the value of the property in the probate inventory.

NOTICE: A sale of real property without court supervision means that the sale will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder.

4. If you **OBJECT** to the proposed action:

(a) Sign the objection form provided with this Notice of Proposed Action and deliver or mail it to the personal representative at the following address (specify name and address);

(b) Send your own written objection to the address set forth in paragraph (a), identifying the proposed action and state that you object to it; or

(c) Apply to the court for an order preventing the personal representative from taking the proposed action without court supervision.

NOTE: Your written objection or the court order must be received by the personal representative before the date indicated in item 3 or before the proposed action is taken, whichever is later. If you object, the

personal representative may take the proposed action only under court supervision.

5. If you approve of the proposed action, you may sign the consent form provided with this Notice of Proposed Action and return it to the address set forth in paragraph (a) of item 4. If you do not object in writing or obtain a court order, you will be treated as if you consented to the proposed action.

*6. If you need more INFORMATION, call:
(name) (telephone).*

Date:.....

.....

Personal representative

Sec. 143. *An objection to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

OBJECTION TO PROPOSED ACTION

I OBJECT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: Sign and return this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. This form must be received before the date set forth in item 3 of the Notice of Proposed Action, or before the proposed action is taken, whichever is later. (You may want to use certified mail, with return receipt requested. Make a copy of this form for your records.)

Date:.....

.....

Type or print name

Signature of Objector

Sec. 144. *Consent to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

CONSENT TO PROPOSED ACTION

I CONSENT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: You may indicate your consent by signing and returning this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. If you do not object in writing or obtain a court order, you will be treated as if you consent to the proposed action.

Date:.....

.....
Type or print name

.....
Signature of Objector

Sec. 145. NRS 143.050 is hereby amended to read as follows:

143.050 ~~[After]~~ *Except as otherwise provided in section 111 of this act, after* notice given as provided in NRS 155.010 or in such other manner as the court directs, the court may authorize the personal representative to continue the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.

Sec. 146. NRS 143.140 is hereby amended to read as follows:

143.140 1. ~~[[~~ *Except as otherwise provided in section 101, 104, 106, 126 or 127 of this act, if* a debtor of the decedent is unable to pay all debts, the personal representative, with the approval of the court, may give the person a discharge upon such terms as may appear to the court to be for the best interest of the estate.

2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.

3. The court may also authorize the personal representative, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by NRS 155.010.

Sec. 147. NRS 143.175 is hereby amended to read as follows:

143.175 1. ~~[A]~~ *Except as otherwise provided in section 110 of this act, a* personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(b) Interest-bearing obligations of, or fully guaranteed by, the United States;

(c) Interest-bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

Sec. 148. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 149 and 150 of this act.

Sec. 149. *If the estate is set aside pursuant to NRS 146.070, the court may order reasonable attorney's fees and costs to be paid from the assets being set aside directly to the attorney for the petitioner.*

Sec. 150. 1. *Notwithstanding any provision to the contrary in the will, a personal representative who is an attorney retained to perform services for the*

1 *personal representative may receive compensation for services as a personal*
2 *representative or for services as an attorney for the personal representative, but*
3 *not both, unless the court:*

4 (a) *Approves a different method of compensation in advance; and*

5 (b) *Finds that method of compensation to be for the advantage, benefit and*
6 *best interests of the decedent's estate.*

7 2. *The provisions of this section shall not be construed to disallow*
8 *compensation for services rendered by an attorney as a personal representative if:*

9 (a) *Such services are included as part of the legal services of the attorney in*
10 *a manner consistent with NRS 150.060; and*

11 (b) *The attorney does not receive compensation pursuant to subsection 1 of*
12 *NRS 150.020.*

13 3. *The services which are rendered by a personal representative who is an*
14 *attorney and for which compensation is requested pursuant to this section*
15 *include services rendered by an employee, associate or partner in the same firm*
16 *of such an attorney and services rendered by an affiliate of such an attorney.*

17 4. *As used in this section, "affiliate" has the meaning ascribed to it in NRS*
18 *163.020.*

19 **Sec. 151.** NRS 150.010 is hereby amended to read as follows:

20 150.010 ~~[The]~~ A personal representative must be allowed all necessary
21 expenses in the administration and settlement of the estate, and fees for services as
22 provided by law, but if the decedent by will makes some other provision for the
23 compensation of the personal representative, this shall be deemed a full
24 compensation for those services, unless within 60 days after his or her appointment
25 the personal representative files a renunciation, in writing, of all claim for the
26 compensation provided by the will.

27 **Sec. 152.** NRS 150.050 is hereby amended to read as follows:

28 150.050 1. A personal representative, at any time after the issuance of
29 letters and upon such notice to the interested persons as the court requires, may
30 apply to the court for an allowance upon his or her fees.

31 2. On the hearing, the court shall enter an order allowing ~~[the]~~ a personal
32 representative *who applied to the court pursuant to subsection 1* such portion of
33 the fees, for services rendered up to that time, as the court deems proper, and the
34 portion so allowed may be charged against the estate.

35 **Sec. 153.** NRS 150.060 is hereby amended to read as follows:

36 150.060 1. ~~[Attorneys for personal representatives are]~~ *An attorney for a*
37 *personal representative is* entitled to reasonable compensation for ~~[their]~~ *the*
38 *attorney's* services, to be paid out of the decedent's estate.

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

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

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

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

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

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

49 4. If the attorney is requesting compensation based on the value of the estate
50 accounted for by the personal representative, the allowable compensation of the
51 attorney for ordinary services must be determined as follows:

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

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

- 1 (c) For the next \$800,000, at the rate of 2 percent;
2 (d) For the next \$9,000,000, at the rate of 1 percent;
3 (e) For the next \$15,000,000, at the rate of 0.5 percent; and
4 (f) For all amounts above \$25,000,000, a reasonable amount to be determined
5 by the court.

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

- 11 (a) The schedule of fees to be charged by the attorney;
12 (b) The manner in which compensation for extraordinary services may be
13 charged by the attorney; and
14 (c) The fact that the court is required to approve the compensation of the
15 attorney pursuant to subsection 8 before the personal representative pays any such
16 compensation to the attorney.

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

- 19 (a) Is the total amount of the appraisal of property in the inventory, plus:
20 (1) The gains over the appraisal value on sales; and
21 (2) The receipts, less losses from the appraisal value on sales; and
22 (b) Does not include encumbrances or other obligations on the property of the
23 estate.

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

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

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

38 (b) If the attorney is requesting compensation based on an hourly basis, or is
39 requesting compensation for extraordinary services, the attorney must provide the
40 following information to the court:

- 41 (1) Reference to time and hours;
42 (2) The nature and extent of services rendered;
43 (3) Claimed ordinary and extraordinary services;
44 (4) The complexity of the work required; and
45 (5) Other information considered to be relevant to a determination of
46 entitlement.

47 9. The clerk shall set the petition for hearing, and the petitioner shall give
48 notice of the petition to the personal representative if he or she is not the petitioner
49 and to all known heirs in an intestacy proceeding and devisees in a will proceeding.
50 The notice must be given for the period and in the manner provided in NRS
51 155.010. If a complete copy of the petition is not attached to the notice, the notice
52 must include a statement of the amount of the fee which the court will be requested
53 to approve or allow.

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

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

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

Sec. 154. NRS 150.063 is hereby amended to read as follows:

150.063 1. If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

2. If there are two or more personal representatives and the personal representatives have separate legal representation, each attorney for each personal representative is entitled to have the compensation for attorneys apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

Sec. 155. NRS 150.065 is hereby amended to read as follows:

150.065 1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, ~~the~~ a personal representative or ~~the~~ an attorney for ~~the~~ a personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

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

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 156. Chapter 153 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in a will establishing a testamentary trust, a person holding a power of appointment pursuant to a testamentary trust does not

owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 157. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
- (q) Compelling compliance with the terms of the trust or other applicable law; and
- (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

- (a) Order a reduction in the trustee's compensation.
- (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. ~~(The)~~ *Except as otherwise provided in section 193 of this act, the* trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.

1 **Sec. 158.** Chapter 155 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 159 to 170, inclusive, of this act.

3 **Sec. 159.** *As used in sections 159 to 169, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 160 to 166,*
5 *inclusive, of this act have the meanings ascribed to them in those sections.*

6 **Sec. 160.** *“Caregiver” means any person who has provided significant*
7 *assistance or services to or for a person, regardless of whether the person is*
8 *incompetent, incapacitated or of limited capacity and regardless of whether the*
9 *person is being compensated for the assistance or services provided.*

10 **Sec. 161.** *“Independent attorney” means an attorney, other than a attorney*
11 *who:*

12 1. *Is described in subsection 2 of section 167 of this act; or*

13 2. *Has served as an attorney for a person who is described in subsection 2*
14 *of section 167 of this act.*

15 **Sec. 162.** *“Related to, affiliated with or subordinate to any person”*
16 *includes, without limitation:*

17 1. *The person’s spouse;*

18 2. *A relative of the person within the third degree of consanguinity or the*
19 *spouse of such a relative;*

20 3. *A co-owner of a business with the person;*

21 4. *An employee of a business if the person:*

22 (a) *Has an ownership interest in the business; or*

23 (b) *Holds a supervisory position with the business;*

24 5. *An attorney or employee of a law firm for which the person is or was a*
25 *client; and*

26 6. *Any entity owned or controlled by a person described in subsections 1 to*
27 *5, inclusive.*

28 **Sec. 163.** *“Spouse” includes a domestic partner as defined in NRS*
29 *122A.030.*

30 **Sec. 164.** *“Transfer instrument” means the legal document intended to*
31 *effectuate a transfer effective on or after the transferor’s death and includes,*
32 *without limitation, a will, trust, deed, form designated as payable on death,*
33 *contract or other beneficiary designation form.*

34 **Sec. 165.** *“Transferee” means a devisee, a beneficiary of trust, a grantee of*
35 *a deed, including a grantee of a deed pursuant to NRS 111.109, and any other*
36 *person designated in a transfer instrument to receive a nonprobate transfer.*

37 **Sec. 166.** *“Transferor” means a testator, settlor, grantor of a deed and a*
38 *decendent whose interest is transferred pursuant to a nonprobate transfer.*

39 **Sec. 167.** 1. *To the extent the court finds that a transfer was the product*
40 *of fraud, duress or undue influence, the transfer is void and each transferee who*
41 *is found responsible for the fraud, duress or undue influence shall bear the costs*
42 *of the proceedings, including, without limitation, reasonable attorney’s fees.*

43 2. *Except as otherwise provided in section 168 of this act, a transfer is*
44 *presumed to be void if the transfer is effective on or after a transferor’s death and*
45 *the transfer is to a transferee who is:*

46 (a) *The person who drafted the transfer instrument;*

47 (b) *A caregiver of the transferor;*

48 (c) *A person who arranged for or paid for the drafting of the transfer*
49 *instrument; or*

50 (d) *A person who is related to, affiliated with or subordinate to any person*
51 *described in paragraph (a), (b) or (c).*

52 **Sec. 168.** *The presumption established by section 167 of this act does not*
53 *apply:*

2. *If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions.*

3. *The court may deny standing to an interested party to bring a petition or motion if the court finds that:*

(a) *The subject matter of the petition or motion is unrelated to the interests of the interested party;*

(b) *The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or*

(c) *The interested party is a vexatious litigant pursuant to subsection 1.*

4. *If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:*

(a) *Object to the issuance of letters; or*

(b) *Request the removal of a personal representative or a trustee.*

Sec. 171. NRS 155.030 is hereby amended to read as follows:

155.030 1. At any time after the issuance of letters in the estate of a decedent, an interested person or the person's attorney may serve upon the personal representative or the personal representative's attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that the interested person desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or the requester's attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or the person's attorney, at his or her stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal service of the notice may be made on the person or the person's attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or the trustee's attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he or she desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. *An attorney whose only appearance on behalf of an interested person has been the filing of a written request for notice pursuant to subsection 1 may, without further court order:*

(a) *Terminate his or her services;*

(b) *Serve upon the personal representative or the personal representative's attorney an amended written request for notice directing that any further notice be sent to the interested person at his or her last known address; and*

(c) *File the amended written request for notice with the clerk of the court wherein administration of the estate is pending.*

1 6. Any filing of a motion for substitution of counsel or order authorizing
2 withdrawal of counsel of record for an attorney who has filed a written request
3 for notice on behalf of an interested person pursuant to subsection 1 shall be
4 deemed to be an amended written request for notice as described in subsection 5,
5 and any further notice must be sent to the address provided in the motion for
6 substitution of counsel or the order authorizing the withdrawal of counsel, as
7 applicable.

8 7. On the filing of an inventory or a inventory or a supplementary inventory,
9 the personal representative shall mail a copy to each person who has requested
10 special notice.

11 **Sec. 172.** NRS 155.140 is hereby amended to read as follows:

12 155.140 1. In a proceeding involving the estate of a decedent or a
13 testamentary trust:

14 (a) Interests to be affected must be described in pleadings that give reasonable
15 information to owners by name or class, by reference to the instrument creating the
16 interest or in another appropriate manner.

17 (b) An order binding the sole holder or all co-holders of a power of revocation
18 or presently exercisable general power of appointment, including a power of
19 amendment, binds other persons to the extent their interests, as objects, takers in
20 default or otherwise, are subject to the power.

21 (c) To the extent there is no conflict of interest between them or among persons
22 represented:

23 (1) An order binding a guardian of the estate binds the person whose estate
24 the guardian controls.

25 (2) An order binding a guardian of the person binds the ward if no separate
26 guardian of the estate of the ward has been appointed.

27 (3) An order binding a trustee binds beneficiaries of the trust in a
28 proceeding to probate a will establishing or adding to the trust, to review the acts or
29 accounts of a previous fiduciary, or involving creditors or other third parties.

30 (4) An order binding a personal representative binds persons interested in
31 the undistributed assets of the estate of a decedent in an action or proceeding by or
32 against the estate.

33 (d) If there is no conflict of interest and no guardian of the estate has been
34 appointed, a parent may represent his or her minor child.

35 (e) An unborn or unascertained person who is not otherwise represented is
36 bound by an order to the extent his or her interest is adequately represented by
37 another person having a substantially identical interest in the proceeding.

38 (f) Notice as prescribed by this title must be given to every interested person or
39 to one who can bind an interested person under ~~subsection~~ **paragraph** (b), (c) or
40 (d). Notice may be given both to a person and to another who can bind him or her.

41 (g) Notice is given to unborn or unascertained persons who are not represented
42 under ~~subsection~~ **paragraph** (b), (c) or (d) by giving notice to all known persons
43 whose interest in the proceeding is substantially identical to that of the unborn or
44 unascertained persons.

45 (h) At any stage of a proceeding, the court may appoint a guardian ad litem or
46 an attorney to represent the interest of a minor, an incapacitated, unborn or
47 unascertained person, or a person whose identity or address is unknown, if the court
48 determines that representation of the interest would otherwise be inadequate. If not
49 precluded by conflict of interest, a guardian ad litem or an attorney may be
50 appointed to represent several persons or interests. The court shall set out its
51 reasons for appointing a guardian ad litem or an attorney as a part of the record of
52 the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom the attorney has been appointed in all subsequent proceedings.

3. In any proceeding filed pursuant to this title, the court has jurisdiction and authority to fix and adjudicate fees and costs due an attorney from his or her client for services performed by the attorney in connection with the proceeding.

Sec. 173. NRS 155.170 is hereby amended to read as follows:

~~155.170 [The testimony of a witness or witnesses in other counties of this State, or in other jurisdictions of the United States, or in foreign countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.] Unless~~
otherwise ordered by the court, upon the filing of a proceeding pursuant to this title and service of the notice of hearing to other interested persons, an interested person who has appeared in the proceeding and given notice of his or her appearance to other interested persons:

1. May obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure relevant to such proceeding; and

2. Is not required to satisfy any rule requiring the initial disclosure of experts, attendance at an early case conference or the filing of a report on an early case conference as a prerequisite to commencing an action described in subsection 1.

Sec. 174. NRS 159.065 is hereby amended to read as follows:

159.065 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. If a banking corporation, as defined in NRS 657.016, doing business in this state, is appointed guardian of the estate of a ward, no bond is required of the guardian, unless specifically required by the court.

3. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond.

4. If there are no assets of the ward, no bond is required of the guardian.

5. If a person ~~is appointed in a will~~ *has been nominated* to be guardian *in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public* and the will, *power of attorney or other written instrument* provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.

1 **Sec. 175.** Chapter 162 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 1. *An attorney who represents a fiduciary does not, solely as a result of such*
4 *attorney-client relationship, assume a corresponding duty of care or other*
5 *fiduciary duty to a principal.*

6 2. *Nothing in this section limits a principal, fiduciary or successor*
7 *fiduciary's ability to assert appropriate claims against the attorney resulting from*
8 *the negligent or intentional acts of the attorney.*

9 3. *As used in this section:*

10 (a) *"Fiduciary" has the meaning ascribed to it in NRS 162.020.*

11 (b) *"Principal" has the meaning ascribed to it in NRS 162.020.*

12 **Sec. 176.** Chapter 163 of NRS is hereby amended by adding thereto a new
13 section to read as follows:

14 *Except to the extent that it violates public policy, a settlor may:*

15 1. *Make a devise conditional upon a beneficiary's action or failure to take*
16 *action or upon the occurrence or nonoccurrence of one or more specified events;*
17 *and*

18 2. *Specify the conditions or actions which would disqualify a person from*
19 *serving or which would constitute cause for removal of a person who is serving in*
20 *any capacity under the trust, including, without limitation, as a trustee, trust*
21 *protector or trust adviser.*

22 **Sec. 177.** NRS 163.00195 is hereby amended to read as follows:

23 163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-
24 contest clause in a trust must be enforced by the court.

25 2. A no-contest clause must be construed to carry out the settlor's intent.
26 Except to the extent the no-contest clause in the trust is vague or ambiguous,
27 extrinsic evidence is not admissible to establish the settlor's intent concerning the
28 no-contest clause. The provisions of this subsection do not prohibit such evidence
29 from being admitted for any other purpose authorized by law. *Except as otherwise*
30 *provided in subsections 3 and 4, a beneficiary's share may be reduced or*
31 *eliminated under a no-contest clause based upon conduct that is set forth by the*
32 *settlor in the trust. Such conduct may include, without limitation:*

33 (a) *Conduct other than formal court action; and*

34 (b) *Conduct which is unrelated to the trust itself, including, without*
35 *limitation:*

36 (1) *The commencement of civil litigation against the settlor's probate*
37 *estate or family members;*

38 (2) *Interference with the administration of another trust or a business*
39 *entity;*

40 (3) *Efforts to frustrate the intent of the settlor's power of attorney; and*

41 (4) *Efforts to frustrate the designation of beneficiaries related to a*
42 *nonprobate transfer by the settlor.*

43 3. Notwithstanding any provision to the contrary in the trust, a beneficiary's
44 share must not be reduced or eliminated if the beneficiary seeks only to:

45 (a) Enforce the terms of the trust , *any document referenced in or affected by*
46 *the trust*, or any other trust-related instrument;

47 (b) Enforce the beneficiary's legal rights related to the trust , *any document*
48 *referenced in or affected by the trust*, or any trust-related instrument; or

49 (c) Obtain a court ruling with respect to the construction or legal effect of the
50 trust , *any document referenced in or affected by the trust*, or any other trust-
51 related instrument.

52 4. Notwithstanding any provision to the contrary in the trust, a beneficiary's
53 share must not be reduced or eliminated under a no-contest clause in a trust because

the beneficiary institutes legal action seeking to invalidate a trust, *any document referenced in or affected by the trust*, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~there was a substantial likelihood that~~ the trust, *any document referenced in or affected by the trust*, or other trust-related instrument ~~was~~ is invalid.

5. As used in this section:

(a) “No-contest clause” means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor’s intent as expressed in the trust or in a trust-related instrument.

(b) “Trust” means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) “Trust-related instrument” means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 178. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. ~~[A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property is within that purpose.]~~ *Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:*

(a) The grounds for removing a fiduciary;

(b) The circumstances, if any, in which the fiduciary must diversify investments; and

(c) A fiduciary’s powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

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

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary’s own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary’s willful misconduct or gross negligence.

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

Sec. 179. NRS 163.556 is hereby amended to read as follows:

163.556 1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of

1 appointment exercised by a beneficiary of the second trust is not considered a
2 beneficiary of the second trust.

3 (b) Appointing the property will reduce any current fixed income interest,
4 annuity interest or unitrust interest of a beneficiary of the original trust. As used in
5 this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

6 (c) A contribution made to the original trust qualified for a marital or charitable
7 deduction for federal or state income, gift or estate taxes or qualified for a gift tax
8 exclusion for federal or state tax purposes and the terms of the second trust include
9 a provision which if included in the original trust would prevent the original trust
10 from qualifying for the tax deduction or exclusion.

11 (d) The property to be appointed is subject to a power of withdrawal which is
12 held by a beneficiary of the original trust and may be executed at the time of the
13 proposed appointment ~~H~~, *unless after the exercise of such appointment, the*
14 *beneficiary of the original trust's power of withdrawal is unchanged with respect*
15 *to the trust property.*

16 (e) Property specifically allocated for one beneficiary of the original trust is no
17 longer allocated for that beneficiary under either or both trusts, unless the
18 beneficiary consents in writing.

19 (f) Property held for the benefit of one or more beneficiaries under both the
20 original and the second trust has a lower value than the value of the property held
21 for the benefit of the same beneficiaries under only the original trust, unless:

22 (1) The benefit provided is limited to a specific amount or periodic
23 payments of a specific amount; and

24 (2) The value of the property held in either or both trusts for the benefit of
25 one or more beneficiaries is actuarially adequate to provide the benefit.

26 (g) Under the second trust:

27 (1) Discretionary distributions may be made by the trustee to a beneficiary
28 or group of beneficiaries of the original trust;

29 (2) Distributions are not limited by an ascertainable standard; and

30 (3) A beneficiary or group of beneficiaries has the power to remove and
31 replace the trustee of the second trust with a beneficiary of the second trust or with
32 a trustee that is related to or subordinate to a beneficiary of the second trust.

33 (h) *A contribution made to the original trust qualified for a gift tax exclusion*
34 *as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. §*
35 *2503(b), by reason of the application of section 2503(c) of the Internal Revenue*
36 *Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's*
37 *remainder interest must vest not later than the date upon which such interest*
38 *would have vested under the terms of the original trust.*

39 3. Notwithstanding the provisions of subsection 1, a trustee who is a
40 beneficiary of the original trust may not exercise the authority to appoint property
41 of the original trust to a second trust if:

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

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

46 (2) The trustee's discretion to make distributions to himself or herself is
47 limited by an ascertainable standard ~~H~~, *and under the terms of the second trust,*
48 *the trustee's discretion to make distributions to himself or herself is not limited by*
49 *the same ascertainable standard;* or

50 (3) The trustee's discretion to make distributions to himself or herself can
51 only be exercised with the consent of a cotrustee or a person holding an adverse
52 interest and under the terms of the second trust the trustee's discretion to make

distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

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

4. The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

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

~~[5.— Notwithstanding the provisions of subsection 2 or 3, the]~~

6. The trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's creditors, the holder's estate, the creditors of the holder's estate or any other person.

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

~~[6.] 7.~~ The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

~~[7.] 8.~~ The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

~~[8.] 9.~~ The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

~~[9.] 10.~~ The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

~~[10.] 11.~~ The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

~~[11.] 12.~~ A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

~~[12.] 13.~~ A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

~~[13.] 14.~~ The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

~~[14.] 15.~~ As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the

meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, **26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1)**, and any regulations of the United States Treasury promulgated thereunder.

Sec. 179.5. ~~[Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 180 and 180.5 of this act.] (Deleted by amendment.)~~

Sec. 180. **Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:**

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a trust.

Sec. 180.5. ~~[The notice that a trustee is required to provide pursuant to subsection 3 of NRS [164.900] may be in the following form:]~~

NOTICE TO BENEFICIARY

~~You are hereby notified, as required by subsection 3 of NRS [164.900], that:~~

~~— 1. The undersigned is the trustee of the trust that is designated as _____ (specify name and date or another type of identification of the trust).~~

~~— 2. You are being given this notice because, under the terms of the trust instrument, the trustee is authorized or required to make distributions of income to you or for your benefit. The above-named trust became irrevocable before October 1, 2011, and the trust instrument does not contain specific direction as to the amount of income that is to be applied toward standard fiduciary compensation and toward expenses for accountings, judicial proceedings or certain other matters. For the purposes of this notice, “standard fiduciary compensation” means the regular compensation of the trustee and any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust’s principal or a portion of the trust’s principal.~~

~~— 3. Under the Uniform Principal and Income Act (1997), as adopted in Nevada, one-half of the standard fiduciary compensation and the expenses described above are generally paid from trust income and the balance of the standard fiduciary compensation and expenses are generally paid from the trust’s principal.~~

~~— 4. Subsection 2 of NRS [164.900] places a limit on the amount of income that can be applied toward standard fiduciary compensation and the expenses described above, but that limit does not apply to this trust unless the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make an election to have the limitation apply as authorized under subsection 7 of NRS [164.900].~~

~~— 5. If such an election is made, it may or may not increase the income that is available for distribution, but such an election will not reduce distributable income.~~

~~6. If you want to have the limitation authorized under subsection 7 of NRS [164.900] apply to this trust, you must notify the trustee by signing at the bottom of this form and returning the form to the trustee. Failure to sign this form and return it to the trustee will be considered a negative vote with regard to applying the limitation described in subsection 2 of NRS [164.900] to this trust.~~

(Signature of Trustee) (Date)

(Address of Trustee)

~~If you would like to make the election under subsection 7 of NRS [164.900] as explained above, please sign below and send the signed copy by certified or registered mail to the trustee or personally deliver the signed copy to the trustee.~~

**NOTICE OF ELECTION
UNDER SUBSECTION 7 OF NRS [164.900]**

~~I, the undersigned beneficiary, hereby make the election authorized under subsection 7 of NRS [164.900] to limit the amount of income that can be paid toward the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal and toward expenses for accountings, judicial proceedings or certain other matters. I understand that the election will only be effective after the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make this election.~~

(Signature of Beneficiary) (Date) (Deleted by amendment.)

Sec. 181. NRS 164.021 is hereby amended to read as follows:

164.021 1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, ~~within 90 days~~ after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.

2. The notice provided by the trustee must contain:

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

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

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a 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 you."

3. The trustee shall serve the notice pursuant to the provisions of NRS 155.010.

4. No person upon whom notice is served pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice is served upon the person, unless the person proves that he or she did not receive actual notice.

~~Sec. 181.5. [NRS 164.780 is hereby amended to read as follows:
164.780 NRS 164.700, subsection 2 of NRS 164.720 and NRS 164.780 to 164.925, inclusive, and section 180.5 of this act, may be cited as the Uniform Principal and Income Act (1997).] (Deleted by amendment.)~~

Sec. 182. NRS 164.900 is hereby amended to read as follows:

1. A
~~[1. Except as otherwise provided in the trust instrument or in an order of the court, a]~~ trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

[1.] (a) Except as otherwise provided in subsection 2 or otherwise ordered by the court, one-half of the
~~[(a) One-half of:~~

~~(1) Except as otherwise provided in subsection 2;~~

~~(1) The~~ regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee ;

[2.] (b) Except as otherwise ordered by the court, one-half of all ~~[whose compensation is based on the value of the trust's principal or a portion thereof; and~~

~~(II) All]~~ expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

[3.] (c) All the other ordinary ~~[and~~

~~(2) All other]~~ expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, ~~[not specifically mentioned in subparagraph (1) or in paragraph (b),]~~ including interest, ordinary repairs, ~~[on trust property,]~~ regularly recurring taxes assessed against principal, ~~[and [recurring premiums on insurance covering the loss of a principal asset.~~

~~(b) All expenses related to the distribution of income, including interest, the]~~ expenses of a proceeding or other matter that concerns primarily the income interest ; and

[4.] (d) All ~~[and the]~~ recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the ~~[an]~~ asset.

~~[2. The amount payable from income for compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1 must not exceed the applicable income percentage of income for the accounting period.~~

~~3. The trustee of a trust that became irrevocable before October 1, 2011, and whose trust instrument does not otherwise address the allocation of compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1, shall notify each adult beneficiary who, at the time the notice is provided, is a person to whom or for whose benefit net income of the trust presently is or may be payable, of the right to elect to apply the limitation set forth in subsection 2 to the trust.~~

~~4. Such an election:~~

~~(a) Must be evidenced by a written election to apply the limitation set forth in subsection 2 to the trust which is signed by a majority of the adult beneficiaries described in subsection 3; and~~

~~(b) May be applied to the disbursement of income only after a majority of the adult beneficiaries described in subsection 3 have so elected to apply the limitation set forth in subsection 2 to the trust.~~

~~5. For the purposes of determining a majority pursuant to subsection 4, each adult beneficiary described in subsection 3 has:~~

~~(a) One vote if, pursuant to the terms of the trust instrument, the trustee has the discretion to make distributions to two or more such beneficiaries in equal or unequal amounts; and~~

~~(b) One vote for each percentage of income to which that beneficiary is entitled if, pursuant to the terms of the trust instrument, the trustee is required to pay a specific percentage of the net income to two or more such beneficiaries.~~

~~6. Except as otherwise provided in subsection 7, the trustee shall provide the notice required pursuant to this section to each adult beneficiary described in subsection 3 at least three times, not less than 30 days apart. The notice must:~~

~~(a) Be given by personal delivery or by certified or registered mail to the beneficiary's last known address;~~

~~(b) Be in at least 12 point type or font except that the provision in which the beneficiary makes the election to apply the limitation set forth in subsection 2 to the trust must be in at least 16 point bold type or font;~~

~~(c) Describe the availability of such an election;~~

~~(d) Describe the effect of such an election on the distribution of income from the trust; and~~

~~(e) Inform the beneficiary of the manner in which such an election may be made.~~

~~7. An adult beneficiary described in subsection 3 may:~~

~~(a) By written notice given to the trustee by personal delivery or by certified or registered mail or as otherwise directed by the trustee, consent to a different form of notice or waive the right to receive notice pursuant to this section; and~~

~~(b) Elect to apply the limitation set forth in subsection 2 to the trust at any time after the date on which the first notice is personally delivered or mailed to any such beneficiary.~~

~~8. The provisions of subsection 2:~~

~~(a) Apply to a trust that becomes irrevocable on or after October 1, 2011;~~

~~(b) Do not apply to a trust that became irrevocable before October 1, 2011, unless a majority of adult beneficiaries described in subsection 3 elect to apply the limitation in the manner provided in subsection 4.~~

~~9. As used in this section, "applicable income percentage" means:~~

~~(a) For an accounting period that includes a calendar year, the interest rate fixed on January 1 of that year pursuant to subsection 1 of NRS 99.040, plus 2 percentage points; and~~

~~(b) For an accounting period that includes a portion of a calendar year, the income percentage described in paragraph (a) prorated for that portion of the calendar year included in the accounting period.~~

2. If the amount charged to the income of an irrevocable trust pursuant to paragraph (a) of subsection 1 exceeds 15 percent of the income of the trust in the accounting period, the trustee shall exercise the authority in NRS 164.795 to equitably reduce the amount charged against income for that accounting period unless:

(a) The trustee, after taking into consideration the terms of the trust instrument, reasonably concludes that the reduction is not in the best interest of the beneficiaries of the trust;

(b) The reduction of the amount charged to income would violate the express terms of the trust instrument other than a general directive to comply with the

Uniform Principal and Income Act (1997) or with a general provision that contains language similar to that found in paragraph (a) of subsection 1;

(c) The trustee is authorized under the terms of the trust instrument to distribute trust principal to each income beneficiary; or

(d) The trustee gives notice in compliance with NRS 164.725 of the intent not to make the adjustment and no current income beneficiary objects.

Sec. 183. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining portion of the disbursements described in ~~subsections~~ paragraph (a) of subsection 1 ~~and 2~~ of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in paragraph (d) of subsection 1 of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remediating and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Sec. 184. Chapter 165 of NRS is hereby amended by adding thereto the provisions set forth as sections 185 to 198, inclusive, of this act.

Sec. 185. *As used in NRS 165.135 and sections 185 to 198, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 186 to 191, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 186. *"Accounting period" means the period for which the trustee is accounting, and except as otherwise provided in this section, commencing with the first day following the previous accounting period and ending on the date specified by the trustee or on the date specified by the court if the account is ordered by the court. If the account is an initial account, the account commences on the day the trustee became the trustee.*

Sec. 187. *"Broad power of appointment" means a power of appointment held by a person, commonly referred to as a power holder, that can be exercised in favor of:*

1. The power holder, without any restriction or limitation; or

2. Any person other than one or more of the following:

(a) The power holder;

(b) The power holder's estate;

(c) The power holder's creditors; or

(d) The creditors of the power holder's estate.

1 Sec. 188. *“Current beneficiary” means a distribution beneficiary to whom*
2 *or for whose benefit the trustee is authorized or required to make distributions of*
3 *income or principal at any time during the accounting period.*

4 Sec. 189. *“Distribution beneficiary” has the meaning ascribed to it in NRS*
5 *163.415.*

6 Sec. 190. *“Remainder beneficiary” means a beneficiary who will become a*
7 *current beneficiary upon the death of an existing current beneficiary or upon the*
8 *occurrence of some other event that may occur during the beneficiary’s lifetime,*
9 *regardless of whether the beneficiary’s share is subject to elimination under a*
10 *power of appointment other than a broad power of appointment.*

11 Sec. 191. *“Remote beneficiary” means a beneficiary who may become a*
12 *current beneficiary upon the death of two or more persons or upon the*
13 *occurrence of some other event that cannot possibly occur during the*
14 *beneficiary’s lifetime.*

15 Sec. 192. 1. *The following provisions apply to the extent that the trust*
16 *instrument does not expressly provide otherwise:*

17 (a) *The trustee shall provide an account to each current beneficiary and to*
18 *each remainder beneficiary upon request but is not required to provide an*
19 *account to a remote beneficiary;*

20 (b) *A trustee is not required to provide an account more than once in any*
21 *calendar year unless ordered by a court to do so upon good cause shown;*

22 (c) *Each account provided to a beneficiary must comply with the provisions*
23 *of subsection 3 or 4 of NRS 165.135;*

24 (d) *In addition to other methods of providing an account to a beneficiary, a*
25 *trustee may provide an account to a beneficiary by electronic mail or through a*
26 *secure website on the Internet;*

27 (e) *While a trust is revocable, the trustee is not required to provide an*
28 *account to any person other than a person having the right of revocation except*
29 *that a trustee of such a trust shall provide an account if:*

30 (1) *A court-appointed guardian of the trust estate requests an account on*
31 *behalf of the settlor; or*

32 (2) *The court, in considering a petition filed under NRS 164.015,*
33 *determines that the settlor is incompetent or is susceptible to undue influence and*
34 *directs the trustee to provide an account, specifying the nature and extent of the*
35 *account to be provided and the person or persons who are entitled to receive the*
36 *account;*

37 (f) *While an irrevocable trust in its entirety is subject to a broad power of*
38 *appointment, the trustee is not required to provide an account for that trust to any*
39 *person other than the power holder;*

40 (g) *The cost of an account must be charged as provided in the Uniform*
41 *Principal and Income Act (1997) as set forth in chapter 164 of NRS;*

42 (h) *An account shall be deemed approved by a beneficiary who received a*
43 *copy of the account if no written objection thereto is given to the trustee within*
44 *120 days after the date on which the trustee provided the account to that*
45 *beneficiary;*

46 (i) *An account shall be deemed approved by a minor, unborn or unknown*
47 *beneficiary if it is deemed approved as to an adult beneficiary who has a similar*
48 *interest;*

49 (j) *A trustee is not required to provide to a beneficiary information that does*
50 *not affect the beneficiary’s interest in the trust, and an adult beneficiary may, by*
51 *a written declaration that is signed by that beneficiary, waive the right to receive*
52 *any information otherwise required to be provided pursuant to the provisions of*
53 *subsection 3 or 4 of NRS 165.135; and*

1 (k) For the purposes of paragraph (h), a beneficiary shall be deemed to have
2 received a copy of an account provided by the trustee to the beneficiary by
3 electronic mail or through a secure website on the Internet if the trustee:

4 (1) Sent the beneficiary an electronic mail in a manner that complies
5 with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail
6 in a manner that complies with subsection 2 of NRS 719.320; and

7 (2) Attached the account to the electronic mail as an electronic record or
8 included in the electronic mail a notice to the beneficiary indicating the
9 availability of the account on the secure website.

10 2. As used in this section:

11 (a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

12 (b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

13 **Sec. 193.** Notwithstanding any provision to the contrary in the trust
14 instrument:

15 1. If the amount distributable to a current beneficiary is affected by the
16 amount of administrative expenses or is affected by the allocation of receipts and
17 disbursements to income or principal, the trustee shall, upon request, provide an
18 account annually to the current beneficiary. An account provided to a current
19 beneficiary pursuant to this subsection must comply with the provisions of
20 subsection 3 or 4 of NRS 165.135, except to the extent that the current
21 beneficiary agrees otherwise in writing.

22 2. Except as otherwise provided in this subsection, upon request, an
23 account must be provided annually to each remainder beneficiary of an
24 irrevocable trust. A beneficiary who has been eliminated by the exercise of a
25 power of appointment has no right to request or receive an account pursuant to
26 this subsection.

27 3. A trustee, at the expense of the trust, may provide:

28 (a) An unrequested account to one or more beneficiaries at any time; and

29 (b) More information to beneficiaries, including, without limitation, remote
30 beneficiaries, than is required under the trust instrument or by law.

31 4. Unless the court determines that there is clear and convincing evidence
32 that the trustee was acting in good faith, a trustee who fails to provide an account
33 when required pursuant to NRS 165.135 and sections 185 to 198, inclusive, of
34 this act is personally liable to each beneficiary who requested the account in
35 writing for all costs reasonably incurred by each such beneficiary to enforce NRS
36 165.135 and sections 185 to 198, inclusive, of this act, including, without
37 limitation, reasonable attorney's fees and court costs. The trustee may not expend
38 trust funds therefor.

39 **Sec. 194.** A beneficiary may send a written demand for an account
40 pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act to the
41 trustee in accordance with the following procedure:

42 1. The demand on the trustee must be sent to the trustee or to the trustee's
43 attorney of record and the demand must include, without limitation:

44 (a) The identity of the demanding beneficiary, including the beneficiary's
45 mailing address or the address of the beneficiary's attorney;

46 (b) The accounting period for which an account is demanded; and

47 (c) The nature and extent of the account demanded and the legal basis for
48 the demand.

49 2. Within 14 days after the trustee has received a demand for an account
50 from a beneficiary, the trustee shall notify the demanding beneficiary of the
51 trustee's acceptance or rejection of the demand. The trustee shall:

1 (a) Provide an account within 60 days after receipt of the demand, unless
2 that time is modified by consent of the beneficiary or by order of the court if the
3 trustee accepts the beneficiary's demand for an account; or

4 (b) Set forth the grounds for rejecting the beneficiary's demand for an
5 account in the notice of rejection and inform the beneficiary that the beneficiary
6 has 60 days in which to petition the court to review the rejection if the trustee
7 rejects the beneficiary's demand for an account.

8 3. The demand by the beneficiary and the notice of acceptance or rejection
9 of the demand by the trustee must be delivered by first-class mail, personal
10 delivery or commercial carrier. If delivery of the demand or of the notice is in
11 dispute, proof of delivery may be established by a return receipt or other proof of
12 delivery provided by the person making the delivery or by affidavit of the person
13 who arranged for the delivery setting forth the delivery address, the method of
14 delivery arranged for and the actions taken by that person to arrange for the
15 delivery.

16 4. If the trustee fails to accept or reject a beneficiary's demand for an
17 account as required by subsection 2, the beneficiary's demand shall be deemed
18 rejected.

19 **Sec. 195.** 1. A beneficiary whose demand for an account in compliance
20 with section 194 of this act is rejected or deemed rejected must file a petition
21 seeking the court's review of the trustee's rejection within 60 days after the
22 rejection date as described in subsection 2. A petition filed pursuant to this
23 section may also seek additional relief pursuant to NRS 153.031.

24 2. If the trustee rejects the beneficiary's demand for an account, the
25 rejection date is the date on which the trustee provides the beneficiary with a
26 notice of rejection. If the trustee fails to accept or reject the beneficiary's
27 demand, the rejection date is deemed to be 14 days after the beneficiary gave the
28 trustee the demand.

29 3. If the court has not previously accepted jurisdiction over the trust, the
30 beneficiary must petition the court to confirm the appointment of the trustee
31 pursuant to NRS 164.010. Such a petition may be combined with the petition for
32 the court's review of the trustee's rejection.

33 4. The clerk shall set the petition for hearing, and the petitioner shall give
34 notice to all interested persons for the period and in the manner provided in NRS
35 155.010. The notice must state the filing of the petition, the object and the time
36 and place of the hearing.

37 5. If one or more other beneficiaries with interests substantially similar to
38 the petitioner request to join the petition at or before the hearing, the court shall
39 consider the other beneficiaries to be additional petitioners without requiring
40 those beneficiaries to file separate petitions or to give separate notices of the
41 hearing.

42 6. At the hearing, as to each petitioner, the court may enter an order:

43 (a) Compelling the trustee to provide an account to the petitioner and
44 specifying the nature and extent of the account to be provided;

45 (b) Declaring that the petitioner is not entitled to an account and setting
46 forth the reason or reasons the petitioner is not so entitled; or

47 (c) Compelling the trustee to provide an account to the petitioner as
48 described in paragraph (a) and authorizing an independent review of the account
49 using the procedure set forth in section 196 of this act.

50 7. Except as otherwise provided in subsection 3 of NRS 153.031 and
51 subsection 4 of section 193 of this act, each petitioner shall pay his or her own
52 expenses, including, without limitation, attorney's fees, that arise in conjunction
53 with filing a petition pursuant to this section.

1 **Sec. 196.** *If, while considering a petition filed pursuant to section 195 of*
2 *this act, the court finds that the beneficiary is entitled to an account pursuant to*
3 *this section and that the trust instrument authorizes or directs the trustee not to*
4 *provide the account with the disclosures required by this section, the court shall,*
5 *upon the beneficiary's request, compel the trustee to confidentially provide an*
6 *account in accordance with the following procedure:*

7 1. *If the beneficiary has not been previously provided with a copy of the*
8 *trust instrument, the court shall direct the trustee to provide the court and each*
9 *reviewer selected pursuant to subsection 2 with a copy of the trust instrument, or*
10 *such portions as the court deems to be pertinent to the determination of the*
11 *adequacy of the trustee's account and to the enforcement of the beneficiary's*
12 *rights under the trust.*

13 2. *The court shall direct the account to be provided confidentially to the*
14 *court and to one or more reviewers selected by the beneficiary. The court may*
15 *direct that the account be filed with the court clerk under seal or delivered to the*
16 *court for in camera review. The account provided must contain the information*
17 *required by this section without regard to any trust provision restricting the*
18 *information to be provided to the requesting beneficiary.*

19 3. *A reviewer must be either a certified public accountant or an attorney.*

20 4. *Subject to the provisions of paragraph (b) of subsection 5, the beneficiary*
21 *requesting the account must pay for the services of each reviewer. The expense of*
22 *preparing the account must be paid as an expense of the trust.*

23 5. *Each reviewer must agree that:*

24 (a) *The account provided must be reviewed confidentially and must not be*
25 *provided to the beneficiary except as otherwise provided in paragraph (b) or in an*
26 *order of the court; and*

27 (b) *The reviewer's duty is to review the account and to prepare a written*
28 *report, which must be filed with the court clerk under seal or submitted to the*
29 *court for in camera review, informing the court if there is anything that would*
30 *indicate that the trust, as it affects the beneficiary's interest, has not been or may*
31 *not have been properly administered or accounted for in accordance with*
32 *applicable law, the trust instrument and generally accepted accounting principles*
33 *applicable to trusts. At the same time a copy of the reviewer's report is provided to*
34 *the court, a copy of each reviewer's report must be delivered to the trustee or to*
35 *the trustee's attorney of record.*

36 6. *The trustee may submit to the court and to each reviewer an objection to*
37 *the report of a reviewer within 10 days after the trustee received the reviewer's*
38 *report. The trustee shall submit the objections to the court and to each reviewer*
39 *in the same manner as the trustee provided the account. The court may consider*
40 *each reviewer's report and the objections of the trustee with or without a hearing.*
41 *If the court, after considering the report of any reviewer and any objection*
42 *submitted by the trustee, finds that the trust, as it affects the beneficiary's interest,*
43 *has not been or may not have been properly administered or accounted for in*
44 *accordance with applicable law, the trust instrument and generally accepted*
45 *accounting principles applicable to trusts, in addition to any other relief granted*
46 *by the court pursuant to NRS 153.031 or section 195 of this act, the court shall*
47 *enter an order granting the relief necessary to protect the beneficiary's interests*
48 *or to allow the beneficiary to enforce his or her rights under the trust.*

49 7. *An order granting relief described in subsection 6 may include one or*
50 *more of the following:*

51 (a) *A directive to the trustee to provide the beneficiary an account which*
52 *complies with the provisions of subsection 3 or 4 of NRS 165.135, together with*

1 *such additional information as the beneficiary may require to properly enforce*
2 *his or her rights under the trust;*

3 *(b) A directive to the trustee to provide further annual accounts required*
4 *under this section without further court order;*

5 *(c) A directive to the trustee to provide the court and each reviewer a more*
6 *complete account or such additional information as the court deems necessary to*
7 *determine if the trust is being properly administered in compliance with the trust*
8 *instrument and applicable law;*

9 *(d) A directive to the trustee to take action to remedy or mitigate the effects of*
10 *any improper administration of the trust;*

11 *(e) A declaration relieving each reviewer from any further obligation of*
12 *confidentiality; and*

13 *(f) Any such additional relief as the court deems proper to ensure the*
14 *trustee's compliance with the trust instrument and applicable law and to allow*
15 *enforcement of the beneficiary's rights.*

16 8. *If the beneficiary is granted any relief by the court on the basis that the*
17 *trust was not properly administered or accounted for, the provisions of subsection*
18 *3 of NRS 153.031 and subsection 4 of section 193 of this act apply with regard to*
19 *the reimbursement of costs incurred by the beneficiary.*

20 **Sec. 197.** 1. *Upon request by a beneficiary who is entitled to receive an*
21 *account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive,*
22 *of this act, a trustee shall provide a copy of the trust instrument to that*
23 *beneficiary except as expressly provided otherwise in the trust instrument.*

24 2. *Notwithstanding the provisions of subsection 1 or any provision to the*
25 *contrary in the trust instrument, the court may direct the trustee to provide a*
26 *beneficiary who is entitled to receive an account pursuant to the terms of NRS*
27 *165.135 and sections 185 to 198, inclusive, of this act a copy of the trust*
28 *instrument, or such portions as the court deems to be pertinent to the*
29 *determination of the adequacy of the trustee's account and to the enforcement of*
30 *the beneficiary's rights under the trust.*

31 3. *Except as otherwise provided in section 196 of this act or by order of the*
32 *court for good cause shown, the trustee must not be compelled to provide a copy*
33 *of the trust instrument to a person who is not a beneficiary of the trust or a*
34 *person who is not entitled to an account of the trust pursuant to the provisions of*
35 *NRS 165.135 and sections 185 to 198, inclusive, of this act.*

36 **Sec. 198.** *Except as otherwise provided in a trust instrument, a person*
37 *holding a power of appointment pursuant to a nontestamentary trust does not*
38 *owe a fiduciary duty to any person and is not liable to any person with respect to*
39 *the exercise or nonexercise of the power of appointment.*

40 **Sec. 199.** NRS 165.135 is hereby amended to read as follows:

41 165.135 1. *The trustee of a nontestamentary trust shall ~~[, not less often than~~*
42 *~~annually,~~ furnish to each beneficiary ~~[who is currently entitled to receive income~~*
43 *~~pursuant to the terms of the trust, to each residuary beneficiary who is then living,~~*
44 *~~to each specific beneficiary then living who has not received complete distribution,~~*
45 *~~and to any surety on the bond of the trustee of the trust] an account [showing:~~*

46 ~~— 1. The period which the account covers;~~

47 ~~— 2. In a separate schedule:~~

48 ~~— (a) Additions to trust principal during the accounting period with the dates and~~
49 ~~sources of acquisition;~~

50 ~~— (b) Investments collected, sold or charged off during the accounting period;~~

51 ~~— (c) Investments made during the accounting period, with the date, source and~~
52 ~~cost of each;~~

~~(d) Deductions from principal during the accounting period, with the date and purpose of each; and~~

~~(e) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof;~~

~~3. In a separate schedule:~~

~~(a) Trust income on hand at the beginning of the accounting period, and in what form held;~~

~~(b) Trust income received during the accounting period, when and from what source;~~

~~(c) Trust income paid out during the accounting period, when, to whom and for what purpose; and~~

~~(d) Trust income on hand at the end of the accounting period and how invested;~~

~~4. A statement of any unpaid claims with the reason for failure to pay them; and~~

~~5. A brief summary of the account.] in accordance with the provisions of this section and sections 185 to 198, inclusive, of this act.~~

2. At a minimum, the trustee shall furnish an account to each beneficiary in accordance with the terms and conditions stated in the trust instrument. The cost of each account must be allocated to income and principal as provided in the trust instrument.

3. Except as otherwise provided in this section, an account provided by a trustee to a beneficiary who is entitled to an account pursuant to this section and sections 185 to 198, inclusive, of this act must include:

(a) A statement indicating the accounting period;

(b) With respect to the trust principal:

(1) The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;

(2) Additions to the trust principal during the accounting period, with the dates and sources of acquisition;

(3) Investments collected, sold or charged off during the accounting period;

(4) Investments made during the accounting period, with the date, source and cost of each investment;

(5) Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and

(6) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;

(c) With respect to trust income, the trust income:

(1) On hand at the beginning of the accounting period, and in what form held;

(2) Received during the accounting period, when and from what source;

(3) Paid out during the accounting period, when, to whom and for what purpose; and

(4) On hand at the end of the accounting period and how invested;

(d) A statement of unpaid claims with the reason for failure to pay them; and

(e) A brief summary of the account.

4. In lieu of the information required to be provided by a trustee to a beneficiary pursuant to subsection 3, a trustee may provide to such a beneficiary a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (b) to (e), inclusive, of subsection 3. Upon request, the trustee shall make all the information used in the preparation of the

1 *financial report available to each beneficiary who was provided a copy of the*
2 *financial report.*

3 *5. For the purposes of NRS 165.135 and sections 185 to 198, inclusive, of*
4 *this act, the information provided by a trustee to a beneficiary pursuant to*
5 *subsection 4 shall be deemed to be an account.*

6 **Sec. 200.** NRS 165.160 is hereby amended to read as follows:

7 165.160 1. Except ~~for the provisions of NRS 165.135, provisions of this~~
8 ~~chapter shall have no application to nontestamentary trusts unless the settlor shall~~
9 ~~expressly so declare in the instrument creating the trust. But no expression of intent~~
10 ~~by any settlor shall affect the jurisdiction of the courts of this state over inventories~~
11 ~~and accounts of trustees, insofar as such jurisdiction does not depend upon the~~
12 ~~provisions of this chapter.] as otherwise provided by a specific statute, federal law~~
13 ~~or common law, the terms of a trust instrument may expand, restrict, eliminate or~~
14 ~~otherwise vary the rights and interests of beneficiaries in any manner that is not~~
15 ~~illegal or against public policy, including, without limitation, specifying:~~

16 (a) *The right to be informed of the beneficiary's interest for a period of time;*
17 (b) *The grounds for removing a fiduciary;*
18 (c) *The circumstances, if any, in which the fiduciary must diversify*
19 *investments; and*
20 (d) *A fiduciary's powers, duties, standard of care, rights of indemnification*
21 *and liability to persons whose interests arise from the trust instrument.*

22 2. *Nothing in this section shall be construed to:*

23 (a) *Authorize the exculpation or indemnification of a fiduciary for the*
24 *fiduciary's own willful misconduct or gross negligence; or*

25 (b) *Preclude a court of competent jurisdiction from removing a fiduciary*
26 *because of the fiduciary's willful misconduct or gross negligence.*

27 3. *The rule that statutes in derogation of the common law are to be strictly*
28 *construed has no application to this section. This section must be liberally*
29 *construed to give maximum effect to the principle of freedom of disposition and*
30 *to the enforceability of trust instruments.*

31 **Sec. 201.** Chapter 166 of NRS is hereby amended by adding thereto the
32 provisions set forth as sections 202 and 203 of this act.

33 **Sec. 202.** 1. *A trust administered under the laws of another state, or*
34 *under the laws of a foreign jurisdiction, is a spendthrift trust pursuant to this*
35 *chapter if:*

36 (a) *The trustee of the trust complies with any requirements set forth in the*
37 *trust instrument and any requirements of the laws of the state or jurisdiction*
38 *from which the trust is being transferred;*

39 (b) *The trustee or other person having the power to transfer the domicile of*
40 *the trust declares such intent to transfer in writing;*

41 (c) *The writing declaring the intent to transfer the domicile of the trust is*
42 *delivered to the trustee, if it is executed by a person other than the trustee; and*

43 (d) *All requirements of this chapter are satisfied simultaneously with, or*
44 *immediately after, the change of domicile.*

45 2. *For purposes of NRS 166.170, if the domicile of an existing trust is*
46 *transferred from another state or from a foreign jurisdiction to this State and the*
47 *laws of the other state or jurisdiction are similar to the provisions of this chapter,*
48 *the transfer shall be deemed to have occurred:*

49 (a) *On the date on which the settlor of the trust transferred assets into the*
50 *trust if the applicable law of the trust has at all times been substantially similar to*
51 *the provisions of this chapter; or*

52 (b) *On the earliest date on which the applicable laws of the trust were*
53 *substantially similar to the provisions of this chapter.*

Sec. 203. *The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.*

Sec. 204. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

- (a) All or part of the land, rents, issues or profits affected are in this State;
- (b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;
- (c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or
- (d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust, at least one trustee of a spendthrift trust must be:

- (a) A natural person who resides and has his or her domicile in this State;
- (b) A trust company that:
 - (1) Is organized under federal law or under the laws of this State or another state; and
 - (2) Maintains an office in this State for the transaction of business; or
- (c) A bank that:
 - (1) Is organized under federal law or under the laws of this State or another state;
 - (2) Maintains an office in this State for the transaction of business; and
 - (3) Possesses and exercises trust powers.

~~[3. Except as otherwise provided in subsection 1, this chapter also governs the construction, operation and enforcement, outside of this State, of all spendthrift trusts created in this State, except so far as prohibited by valid laws of other states. Unless the writing declares to the contrary, expressly, it shall be deemed to be made in the light of this chapter and all other acts relating to spendthrift trusts enacted in this State.]~~

Sec. 205. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

- (a) A person other than the settlor;
- (b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or
- (c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing ~~is~~

~~—(a) Is “irrevocable” meets the requirements of paragraph (b) of subsection 1 even if [the] under the terms of the writing;~~

~~(a) The settlor may prevent a distribution from the trust [or];~~

~~(b) The settlor holds a special lifetime or testamentary [special] power of appointment [or similar power].~~

~~—(b) Does not “require” a distribution to the settlor if the trust instrument provides that the settlor may receive it only in the discretion of another person.]~~

1 *that cannot be exercised in favor of the settlor, the settlor's estate, a creditor of*
2 *the settlor or a creditor of the settlor's estate;*

3 *(c) The settlor is a beneficiary of a trust that qualifies as a charitable*
4 *remainder trust pursuant to 26 U.S.C. § 664, or any successor provision, even if*
5 *the settlor has the right to release the settlor's retained interest in such a trust, in*
6 *whole or in part, in favor of one or more of the remainder beneficiaries of the*
7 *trust;*

8 *(d) The settlor is authorized or entitled to receive a percentage of the value of*
9 *the trust each year as specified in the trust instrument of the initial value of the*
10 *trust assets or their value determined from time to time pursuant to the trust*
11 *instrument, but not exceeding:*

12 *(1) The amount that may be defined as income pursuant to 26 U.S.C. §*
13 *643(b); or*

14 *(2) With respect to benefits from any qualified retirement plan or any*
15 *eligible deferred compensation plan, the minimum required distribution as*
16 *defined in 26 U.S.C. § 4974(b);*

17 *(e) The settlor is authorized or entitled to receive income or principal from a*
18 *grantor retained annuity trust paying out a qualified annuity interest within the*
19 *meaning of 26 C.F.R. § 25.2702-3(b) or a grantor retained unitrust paying out a*
20 *qualified unitrust interest within the meaning of 26 C.F.R. § 25.2702-3(c);*

21 *(f) The settlor is authorized or entitled to use real property held under a*
22 *qualified personal residence trust as described in 26 C.F.R. § 25.2702-5(c), and*
23 *any successor provision, or the settlor may possess or actually possesses a*
24 *qualified annuity interest within the meaning of that term as described in 26*
25 *C.F.R. § 25.2702-3(b), and any successor provision;*

26 *(g) The settlor is authorized to receive income or principal from the trust, but*
27 *only subject to the discretion of another person; or*

28 *(h) The settlor is authorized to use real or personal property owned by the*
29 *trust.*

30 3. Except for the power of the settlor to make distributions to himself or
31 herself without the consent of another person, the provisions of this section shall
32 not be construed to prohibit the settlor of a spendthrift trust from holding other
33 powers under the trust, whether or not the settlor is a cotrustee, including, without
34 limitation, the power to remove and replace a trustee, direct trust investments and
35 execute other management powers.

36 4. *As used in this section, "remainder beneficiary" has the meaning*
37 *ascribed to it in NRS 164.785.*

38 **Sec. 206.** NRS 166.170 is hereby amended to read as follows:

39 166.170 1. A person may not bring an action with respect to a transfer of
40 property to a spendthrift trust:

41 (a) If the person is a creditor when the transfer is made, unless the action is
42 commenced within:

43 (1) Two years after the transfer is made; or

44 (2) Six months after the person discovers or reasonably should have
45 discovered the transfer,

46 — whichever is later.

47 (b) If the person becomes a creditor after the transfer is made, unless the action
48 is commenced within 2 years after the transfer is made.

49 2. A person shall be deemed to have discovered a transfer at the time a public
50 record is made of the transfer, including, without limitation, the conveyance of real
51 property that is recorded in the office of the county recorder of the county in which
52 the property is located or the filing of a financing statement pursuant to chapter 104
53 of NRS.

3. A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove *by clear and convincing evidence* that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or ~~[was otherwise wrongful as to the]~~ *that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that* creditor. In the absence of such *clear and convincing* proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was fraudulent or wrongful does not constitute proof as to any other creditor and proof of a fraudulent or wrongful transfer of property as to one creditor shall not invalidate any other transfer of property.

4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

6. *A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.*

7. *If more than one transfer is made to a spendthrift trust:*

(a) *The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and*

(b) *Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.*

8. *Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.*

9. *For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust.*

10. As used in this section:

(a) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who

participated in the preparation of accountings, tax returns or other reports related to the trust.

(b) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 207. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; *or*

~~(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or~~

~~—(e)—~~ For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 208. NRS 678.630 is hereby amended to read as follows:

678.630 1. Any account payable to a trustee for another person may be paid to the trustee on demand.

2. ~~Unless a credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the:~~

~~—(a) Personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary; or~~

~~—(b) Beneficiary upon presentation to the credit union of proof of death showing that such beneficiary or beneficiaries survived all persons named as trustees.~~

~~—3.—~~ The protection provided a credit union in ~~{subsections 1 and 2}~~ *subsection 1* has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Sec. 209. NRS 111.480, 111.490, 111.500, 111.510, 111.520, 111.530, 111.540, 111.550, 111.560, 111.570, 111.580, 111.590, 111.600, 111.610, 111.620, 111.630, 111.640, 111.650, 133.105, 663.025, 673.370, 677.614, 678.580, 678.590, 678.600, 678.610, 678.620 and 678.640 are hereby repealed.

Sec. 210. The amendatory provisions of:

1. Sections 73 and 177 of this act apply to existing wills, whenever created.

2. Sections 185 to 199, inclusive, of this act apply to nontestamentary trusts, whenever created, but shall not be construed to require a trustee to modify or update an account that:

(a) Has been approved by the court or by the trust's beneficiaries; or

- 1 (b) Is deemed approved by the trust's beneficiaries pursuant to the provisions
2 of the trust instrument or pursuant to paragraph (h) of subsection 1 of section 192 of
3 this act.

LEADLINES OF REPEALED SECTIONS

- 111.480 Short title; uniformity of application and construction.
111.490 Definitions.
111.500 "Beneficiary" defined.
111.510 "Beneficiary form" defined.
111.520 "Register" defined.
111.530 "Registering entity" defined.
111.540 "Security" defined.
111.550 Applicability.
111.560 Persons eligible to obtain registration; manner in which multiple
owners of registered securities hold title.
111.570 Validity of registration.
111.580 Designation of beneficiary required for registration.
111.590 Words or abbreviations indicating registration.
111.600 Effect of designation of beneficiary on ownership of registered
securities; cancellation or modification of registration.
111.610 Disposition of registered securities upon death of owner.
111.620 Transfer on death of registered security is contractual and not
testamentary; rights of creditors.
111.630 Offer or acceptance of requests for registration by registering
entity.
111.640 Right of registering entity to establish terms and conditions for
receiving and effectuating registrations; substitution and identification of
beneficiaries.
111.650 Liability of registering entity.
133.105 Transfer of security issued in registered form or beneficiary
form effective without compliance with formal requirements of chapter.
663.025 Deposits in trust.
673.370 Payment to beneficiary on death of trustee; payment as valid
discharge of association.
677.614 Payment of withdrawal value and interest to beneficiary upon
death of fiduciary.
678.580 Presumptions concerning ownership of accounts.
678.590 Multiple-party accounts: Proportional ownership; tenancy in
common.
678.600 Multiple-party accounts: Survivorship.
678.610 Trust accounts.
678.620 Payment as valid discharge of credit union.
678.640 Payment of multiple-party accounts.