

Amendment No. 241

Senate Amendment to Senate Bill No. 307

(BDR 12-179)

Proposed by: Senate 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.

SRT/BFG



Date: 4/15/2013

S.B. No. 307—Revises provisions relating to trusts, estates and probate.

(BDR 12-179)



SENATE BILL NO. 307—SENATOR KIECKHEFER

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to trusts, estates and probate.
(BDR 12-179)

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; revising provisions relating to the distribution and administration of the estate of a deceased person; exempting certain property from execution; revising provisions governing certain nonprobate transfers; revising provisions relating to the creation and administration of trusts; providing for the creation and administration of public benefit trusts; revising provisions relating to directed trusts; revising provisions relating to the jurisdiction of a court in cases concerning the administration of the estate of a deceased person and the administration of trusts; revising provisions governing spendthrift trusts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term “interested person” for the purpose of determining who is entitled to receive notice of, and participate in, a proceeding relating to the estate of a deceased person. (NRS 132.185) **Sections 3 and 5** of this bill amend this definition to include all persons whose interest in an estate or trust will be materially affected by a decision of a fiduciary or a decision of the court and that a person’s status as an interested person is determined according to the particular purposes of, and the matter involved in, each proceeding.

Existing law provides that if a decedent executed a will before his or her marriage, the will is revoked as to the surviving spouse of the decedent unless the spouse is provided for in the will or is mentioned in the will in such a way that indicates an intent not to make a provision for the spouse. (NRS 133.110) **Section 6** of this bill revises this provision so that such a will is not revoked if the will refers generally to a future spouse.

Section 7 of this bill provides that if a declaratory judgment establishing the validity of a will is entered during the lifetime of the person executing the will, the validity of the will cannot be challenged after the death of the person executing the will. **Section 7** does not prohibit an action to establish that the will was revoked or that the decedent executed a valid later will.

Existing law establishes the qualifications for a person to serve as executor or administrator of a decedent’s estate. (NRS 138.020, 139.010) **Sections 10 and 12** of this bill authorize a court to disqualify a person from acting as the executor or administrator of a decedent’s estate upon proof of any compelling reason.

Existing law establishes the authority of administrators with the will annexed and the order of appointment for such administrators. (NRS 138.090) **Section 11** of this bill provides certain discretionary powers to administrators with the will annexed. **Section 11** also provides that a person who is expressly excluded as a beneficiary or as a fiduciary in a will is ineligible to serve as an administrator with the will annexed and that the court has discretion to disregard the order of priority for the appointment of an administrator under existing law to favor the appointment of certain beneficiaries of the will as administrators with the will annexed.

Existing law requires an appraisal of certain property of the estate of a deceased person and an inventory of all estate property. (NRS 144.010, 144.020, 144.040) **Sections 14 and 15** of this bill authorize the waiver of such an appraisal or inventory in certain circumstances.

Existing law provides that if a person dies leaving an estate the gross value of which, after deducting encumbrances, is \$100,000 or less, the estate must not be administered and must be assigned and set apart, after directing such payments as the court deems just, for the support of the surviving spouse or any minor children of the decedent. (NRS 146.070) **Section 16** of this bill authorizes the court to: (1) direct payments to the creditors of the decedent and to the attorney for the petition before the estate is assigned and set part for the support of the surviving spouse or any minor children; and (2) reduce the amount assigned and set apart for the surviving spouse or any minor children by the amount of certain nonprobate transfers to those persons.

Sections 18 and 52 of this bill enact provisions governing personal jurisdiction over certain persons in proceedings related to the estate of a deceased person and the administration of a trust and governing the law to be applied in certain proceedings related to trusts.

Existing law creates a presumption that certain transfers at death are void due to fraud, undue influence or coercion. (NRS 155.097, 155.0975) **Sections 20-24** of this bill create the same presumption for certain transfers which occur during the lifetime of the transferor.

Existing law authorizes the court to impose certain sanctions on a person whom the court finds to be a vexatious litigant in a proceeding related to the administration of the estate of a deceased person or a trust. (NRS 155.165) **Section 25** of this bill includes a trustee or a personal representative as a person who may be a vexatious litigant.

Sections 26 and 27 of this bill amend the provisions of existing law relating to property that is exempt from execution to include veterans benefits and military retirement plans, certain education plans, certain insurance and annuity plans and the proceeds of certain exempt property and any property attributable to those proceeds.

Sections 28 and 29 of this bill authorize a life estate to be terminated by an affidavit instead of requiring a court petition.

Section 32 of this bill specifies that existing law governing spendthrift trusts rather than the law governing fraudulent transfers is controlling with respect to any challenges to a transfer of property to a spendthrift trust.

Section 33 of this bill enacts into statute certain duties of a fiduciary and authorizes the person appointing the fiduciary, by express provision in the governing instrument, to modify any of those duties other than the duty to comply with the governing instrument and the duty to comply with applicable law.

Existing law enumerates the powers of a trustee. (Chapter 163 of NRS) **Sections 36 and 37** of this bill add to the powers of a trustee the power to combine or divide trusts and the power to change the name of a trust in certain circumstances.

Existing law sets forth factors that may not be considered the exercise of improper dominion or control over a trust by a beneficiary or settlor. (NRS 163.4177) Existing law also requires clear and convincing evidence to find a settlor to be an alter ego of a trustee of an irrevocable trust. (NRS 163.418) **Section 38** of this bill places these provisions of existing law in a single section and sets forth a standard for establishing that a person is the alter ego of or has improper dominion or control over an irrevocable trust.

Existing law governs the administration of directed trusts, which are trusts under which someone other than the trustee has the authority to direct the trustee to take certain actions. (NRS 163.553-163.556) **Section 39, 40 and 49-51** of this bill amend provisions governing directed trusts. **Section 49** of this bill provides that a trustee of a directed trust is not liable individually or as a fiduciary for a loss resulting from the trustee's compliance with certain directions or failure to take any proposed action that required an approval which was not given or was contingent upon a condition that was not satisfied.

Sections 41 and 44 of this bill provide for the creation and administering of public benefit trusts, which are trusts without identifiable beneficiaries that are not charitable trusts and are established to further one or more specifically declared religious, scientific, literary, educational, community development, personal improvement or philanthropic purpose that is not illegal or against public policy.

Existing law provides that a trust may be created by a declaration by the owner of property that he or she holds the property as trustee. (NRS 163.002, 163.004, 163.006)

Section 42 of this bill provides that regardless of the formal title to the property, in the absence of a contrary declaration by the owner or a transfer of the property to a third party: (1) property declared to be trust property and all the income and reinvestment thereof remains trust property; and (2) any additions or contributions to accounts or certain other property declared to be trust property are also trust property.

Under existing law, for a court to assume jurisdiction over a case involving a trust, a petition to confirm a trustee must be filed. (NRS 164.010) **Section 53** of this bill provides for a petition requesting the court to assume jurisdiction without confirming the trustee.

Under existing law, a trustee may present a certification of trust to any person, in lieu of a copy of any trust instrument, to establish the existence or terms of the trust. (NRS 164.400) **Section 55** of this bill authorizes the certification of trust to include a declaration of a trust's domicile and governing law.

Under the Uniform Prudent Investor Act, a trustee is authorized to take certain action without court approval if all interested persons consent or acquiesce in such action. (NRS 164.725) **Section 56** of this bill authorizes a trustee to use that same procedure for any aspect of trust administration.

Existing law provides that a trustee who invests and manages trust property owes a duty to the beneficiaries to comply with the prudent investor rule set forth in existing law, but that a trustee is not liable to a beneficiary to the extent the trustee acted in reasonable reliance on the terms of the trust. (NRS 164.740) **Section 57** of this bill provides that such a trustee is not liable to a beneficiary if the trustee determined in good faith not to diversify the investments of the trust in accordance with existing law.

Existing law governs the duty of a trustee to inform and account to a trust's beneficiaries. (NRS 165.040, 165.050, 165.135, 165.137, 165.139, 165.147) **Sections 58 and 59** of this bill require the trustee of a testamentary trust to account to the trust's beneficiaries in the same manner as a trustee of a nontestamentary trust, except as to the final account. **Section 62** of this bill requires a trustee to provide to beneficiaries entitled to receive certain accountings certain notice of the existence of the trust.

Section 63 of this bill grants the district court, sitting as a probate court, exclusive jurisdiction with respect to proceedings involving spendthrift trusts. **Section 64** of this bill amends the statute of limitations governing certain actions involving spendthrift trusts. **Section 64** also clarifies that assets transferred to a spendthrift trust are protected from claims of a creditor unless the creditor can prove that specific property was transferred with the intent to defraud the creditor or in violation of a contract or court order specifically relating to the property transferred.

Existing law exempts proceeds of certain insurance policies and annuities from the claims of a creditor. (NRS 687B.260, 687B.290) **Sections 65 and 66** of this bill amend those provisions to apply to life insurance trusts and spendthrift trusts.

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

Section 1. Chapter 132 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.2 and~~ **1.3 to 3, inclusive**, of this act.

Sec. 1.3. **"Foreign jurisdiction" means any jurisdiction other than this State.**

Sec. 1.7. **"Nontestamentary trust" means a trust validly created pursuant to the provisions of chapter 163 of NRS, other than a testamentary transfer, whether revocable or irrevocable, and whether or not any settlor thereof is living or**

deceased. The term does not include a trust created by the terms of a will of a person.

Sec. 2. "Testamentary trust" means a trust created by the terms of the will of a person.

Sec. 3. 1. For the purposes of this title, a person is an interested person with respect to:

(a) A judicial proceeding or a notice of a proposed action, including, without limitation, a nonjudicial settlement, if the person has or claims to have an enforceable right or interest that may be materially affected by the outcome of that proceeding or proposed action. While living, a settlor or a testator shall be deemed to have an enforceable right with respect to any trust or will that he or she created. For the purposes of this paragraph, a person may not claim to have a right or interest under an estate or trust after the entry of an order of the court declaring the right or interest invalid.

(b) An estate of a decedent, if the person:

(1) Is an heir, devisee, child, spouse, creditor, settlor or beneficiary;

(2) Has a property right in or claim against 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;

(3) Has priority for appointment as a personal representative; or

(4) Is any other fiduciary representing an interested person.

(c) A trust, if the person:

(1) Is a living settlor or, if a court has appointed a guardian of the estate of the settlor, the guardian of the estate appointed by the court;

(2) Is the trustee, including, without limitation, each acting cotrustee;

(3) Holds the presently exercisable right to remove or replace the trustee or a cotrustee;

(4) Asserts the right to serve as the trustee or as a cotrustee;

(5) Is a current beneficiary, as defined in NRS 165.128, or a remainder beneficiary, as defined in NRS 165.132, of that trust;

(6) Holds a presently exercisable power of appointment that permits the holder to designate or change the designation of a current beneficiary or a remainder beneficiary of that trust;

(7) Holds a presently exercisable power that permits the holder to designate, remove or otherwise change the designation of a person who, pursuant to this paragraph, would be an interested person;

(8) Is a creditor of the settlor who has a claim which has been accepted by the trustee or who has asserted the trustee's liability therefor in a probate proceeding or in a civil action under subsection 8 or 9 of NRS 111.779; or

(9) Is a creditor of the trust who has given the trustee written notice of its claim.

(d) A revocable trust that is the subject of a petition under NRS 164.015 relating to the validity of the trust or any trust-related document, if the person, after the death of the settlor, under the terms of any version of the trust documents in dispute, would be:

(1) A current beneficiary, as defined in NRS 165.128, or a remainder beneficiary, as defined in NRS 165.132, of that trust; or

(2) A trustee or a successor trustee, including, without limitation, a cotrustee.

(e) A will that, while the testator is still living, is the subject of a petition under subsection 2 of NRS 30.040, if the person, after the death of the testator, would be:

(1) A beneficiary of that will; or
(2) A fiduciary, as defined in NRS 132.145, designated in or pursuant to the terms of that will.

2. For the purposes of this title, the following persons are not interested persons:

(a) With respect to a motion, petition or proceeding, any person holding or claiming an interest or right that is not affected by the motion, petition or proceeding.

(b) The Director of the Department of Health and Human Services after any money owed to the Department has been paid in full or with respect to the estate or trust of a decedent who did not receive any benefits from Medicaid.

(c) A vexatious litigant with regard to a motion, petition or proceeding for which the vexatious litigant has been denied standing pursuant to NRS 155.165.

(d) As to the estate of a decedent:

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

(2) 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 limitations.

(e) As to a trust:

(1) The guardian of the person of an interested person, unless the guardian is expressly permitted to act for the interested person under the terms of the trust instrument;

(2) A beneficiary or creditor whose right or claim is barred by any applicable statute of limitations, including, without limitation, the statute of limitations found in chapter 11 of NRS, NRS 164.021, 164.025 or 166.170;

(3) Any beneficiary of a revocable trust, except as expressly provided in paragraph (d) of subsection 1; or

(4) Any disclaimant as to a disclaimed interest, except with respect to the enforcement of the disclaimer.

Sec. 4. 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~~ sections 1.3, 1.7 and 2 of this act have the meanings ascribed to them in those sections.

Sec. 4.5. NRS 132.116 is hereby amended to read as follows:

132.116 "District court" or "court" means ~~the~~:

1. A district court of this State or a department thereof specifically designated by the rules of that district court to sit in probate and to assume jurisdiction over the administration of an estate or trust or otherwise adjudicate matters pursuant to this title or title 13 of NRS; or

2. If the rules of a district court contain no such designation, a district court of this State sitting in probate or otherwise adjudicating matters pursuant to this title ~~or~~ or title 13 of NRS.

↪ The term includes the family court only as to revocable trusts over which the family court has assumed jurisdiction pursuant to paragraph (1) of subsection 1 of NRS 159.113 or only as designated by the rules of the district court described in subsection 1.

Sec. 5. NRS 132.185 is hereby amended to read as follows:

132.185 ~~"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 *means* a person ~~having priority for appointment as a personal representative and other fiduciaries representing interested persons.~~ *whose right or interest under an estate or trust may be materially affected by a decision of a fiduciary or a decision of the court.* The ~~meaning as it relates to particular persons must be determined~~ *fiduciary or court shall determine, pursuant to section 3 of this act, who is an interested person* 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.~~

Sec. 6. NRS 133.110 is hereby amended to read as follows:

133.110 1. If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless:

(a) Provision has been made for the spouse by marriage contract;

(b) The spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision ~~it~~ *, including, without limitation by a general reference in the will to any future spouse;* or

(c) The spouse is provided for by a transfer of property outside of the will and it appears that the maker intended the transfer to be in lieu of a testamentary provision.

2. When a will is revoked as to the spouse pursuant to subsection 1:

(a) The spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate; and

(b) The remaining provisions of the will remain intact to the extent those provisions are not inconsistent with paragraph (a), including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 7. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a declaratory judgment is entered under subsection 2 of NRS 30.040, during the lifetime of the decedent, declaring a document to be the valid will of the decedent, the validity of that will is not subject to challenge after the death of the decedent.

2. Nothing in this section shall be construed to prohibit evidence that the will has been revoked or that the decedent executed a valid later will.

Sec. 8. ~~NRS 136.240 is hereby amended to read as follows:~~

~~136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.~~

~~2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.~~

~~3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently destroyed in the lifetime of that person;~~

1 nor unless its provisions are clearly and distinctly proved by at least two credible
2 witnesses.

3 ~~4. The testimony of each witness must be reduced to writing, signed by the~~
4 ~~witness and filed, and is admissible in evidence in any contest of the will if the~~
5 ~~witness has died or permanently moved from the State.~~

6 ~~5. Notwithstanding any provision of this section to the contrary:~~

7 ~~(a) The production of a person's lost or destroyed will, whose primary~~
8 ~~beneficiary is a nontestamentary trust established by the person and in existence at~~
9 ~~his or her death, creates a rebuttable presumption that the will had not been~~
10 ~~revoked.~~

11 ~~(b) If the proponent of a lost or destroyed will makes a prima facie showing~~
12 ~~that it was more likely than not left unrevoked by the person whose will it is~~
13 ~~claimed to be before his or her death, then the will must be admitted to probate in~~
14 ~~absence of an objection. If such prima facie showing has been made, the court shall~~
15 ~~accept a copy of such a will as sufficient proof of the terms thereof without~~
16 ~~requiring further evidence in the absence of any objection.~~

17 ~~6. If the will is established, its provisions must be set forth specifically in the~~
18 ~~order admitting it to probate, or a copy of the will must be attached to the order.~~

19 ~~7. As used in this section, "nontestamentary trust" means a trust validly~~
20 ~~created pursuant to the provisions of chapter 163 of NRS, whether revocable or~~
21 ~~irrevocable, and whether or not any settlor thereof is living or deceased. The term~~
22 ~~does not include a trust created by the terms of a will of a person.} (Deleted by~~
23 ~~amendment.)~~

24 **Sec. 9.** [NRS 136.260 is hereby amended to read as follows:

25 ~~136.260 1. A will duly proved, allowed and admitted to probate outside of~~
26 ~~this State may be admitted to probate and recorded in the proper court of any~~
27 ~~county in this State in which the testator left any estate.~~

28 ~~2. When a copy of the will and the order admitting it to probate, duly~~
29 ~~certified, are presented by the personal representative, a nominee or any other~~
30 ~~interested person, with a petition for probate, the order and copy must be filed, and~~
31 ~~the clerk shall set a time for a hearing thereon, and notice must be given as required~~
32 ~~by law on a petition for the original probate of a domestic will pursuant to NRS~~
33 ~~136.100.~~

34 ~~3. If, upon the hearing, it appears to the satisfaction of the court that the will~~
35 ~~has been duly proved and admitted to probate outside this State, and that it was~~
36 ~~executed according to the law of the place in which it was made, or in which the~~
37 ~~testator was at the time domiciled, or in conformity with the laws of this State, it~~
38 ~~must be admitted to probate with the same force and effect as the original probate~~
39 ~~of a domestic will.~~

40 ~~4. If a certified copy of a will from any jurisdiction where probate is not~~
41 ~~required by the laws of that jurisdiction, with the certificate of the legal custodian~~
42 ~~of the original will that the certified copy is a true copy and that the will has~~
43 ~~become operative by the laws of that jurisdiction, or a copy of a notarial will in~~
44 ~~possession of a notary in a foreign jurisdiction entitled to the custody of the will~~
45 ~~and required by the laws of that jurisdiction to retain custody of it, duly certified by~~
46 ~~the notary, is presented by the personal representative, a nominee of the personal~~
47 ~~representative or another interested person to the proper court in this State, the clerk~~
48 ~~shall set a time for a hearing thereon, and notice must be given as required by law~~
49 ~~on a petition for the original probate of a domestic will.~~

50 ~~5. If it appears to the court that the will should be admitted to probate in this~~
51 ~~State, as the last will and testament of the decedent, the copy must be filed with the~~
52 ~~clerk, and the will has the same effect as if originally proved and admitted to~~
53 ~~probate in the court of this State.~~

~~6. As used in this section, "foreign jurisdiction" means any jurisdiction other than this State.~~ **(Deleted by amendment.)**

Sec. 10. NRS 138.020 is hereby amended to read as follows:

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

(a) Is under the age of majority;

(b) Has been convicted of a felony, unless the court determines that such a conviction should not disqualify the person from serving in the position of an executor;

(c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of conflict of interest, drunkenness, improvidence, ~~for~~ lack of integrity or understanding ~~for~~ **or other compelling reason; or**

(d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this State. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this State.

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

Sec. 11. NRS 138.090 is hereby amended to read as follows:

138.090 1. Administrators with the will annexed have the same authority as the executor named in the will would have had if the executor had qualified, and their acts are as effectual for every purpose. ~~for, but if~~ **If** the power or authority conferred upon the executor is discretionary, and is not ~~conferred by law,~~ **expressly excluded by the will,** it is ~~for~~ conferred upon an administrator with the will annexed.

2. ***Except to the extent expressly provided for by the will, a provision of the will waiving the bond of a personal representative does not apply to an administrator with the will annexed.***

3. Persons and their nominees and appointees are entitled to appointment as administrators with the will annexed in the same order of priority as in the appointment of administrators, except that ~~for, as to foreign letters, an interested person has priority over one who is not.~~ :

(a) ***An heir who has been expressly eliminated as a beneficiary or as a fiduciary under the terms of the will is not eligible to serve as an administrator with the will annexed; and***

(b) ***The court has the discretion to disregard the order of priority set forth in subsection 1 of NRS 139.040 to favor the appointment of a beneficiary of the will who is given a larger share of the estate over beneficiaries who are given lesser shares, and the court may exercise this discretion to appoint two or more beneficiaries who have similar interests in the estate of the decedent as coadministrators with the will annexed.***

Sec. 12. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration if the person:

1. Is under the age of majority;

2. Has been convicted of a felony, unless the court determines that such a conviction should not disqualify the person from serving in the position of an administrator;

3. Upon proof, is adjudged by the court disqualified by reason of conflict of interest, drunkenness, improvidence, ~~for~~ lack of integrity or understanding ~~for~~ **or other compelling reason;**

4. Is not a resident of the State of Nevada, unless the person:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

5. Is a banking corporation that is not authorized to do business in this State, unless the banking corporation:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

Sec. 13. NRS 143.380 is hereby amended to read as follows:

143.380 1. Subject to the limitations and requirements of NRS ~~143.300 to 143.815, inclusive,~~ *143.370*, when the personal representative exercises the authority to sell property of the estate *after being granted full authority* pursuant to NRS 143.300 to 143.815, inclusive, the personal representative may sell the property at public auction or private sale, and with or without notice, for cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

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

(a) Publication of the notice of sale;

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

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

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

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

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

Sec. 14. NRS 144.010 is hereby amended to read as follows:

144.010 1. ~~Every~~ *Except as otherwise provided in this subsection, every* personal representative shall make and file with the clerk, within 60 days after appointment, unless the court extends the time, a true inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative. *The requirement of filing an inventory or the requirement of filing an appraisal or verified record of value, or both, may be waived by the unanimous written consent of each interested person.*

2. The personal representative, within 10 days after filing the inventory with the clerk, shall mail a copy to all the interested heirs of an intestate estate, or to the devisees of a testate estate, or to both interested heirs and devisees, if a contest of the will of the decedent is pending. Proof of the mailing of the copies must be made and filed in the proceeding.

Sec. 15. NRS 144.020 is hereby amended to read as follows:

144.020 1. A personal representative may engage a qualified and disinterested appraiser to ascertain the fair market value, as of the decedent's death, of any asset the value of which is subject to reasonable doubt. Different persons may be engaged to appraise different kinds of assets included in the estate.

2. Any such appraiser is entitled to a reasonable compensation for the appraisal and may be paid the compensation by the personal representative out of the estate at any time after completion of the appraisal.

3. ~~HH~~ *Except as otherwise provided in NRS 144.010, if* there is no reasonable doubt as to the value of assets, such as money, deposits in banks or credit unions, bonds, policies of life insurance, or securities for money or evidence of indebtedness, and the asset is equal in value to cash, the personal representative shall file a verified record of value in lieu of the appraisal.

4. If it appears beyond reasonable doubt that there will be no need to sell assets of the estate to pay the debts of the estate or expenses of administration, or to divide assets for distribution in kind to the devisees or heirs, the personal representative may petition the court for an order allowing a verified record of value to be filed in lieu of the appraisal ~~HH~~ *or, if no interested person is prejudiced thereby, an order waiving the requirement of filing an appraisal or verified record of value,* and the court may enter such an order with or without notice.

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

146.070 1. ~~HH~~ *Except as otherwise provided in subsection 2, if* a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed \$100,000, and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments *to:*

(a) *The creditors of the 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 as a result of the payment of benefits for Medicaid,* as may be deemed just ~~HH~~; and

(b) *The attorney for the petitioner pursuant to NRS 150.0605,*
must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.

2. *The court may reduce the amount of the estate assigned and set apart under subsection 1 for the support of the surviving spouse or minor child or minor children by the value of nonprobate transfers from the decedent to the surviving spouse or minor child or minor children of the decedent or to one or more trusts or custodial accounts for the benefit of the surviving spouse or minor child or minor children.*

3. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed \$100,000, upon good cause shown, the court shall order that the estate not be administered upon, but the whole estate be assigned and set apart in the following order:

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

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

~~HH~~ 4. Proceedings taken under this section, whether or not the decedent left a valid will, must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:

(a) A specific description of all the decedent's property ~~H~~, *including, without limitation, property passing by one or more nonprobate transfers from the decedent to the surviving spouse or minor child or minor children of the decedent.*

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

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

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

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

~~4-4~~ 5. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the Director of the Department of Health and Human Services. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.

~~5-4~~ 6. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.

~~6-4~~ 7. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of \$100,000, the court may direct that the estate be distributed to the father or mother of a minor heir or devisee, with or without the filing of any bond, or to a custodian under chapter 167 of NRS, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond, as in the discretion of the court is deemed to be in the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.

Sec. 17. ~~NRS 151.180 is hereby amended to read as follows:~~

~~151.180 1. If an assignee or distributee is a nonresident minor or incapacitated person who has a guardian of his or her estate legally appointed under the laws of a foreign jurisdiction, the distribution of the assignee's or distributee's share may be made to the legally appointed guardian, whose receipt therefor, together with a certificate of appointment issued under the seal of the court by the clerk of the court appointing the guardian, when filed with the clerk of the court in which the assignment or distribution was ordered, must be received by the court as a complete receipt and voucher in favor of the personal representative.~~

~~2. As used in this section, "foreign jurisdiction" means any jurisdiction other than this State. (Deleted by amendment.)~~

Sec. 18. Chapter 155 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In a proceeding involving the estate of a decedent or a testamentary trust, the court has jurisdiction over the assets of the estate or trust involved as a proceeding in rem.*

2. *The court has personal jurisdiction over each person:*

(a) *Who is appointed as a personal representative by the court;*

(b) *Whose appointment as a trustee is confirmed by the court;*

(c) *Who files a petition or an objection to a petition in a proceeding involving the estate of a decedent or a testamentary trust;*

(d) *Who makes an appearance at a hearing of a proceeding involving the estate of a decedent or a testamentary trust, unless the appearance is made solely for the purpose of objecting to the jurisdiction of the court; or*

(e) Who is a party to a proceeding commenced by a petition filed pursuant to NRS 153.031 if notice is given pursuant to NRS 155.010.

3. Sanctions against a person that are imposed by the court pursuant to any provision of law or the terms of a will or testamentary trust are limited to that person's interest in the estate or trust unless the court has personal jurisdiction over that person.

Sec. 19. NRS 155.010 is hereby amended to read as follows:

155.010 1. Except as otherwise provided in *subsection 2 or* a specific statute relating to the kind of notice required or otherwise ordered by the court in a particular instance, a petitioner shall cause notice of the time and place of the hearing of a petition to be given to each interested person and to every other person entitled to notice pursuant to this title or his or her attorney if the person has appeared by attorney or requested that notice be sent to his or her attorney. Notice must be given:

(a) By mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered or ordinary first-class mail addressed to the person being notified at the post office address given in the person's demand for notice, if any, or at his or her office or place of residence, if known, or by personally delivering a copy thereof to the person being notified at least 10 days before the time set for the hearing; or

(b) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for 3 consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which must be at least 10 days before the date set for the hearing.

2. A person who, for the purposes of the matter to be considered at a hearing, is not an interested person is not entitled to notice of that hearing.

3. The court, for good cause shown, may provide for a different method or time of giving notice for any hearing, or may dispense with the notice otherwise required to be given to a person under this title.

~~3-1~~ *4.* Proof of the giving of notice must be made on or before the hearing and filed in the proceeding.

~~4-1~~ *5.* A person entitled to notice may, in writing, waive notice of the hearing of a petition.

Sec. 20. NRS 155.094 is hereby amended to read as follows:

155.094 "Independent attorney" means an attorney, other than ~~that~~ *an* attorney who:

1. Is *a transferee* described in subsection 2 of NRS 155.097; or

2. Has served as an attorney for a person who is described in subsection 2 of NRS 155.097.

Sec. 21. NRS 155.0955 is hereby amended to read as follows:

155.0955 "Transfer instrument" means ~~that~~ *a* legal document intended to effectuate a transfer *of property for less than fair market value, whether such transfer becomes effective during the life of the transferor or* on or after the transferor's death and includes, without limitation ~~the~~ *:*

1. *A will* ~~that~~ *;*

2. *A trust* ~~that~~ *;*

3. *A deed* ~~that~~ *; and*

4. *Any form, designated as payable on death, contract or other beneficiary designation form, document which:*

(a) Creates, conveys or transfers any interest in property;

(b) Creates any type of joint ownership;

(c) Establishes a right of survivorship;

(d) *Designates a beneficiary;*
(e) *Creates or attempts to effectuate a nonprobate transfer, which will be effective upon the death of the transferor; or*
(f) *Is intended to amend, modify, eliminate, supersede or revoke any other transfer instrument.*

Sec. 22. NRS 155.096 is hereby amended to read as follows:

155.096 “Transferee” means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.655 to 111.699, inclusive, and any other person designated in a transfer instrument to receive a nonprobate transfer ~~or~~ *or other interest in property for less than fair market value.*

Sec. 23. NRS 155.097 is hereby amended to read as follows:

155.097 1. ~~Regardless of when a transfer instrument is made, to the~~ extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney’s fees.

2. Except as otherwise provided in *subsection 3 and* NRS 155.0975, a transfer is presumed to be void if the transfer is ~~effective on or after a transferor’s death and the transfer is~~ to a transferee who is:

- (a) The person who drafted the transfer instrument;
- (b) A caregiver of the transferor;
- (c) A person who arranged for or paid for the drafting of the transfer instrument; or
- (d) A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).

3. *The provisions of subsection 2 do not apply to a transfer instrument that is intended to effectuate a transfer:*

(a) *After the transferor’s death, unless the transfer instrument is made on or after October 1, 2011.*

(b) *During the transferor’s lifetime, unless the transfer instrument is made on or after October 1, 2013.*

Sec. 24. NRS 155.0975 is hereby amended to read as follows:

155.0975 The presumption established by NRS 155.097 does not apply:

1. To a transfer of property ~~under a will~~ *which is triggered by the transferor’s death* if the transferee is an heir of the ~~testator whose share in the estate of the testator under the terms of the testator’s will~~ *transferor and the combined value of all transfers received by that transferee* is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the ~~testator~~ *transferor* had died intestate ~~and the transferor’s estate included all nonprobate transfers which are triggered by the death of the transferor.~~

2. *To a nonprobate transfer, if the transferee would have received the same property under the terms of the will of the transferor if the property were included in the probate estate of the transferor unless the presumption would apply to the transfer under the will.*

3. Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of NRS 155.097.

~~3.~~ 4. If the transfer instrument is reviewed by an independent attorney who:

(a) Counsels the transferor about the nature and consequences of the intended transfer;

(b) Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and

(c) Signs and delivers to the transferor an original certificate of that review in substantially the following form:

CERTIFICATE OF INDEPENDENT REVIEW

I, (attorney's name), have reviewed
 (name of transfer instrument) and have counseled my client,
 (name of client), on the nature and consequences of the
 transfer or transfers of property to (name of transferee)
 contained in the transfer instrument. I am disassociated from the interest of
 the transferee to the extent that I am in a position to advise my client
 independently, impartially and confidentially as to the consequences of the
 transfer. On the basis of this counsel, I conclude that the transfer or
 transfers of property in the transfer instrument that otherwise might be
 invalid pursuant to NRS 155.097 are valid because the transfer or transfers
 are not the product of fraud, duress or undue influence.

.....
 (Name of Attorney) (Date)

~~4.4~~ 5. To a transferee that is:

(a) A federal, state or local public entity; or

(b) An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or 501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.

~~5.5~~ ~~A~~

6. To a transfer of property if the fair market value of the property does not exceed \$3,000. *The exclusion provided by this subsection does not apply more than once in each calendar year to transfers made during the transferor's lifetime. For the purposes of this subsection, regardless of the number of transfer instruments involved, the value of property transferred to a transferee pursuant to a transfer that is triggered by the transferor's death must include the value of all property transferred to that transferee, or for such transferee's benefit, after the transferor's death.*

Sec. 25. NRS 155.165 is hereby amended to read as follows:

155.165 1. The court may find that a person, *including, without limitation, a personal representative or trustee*, is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit, ~~to~~ intended to harass or annoy the personal representative or a trustee ~~to~~ *or intended to unreasonably oppose or frustrate the efforts of an interested person who is acting in good faith to enforce his or her rights. The court may find that a personal representative or trustee is a vexatious litigant if the personal representative or trustee has expended the funds of the estate or trust to unreasonably oppose the good faith efforts of an interested person to enforce his or her rights.* In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit, ~~to~~ intended to harass or annoy a fiduciary ~~to~~ *or intended to unreasonably oppose or frustrate the good faith efforts of an interested person to enforce his or her rights.*

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, *including, without limitation, reasonable attorney's fees*, 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. *If a court finds that a personal representative or trustee is a vexatious litigant, the court may remove the personal representative or trustee, and any sanctions imposed by the court must be imposed against the personal representative or trustee personally and not against the estate or trust.*

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. 26. 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. 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 ~~+~~ *and all benefits from any military retirement plan.*

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 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 the benefits of a qualified annuity plan under section 403 of the Internal Revenue Code, 26 U.S.C. § 403; and*

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS ~~+~~ *and* any applicable regulations adopted pursuant to chapter 353B of NRS, *or similar laws and regulations of a jurisdiction other than this State*, 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 contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust 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;

(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;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

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 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 which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

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 a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on

1 a mechanic's lien. You should consult an attorney immediately to assist you
2 in determining whether your property or money is exempt from execution.
3 If you cannot afford an attorney, you may be eligible for assistance through
4 (name of organization in county providing legal services to
5 indigent or elderly persons). If you do not wish to consult an attorney or
6 receive legal services from an organization that provides assistance to
7 persons who qualify, you may obtain the form to be used to claim an
8 exemption from the clerk of the court.
9

10 PROCEDURE FOR CLAIMING EXEMPT PROPERTY 11

12 If you believe that the money or property taken from you is exempt,
13 you must complete and file with the clerk of the court an executed claim of
14 exemption. A copy of the claim of exemption must be served upon the
15 sheriff, the garnishee and the judgment creditor within 10 days after the
16 notice of execution or garnishment is served on you by mail pursuant to
17 NRS 21.076 which identifies the specific property that is being levied on.
18 The property must be released by the garnishee or the sheriff within 9
19 judicial days after you serve the claim of exemption upon the sheriff,
20 garnishee and judgment creditor, unless the sheriff or garnishee receives a
21 copy of an objection to the claim of exemption and a notice for a hearing to
22 determine the issue of exemption. If this happens, a hearing will be held to
23 determine whether the property or money is exempt. The objection to the
24 claim of exemption and notice for the hearing to determine the issue of
25 exemption must be filed within 8 judicial days after the claim of exemption
26 is served on the judgment creditor by mail or in person and served on the
27 judgment debtor, the sheriff and any garnishee not less than 5 judicial days
28 before the date set for the hearing. The hearing to determine whether the
29 property or money is exempt must be held within 7 judicial days after the
30 objection to the claim of exemption and notice for the hearing is filed. You
31 may be able to have your property released more quickly if you mail to the
32 judgment creditor or the attorney of the judgment creditor written proof that
33 the property is exempt. Such proof may include, without limitation, a letter
34 from the government, an annual statement from a pension fund, receipts for
35 payment, copies of checks, records from financial institutions or any other
36 document which demonstrates that the money in your account is exempt.
37

38 IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION
39 WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD
40 AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN
41 IF THE PROPERTY OR MONEY IS EXEMPT.

42 **Sec. 27.** NRS 21.090 is hereby amended to read as follows:

43 21.090 1. The following property is exempt from execution, except as
44 otherwise specifically provided in this section or required by federal law:

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

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

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

(d) Professional libraries, equipment, supplies, and the tools, inventory, 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) ~~1A11~~ *Except as otherwise provided in NRS 687B.260, all* money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(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.

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

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her 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.

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

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

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

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

(1) 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;

(2) 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;

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

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

(5) *A qualified annuity plan under section 403 of the Internal Revenue Code, 26 U.S.C. § 403; and*

(6) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS ~~and~~ *any applicable regulations adopted pursuant to chapter 353B of NRS, or similar laws and regulations of a jurisdiction other than this State,* 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.

(s) 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.

(t) 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.

(u) 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.

(v) 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,

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

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

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

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

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

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

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

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

22 (1) A distribution interest in the trust as defined in NRS 163.4155 that is a
23 contingent interest, if the contingency has not been satisfied or removed;

24 (2) A distribution interest in the trust as defined in NRS 163.4155 that is a
25 discretionary interest as described in NRS 163.4185, if the interest has not been
26 distributed;

27 (3) A power of appointment in the trust as defined in NRS 163.4157
28 regardless of whether the power has been exercised;

29 (4) A power listed in NRS 163.5553 that is held by a trust protector as
30 defined in NRS 163.5547 or any other person regardless of whether the power has
31 been exercised; and

32 (5) A reserved power in the trust as defined in NRS 163.4165 regardless of
33 whether the power has been exercised.

34 (dd) If a trust contains a spendthrift provision:

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

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

41 (ee) Proceeds received from a private disability insurance plan.

42 (ff) Money in a trust fund for funeral or burial services pursuant to NRS
43 689.700.

44 (gg) Compensation that was payable or paid pursuant to chapters 616A to
45 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

46 (hh) Unemployment compensation benefits received pursuant to NRS 612.710.

47 (ii) *Veteran's benefits which are exempt from execution pursuant to 38*
48 *U.S.C. § 5301.*

49 *(jj) Benefits from a military retirement plan.*

50 *(kk) Benefits or refunds payable or paid from the Public Employees'*
51 *Retirement System pursuant to NRS 286.670.*

52 ~~(iii)~~ *(ll) Money paid or rights existing for vocational rehabilitation pursuant to*
53 *NRS 615.270.*

~~(((mm)))~~ *(mm)* Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

~~(((nn)))~~ *(nn)* Child welfare assistance provided pursuant to NRS 432.036.

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.

4. Except as otherwise provided in subsection 5, an exemption specified in subsection 1 that is paid in cash to a debtor during the debtor's lifetime, including, without limitation, any amounts payable under:

(a) A life insurance policy;

(b) An annuity contract;

(c) A tax refund described in paragraph (aa) of subsection 1; and

(d) Any form of compensation set forth in subsection 1,

must continue during the debtor's lifetime as to the property and all property traceable thereto.

5. *The exemption for the cash payable to the debtor pursuant to subsection 2 of NRS 115.050 if a homestead is sold in its entirety must continue during the debtor's lifetime as to the cash and all property traceable thereto. After the debtor's death, the cash is no longer exempt under this section, and the property traceable thereto is exempt only to the extent that such property qualifies for an exemption pursuant to this section without regard to the source of the funds used to acquire such property.*

6. *The following provisions apply to the plans and trusts described in paragraph (r) of subsection 1 and to the military retirement plans described in paragraph (j) of subsection 1:*

(a) If an exemption applies to a deferred compensation plan, retirement plan or retirement trust, the exemption must extend to the proceeds distributed from such plans to the plan participant or to the plan participant's spouse and to debts of the plan participant and the participant's spouse. After the death of the plan participant, the exemption must continue in perpetuity as to the debts of the plan participant and as to the debts of the participant's spouse, but as to the debts of a beneficiary, other than the participant's spouse, the plan or trust must be treated as a spendthrift trust and the proceeds thereof are not subject to execution, attachment or levy, until after they are distributed to the beneficiary.

(b) Money held in a trust described in subparagraph (6) of paragraph (r) of subsection 1 must be treated as a spendthrift trust. As to the money held in the trust, as long as it remains undistributed, the exemption applies to the debts of the plan contributor and as to the debts of any beneficiary or potential beneficiary. As to the proceeds paid from the trust, the exemption must continue to the extent the proceeds are expended or distributed for the education of a designated beneficiary.

(c) The provisions of subsection 2 of NRS 166.120 must apply with respect to any legal action related to any plan or trust which is a spendthrift trust or which is treated as a spendthrift trust.

7. *Except as otherwise provided in subsection 4, 5 or 6, after the debtor's death:*

(a) The exemption of a homestead must exist only as provided by chapter 115 or 146 of NRS and is subject to the provisions of NRS 115.090.

(b) The exemption of property, other than a homestead that was exempt before the debtor's death, must continue as to any claim or judgment against the debtor, and the exemption as to the debts of the deceased debtor continues as to the debtor's estate and as to property distributed to each beneficiary, as defined in NRS 132.050, whether such property is distributed from the debtor's estate that is subject to administration or is received pursuant to a nonprobate transfer, as defined in NRS 111.721.

(c) The exemption of property under this section that is paid in cash after a debtor's death, including, without limitation, any amounts payable under:

(1) A life insurance policy;

(2) An annuity contract;

(3) A tax refund described in paragraph (aa) of subsection 1; and

(4) Any form of compensation set forth in subsection 1,

↪ must continue as to any claim or judgment against the debtor, whether such property is held by the debtor, the estate of the debtor or a beneficiary of the debtor.

(d) The exemptions provided by paragraphs (b) and (c) apply only to the claims and judgments of a deceased debtor, and nothing therein shall be construed to extend the exemption to cover the liabilities of a beneficiary of a deceased debtor.

Sec. 28. NRS 40.515 is hereby amended to read as follows:

40.515 1. If any person has died, or shall hereafter die, who at the time of the person's death was the owner of a life estate which terminates by reason of the person's death, any person interested in the property, or in the title thereto, in which such life estate was held, may file in the district court of the county in which the property is situated, the person's verified petition, setting forth such facts, and thereupon and after such notice by publication or otherwise, as the court or judge may order, the court or judge shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such life estate of such deceased person absolutely terminated by reason of the person's death, the court or judge shall make an order to that effect, and thereupon a certified copy of such order may be recorded in the office of the county recorder.

2. As an alternative method of terminating the interest of any person who has died, or will hereafter die, and who at the time of the person's death was the owner of a life estate which terminates by reason of the person's death, any person who has knowledge of the facts may record in the office of the county recorder in the county where the property is situated an affidavit meeting the requirements of NRS 111.365, accompanied by a certified copy of the death certificate of the deceased person.

Sec. 29. NRS 111.365 is hereby amended to read as follows:

111.365 1. In the case of real property owned by two or more persons as joint tenants or as community property with right of survivorship, it is presumed that all title or interest in and to that real property of each of one or more deceased joint tenants or the deceased spouse has terminated, and vested solely in the surviving joint tenant or spouse or vested jointly in the surviving joint tenants, if there has been recorded in the office of the recorder of the county or counties in which the real property is ~~is situated~~ *situated* an affidavit, subscribed and sworn to by a person who has knowledge of the facts required in this subsection, *which is accompanied by a certified copy of the death certificate of each deceased joint tenant or the deceased spouse and* which sets forth the following:

(a) The family relationship, if any, of the affiant to each deceased joint tenant or the deceased spouse;

(b) A description of the instrument or conveyance by which the joint tenancy or right of survivorship was created;

(c) A description of the property subject to the joint tenancy or right of survivorship; and

(d) The date and place of death of each deceased joint tenant or the deceased spouse.

2. *In the case of real property owned by a person as a life tenant, with the ownership of the real property passing to the owner of the remainder interest upon the death of the life tenant, it is presumed that all title or interest in and to that real property of the life tenant has terminated, and vested solely in the owner or owners of the remainder interest, if there has been recorded in the office of the recorder of the county or counties in which the real property is situated an affidavit, subscribed and sworn to by a person who has knowledge of the facts required in this subsection, which is accompanied by a certified copy of the death certificate of the deceased life tenant and which sets forth the following:*

(a) The relationship of the affiant to each deceased life tenant;

(b) A description of the instrument or conveyance by which the life estate was created;

(c) A description of the property subject to the life estate; and

(d) The date and place of death of each deceased life tenant.

3. Each month, a county recorder shall send all the information contained in each affidavit received by the county recorder pursuant to subsection 1 *or 2* during the immediately preceding month to the Department of Health and Human Services in any format and by any medium approved by the Department.

Sec. 30. NRS 111.779 is hereby amended to read as follows:

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

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

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

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

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

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

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

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection ~~14~~ 3 of NRS 146.070.

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

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

8. If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 31. NRS 111.781 is hereby amended to read as follows:

111.781 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

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

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

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

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

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

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

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

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

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

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

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

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

10. *This section applies only to nonprobate transfers which become effective because of the death of a person on or after October 1, 2011, regardless of when the divorce or annulment occurred.*

11. As used in this section:

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

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

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

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

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

(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered 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. 32. Chapter 112 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter do not apply to a transfer to a spendthrift trust, and a creditor's rights and relief with respect to a spendthrift trust are governed by chapter 166 of NRS.

Sec. 33. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Subject to the requirements of this section, a fiduciary:

(a) Owes a duty of loyalty to each principal and beneficiary, including, without limitation, a duty to disclose any conflict of interest to each principal and beneficiary.

(b) Shall comply with the law and the terms of the governing instrument.

(c) Shall keep each qualified beneficiary reasonably informed about the material actions taken by the fiduciary in his or her fiduciary capacity, and provide each qualified beneficiary with the material facts necessary for the qualified beneficiary to protect his or her interest.

(d) When more than one principal or beneficiary is involved, must be impartial as between or among those persons in managing and investing property after taking into consideration the differing interests of those persons.

(e) Shall act prudently with respect to the investment of property that comes into the control of the fiduciary in accordance with NRS 164.700 to 164.775, inclusive. The duty of an agent under a power of attorney which is set forth in this paragraph is limited to the actions actually taken by the agent, and an agent under a power of attorney has no duty to take an action unless the agent has agreed in writing to take that action.

2. Notwithstanding the terms of a trust instrument, if a settlor has a power to substitute property of equivalent value, the trustee has a fiduciary duty to determine that the substituted property is of equivalent value before allowing the substitution.

3. In addition to any accounting required by the governing instrument, if the fiduciary is:

(a) A guardian, the guardian shall account as required by chapter 159 of NRS.

(b) A personal representative, the personal representative shall account as required by chapter 150 of NRS.

(c) A trustee appointed pursuant to NRS 156.030 or an administrator or executor appointed pursuant to NRS 156.160, the trustee, administrator or

1 *executor shall account as provided in chapter 156 of NRS, except that if a trustee*
2 *is a trustee of a custodial trust the trustee shall account as provided in chapter*
3 *166A of NRS.*

4 *(d) A custodian who is nominated or designated under chapter 167 of NRS,*
5 *the custodian shall account as provided in that chapter.*

6 *4. The duty to account of an agent that has accepted appointment under a*
7 *power of attorney, as described in NRS 162A.310, is subject to the limitations set*
8 *forth in subsection 8 of NRS 162A.310.*

9 *5. The duties of a fiduciary set forth in this section do not apply to the*
10 *extent the governing instrument provides otherwise, except that no provision of*
11 *the governing instrument supersedes the provisions of paragraph (b) of*
12 *subsection 1, subsection 2 or NRS 165.139.*

13 *6. Nothing in this section shall be construed to prohibit the waiver of a duty*
14 *by any person to whom the duty is owed. The failure of a person to whom a duty*
15 *is owed to enforce the duty as to any particular event or conduct shall not be*
16 *deemed a waiver of that duty as to any other event or conduct.*

17 *7. Nothing in this section shall be construed to modify, reduce or eliminate*
18 *any duty or any standard of care expressly imposed by the instrument by which*
19 *the fiduciary was appointed.*

20 *8. Nothing in this section shall be construed to expand the duties of a*
21 *fiduciary serving under an instrument created before October 1, 2013.*

22 *9. As used in this section, "qualified beneficiary" includes:*

23 *(a) A living principal for whom the fiduciary is acting; and*

24 *(b) Each person to whom the fiduciary has a duty to account by law and*
25 *under the terms of the governing instrument.*

26 **Sec. 34.** NRS 162.020 is hereby amended to read as follows:

27 162.020 1. In NRS 162.010 to 162.140, inclusive, *and section 33 of this*
28 *act*, unless the context of subject matter otherwise requires:

29 (a) "Bank" includes any person or association of persons, whether incorporated
30 or not, carrying on the business of banking.

31 (b) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting
32 or constructive, executor, administrator, guardian, conservator, curator, receiver,
33 trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of
34 a corporation, public or private, public officer, or any other person acting in a
35 fiduciary capacity for any person, trust or estate.

36 (c) "Principal" includes any person to whom a fiduciary as such owes an
37 obligation.

38 2. A thing is done "in good faith" within the meaning of NRS 162.010 to
39 162.140, inclusive, *and section 33 of this act* when it is in fact done honestly,
40 whether it is done negligently or not.

41 **Sec. 35.** Chapter 163 of NRS is hereby amended by adding thereto the
42 provisions set forth as sections 36 to 41, inclusive, of this act.

43 **Sec. 36. 1.** *Except as otherwise provided by the terms of the instrument, a*
44 *trustee may combine two or more trusts into a single trust or divide a trust into*
45 *two or more separate trusts if the combination or division does not impair the*
46 *rights of any of the beneficiaries, substantially affect the accomplishment of the*
47 *purposes of the trust or trusts or violate the rule against perpetuities applicable to*
48 *the trust or trusts.*

49 *2. The combination or division of trusts must be made only after giving*
50 *notice of the proposed action and following the procedure provided in NRS*
51 *164.725. The notice of the proposed action must contain a summary of the*
52 *anticipated tax consequences, if any, of the proposed combination or division.*

1 *Sec. 37. Except as otherwise specifically provided in the instrument and*
2 *except to the extent it would be materially detrimental to the administration of the*
3 *trust or the furtherance of its purposes, a trustee may change the name of an*
4 *irrevocable trust and may give a name to an irrevocable trust that does not have*
5 *one.*

6 *Sec. 38. 1. Absent clear and convincing evidence, a person, including,*
7 *without limitation, a settlor, a beneficiary or an adviser of an irrevocable trust,*
8 *shall not be deemed to be the alter ego of, or have improper dominion or control*
9 *over, an irrevocable trust or its trustee.*

10 *2. In a proceeding in which an assertion is made that a person is the alter*
11 *ego of, or has improper dominion or control over, an irrevocable trust or of a*
12 *trustee thereof, the following factors, alone or in combination, are not sufficient*
13 *evidence for the court to determine that the person is an alter ego of, or has*
14 *improper dominion or control over, the trust or its trustee:*

15 *(a) The person, if not a trustee, has signed checks, made disbursements or*
16 *executed other documents related to the trust as the trustee, if the person has*
17 *done so only in isolated incidents;*

18 *(b) The person has made requests for distributions on behalf of a*
19 *beneficiary;*

20 *(c) The person has made requests for the trustee to hold, purchase or sell any*
21 *trust property;*

22 *(d) The trustee or a cotrustee is:*

23 *(1) The person asserted to be the alter ego of, or with improper dominion*
24 *or control over, the trust or its trustee;*

25 *(2) Someone related by blood, marriage, domestic partnership or*
26 *adoption to the person asserted to be the alter ego of, or with improper dominion*
27 *or control over, the trust or its trustee; or*

28 *(3) An agent, business associate, employee, accountant, attorney,*
29 *financial advisor or friend of the person asserted to be the alter ego of, or with*
30 *improper dominion or control over, the trust or its trustee;*

31 *(e) The person holds an unrestricted power to remove or replace a trustee;*

32 *(f) The person is an administrator, trustee, trust administrator, manager,*
33 *officer, director, partner or employee of an entity in which the trust has an*
34 *interest;*

35 *(g) The person holds any power of appointment over any or all of the trust*
36 *property or has the power to veto a distribution;*

37 *(h) The person holds a power to substitute property of equivalent value;*

38 *(i) The trustee may loan trust property to the person asserted to be the alter*
39 *ego of, or with improper dominion or control over, the trust or its trustee, for less*
40 *than a full and adequate rate of interest or without adequate security;*

41 *(j) The person is the only beneficiary currently eligible for trust distributions;*
42 *or*

43 *(k) The person has the authority to direct the investments of all or some of*
44 *the assets of the trust.*

45 *3. To establish that a settlor is or is not the alter ego of an irrevocable*
46 *spendthrift trust within the meaning provided in chapter 166 of NRS, there must*
47 *be clear and convincing evidence that material provisions of the instrument have*
48 *been violated or that the enforceable rights of a beneficiary other than the settlor*
49 *have been materially and adversely affected.*

50 *4. As used in this section, "adviser" means any person advising a trustee*
51 *with respect to the administration or distribution of a trust, whether or not the*
52 *person is compensated and whether or not the person is acting in a fiduciary*
53 *capacity. The term includes, without limitation:*

- (a) *An attorney;*
- (b) *An accountant;*
- (c) *An investment adviser;*
- (d) *A trust adviser, as defined in NRS 163.5545; and*
- (e) *A trust protector, as defined in NRS 163.5547.*

Sec. 39. *“Directing trust adviser” means a trust adviser, trust protector or other person designated in the instrument who has the authority to give directives that must be followed by the fiduciary. The term does not include a trust adviser, trust protector or other person who is giving recommendations, counsel or advice that the fiduciary is not required to follow under the terms of the instrument.*

Sec. 40. *For the purposes of NRS 163.553 to 163.556, inclusive, and sections 39 and 40 of this act, a fiduciary is a “directed fiduciary” as to any action which the fiduciary:*

1. *Has no power to take under the terms of the governing instrument;*
2. *Is mandated by the governing instrument and for which the fiduciary has no discretion to act otherwise; and*
3. *Is directed to take or is prohibited from taking by a directing trust adviser.*

Sec. 41. 1. *A public benefit trust must be administered in accordance with the terms of the trust instrument. Except to the extent otherwise provided for in the trust instrument:*

(a) *Any person appointed by the terms of the trust instrument may enforce the terms of the public benefit trust or, if there is no such person or if such a person is no longer willing or able to serve as a person appointed to enforce the trust, the terms of the trust may be enforced by the Attorney General, the district attorney of the county in which the trust is domiciled or a person appointed by the district court in the county in which the trust is domiciled.*

(b) *A petition for an order that appoints a person to enforce the terms of the public benefit trust or to remove the person who has been appointed to enforce the terms of the trust may be filed with the district court in the county in which the trust is domiciled by the Attorney General, by the district attorney in the county in which the trust is domiciled or by any person who has an interest, other than a general public interest, in the declared purpose of the trust.*

(c) *The principal and income of the public benefit trust may be applied only to its intended use.*

(d) *Upon the termination of the public benefit trust, any assets of the trust and any undistributed income must be distributed in accordance with the terms of the trust or, in the absence of such terms, to the estate of the settlor.*

(e) *If a specific purpose of the public benefit trust becomes illegal under the United States Constitution or the Nevada Constitution, the trust must continue in force as if the illegal purpose was not included in the trust instrument. If no purpose of the public benefit trust is lawful, the district court in the county in which the trust is domiciled may, upon the petition of an interested person or upon its own motion, reform the trust to continue for lawful purposes similar to those intended by the settlor. If the court determines that a reformation of the public benefit trust is not practical or will not accomplish the objectives of the settlor, the trust must terminate and its assets and undistributed income must be distributed pursuant to paragraph (d).*

(f) *Except as ordered by the district court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment or fee is required by reason of the existence of the fiduciary relationship of the trustee or trustees of the public benefit trust.*

1 (g) *If no trustee is designated or no designated trustee is willing or able to*
2 *act, the district court in the county in which the trust is domiciled shall name one*
3 *or more trustees and may make such other orders and determinations as are*
4 *advisable to carry out the interest of the settlor and the purposes of the public*
5 *benefit trust.*

6 2. *As used in this section, "public benefit trust" means a valid trust without*
7 *identifiable beneficiaries that is not a charitable trust, but which:*

8 (a) *Is established to further one or more specifically declared religious,*
9 *scientific, literary, educational, community development, personal improvement*
10 *or philanthropic purposes that is not illegal or against public policy;*

11 (b) *Provides that the trust principal or income, or both, will provide a benefit,*
12 *but not necessarily principal or income, to the general public or to one or more*
13 *classes or groups of persons, including, without limitation, a government, a*
14 *governmental agency and any political subdivision of an government, that are to*
15 *be identified in the trustee's discretion;*

16 (c) *Does not allow any benefit to the trustee or any cotrustee, except as to the*
17 *payment of reasonable compensation and the reimbursement of expenses*
18 *incurred for the benefit of the trust; and*

19 (d) *Does not violate the rule against perpetuities as set forth in NRS 111.103*
20 *to 111.1039, inclusive.*

21 **Sec. 42.** NRS 163.002 is hereby amended to read as follows:

22 163.002 Except as otherwise provided by specific statute, a trust may be
23 created by any of the following methods:

24 1. A declaration by the owner of property that he or she holds the property as
25 trustee. *In the absence of a contrary declaration by the owner of the property or*
26 *of a transfer of the property to a third party and regardless of formal title to the*
27 *property:*

28 (a) *Property declared to be trust property, together with all income therefrom*
29 *and the reinvestment thereof, must remain trust property; and*

30 (b) *If the property declared to be trust property includes an account,*
31 *contract, certificate, note, judgment, business interest, contents of a safe deposit*
32 *box or other property interest that is subject to additions or contributions, all*
33 *subsequent additions and contributions to the property are also trust property.*

34 2. A transfer of property by the owner during his or her lifetime to another
35 person as trustee.

36 3. A testamentary transfer of property by the owner to another person as
37 trustee.

38 4. An exercise of a power of appointment in trust.

39 5. An enforceable promise to create a trust.

40 **Sec. 43.** NRS 163.004 is hereby amended to read as follows:

41 163.004 1. A trust may be created for any purpose that is not illegal or
42 against public policy.

43 2. Except as otherwise provided by a specific statute, federal law or common
44 law, the terms of a trust instrument may vary the rights and interests of
45 beneficiaries in any manner that is not illegal or against public policy, including,
46 without limitation, specifying:

47 (a) The grounds for removing a fiduciary;

48 (b) The circumstances, if any, in which the fiduciary must diversify
49 investments; and

50 (c) A fiduciary's powers, duties, standards of care, rights of indemnification
51 and liability to persons whose interests arise from the trust instrument.

3. *A trust is irrevocable by the settlor, except to the extent that, in the original trust instrument, a right to amend the trust or a right to revoke the trust is expressly reserved by the settlor.*

4. 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.

~~44~~ 5. 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. 44. NRS 163.006 is hereby amended to read as follows:

163.006 A trust ~~other than a charitable trust~~ is created only if there is a beneficiary. This requirement is satisfied if the trust instrument provides for:

1. A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so that it can be determined whether a person meets the description or is within the class; ~~for~~

2. A grant of power to the trustee or some other person to select the beneficiary based on a standard or in the discretion of the trustee or other person ~~for~~

;

3. *A charitable trust, as defined in NRS 163.460;*

4. *A trust for the benefit for animals created pursuant to NRS 163.0075; or*

5. *A public benefit trust, as defined in section 41 of this act.*

Sec. 45. NRS 163.020 is hereby amended to read as follows:

163.020 As used in NRS 163.010 to 163.200, inclusive, *and sections 36 and 37 of this act*, unless the context or subject matter otherwise requires:

1. "Affiliate" means any person directly or indirectly controlling or controlled by another person, or any person under direct or indirect common control with another person. It includes any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange.

2. "Relative" means a spouse, ancestor, descendant, brother or sister.

3. "Trust" means an express trust only.

4. "Trustee" means the person holding property in trust and includes trustees, a corporate as well as a natural person and a successor or substitute trustee.

Sec. 46. NRS 163.414 is hereby amended to read as follows:

163.414 As used in NRS 163.414 to 163.419, inclusive, *and section 38 of this act*, unless the context otherwise requires, the words and terms defined in NRS 163.4145 to 163.4165, inclusive, have the meanings ascribed to them in those sections.

Sec. 47. NRS 163.419 is hereby amended to read as follows:

163.419 *Except as otherwise provided in the trust instrument, as to a discretionary interest, as described in NRS 163.4185:*

1. A *beneficiary who has a discretionary interest of a trust does not have an enforceable right to a distribution from the trust, and a court, as defined in NRS 132.116*, may review a trustee's exercise of discretion concerning a discretionary interest only if the trustee acts dishonestly, with ~~improper motive~~ *gross negligence* or ~~fails to act~~ *with willful misconduct*.

2. A trustee given discretion in a trust instrument that is described as sole, absolute, uncontrolled, unrestricted or unfettered discretion, or with similar words, has no duty to act reasonably in the exercise of that discretion.

3. Absent express language in a trust to the contrary, if a discretionary interest permits unequal distributions between beneficiaries or to the exclusion of other beneficiaries, the trustee may distribute all of the undistributed income and principal to one beneficiary in the trustee's discretion.

4. Regardless of whether a beneficiary has an outstanding creditor, a trustee of a discretionary interest may directly pay any expense on the beneficiary's behalf and may exhaust the income and principal of the trust for the benefit of such beneficiary.

Sec. 48. NRS 163.553 is hereby amended to read as follows:

163.553 As used in NRS 163.553 to 163.556, inclusive, *and sections 39 and 40 of this act*, unless the context otherwise requires, the words and terms defined in NRS 163.5533 to 163.5547, inclusive, *and section 39 of this act* have the meanings ascribed to them in those sections.

Sec. 49. NRS 163.549 is hereby amended to read as follows:

163.549 1. ~~An excluded~~ *A directed* fiduciary is not liable, individually or as a fiduciary, for any loss which results from:

(a) Complying with a direction of a *directing* trust adviser, ~~custodial account owner or authorized designee of a custodial account owner;~~ *whether the direction is to act or not to act; or*

(b) ~~A failure~~ *Failing* to take any action proposed by ~~an excluded~~ *a directed* fiduciary ~~which requires prior authorization of the trust adviser if the excluded fiduciary timely sought but failed to obtain such authorization; or~~

~~—(c) Any action taken at the direction of a trust protector; if the action:~~

(1) Required approval, consent or authorization from a person who did not give the required approval, consent or authorization; or

(2) Was contingent upon a condition that was not met or satisfied.

2. ~~An excluded~~ *A directed* fiduciary is not liable for any obligation to perform an investment or suitability review, inquiry or investigation or to make any recommendation or evaluation with respect to any investment, to the extent that the *investment is made by the directing* trust adviser. ~~A custodial account owner or authorized designee of a custodial account owner had authority to direct the acquisition, disposition or retention of such investment~~

3. The provisions of this section do not impose an obligation or liability on a custodian of a custodial account for providing any authorization.

Sec. 50. NRS 163.555 is hereby amended to read as follows:

163.555 If the instrument provides, ~~an excluded~~ *a directed* fiduciary may continue to follow the direction of a *directing* trust adviser upon the incapacity or death of the settlor of the trust.

Sec. 51. 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 appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

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

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

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by ~~the~~ a trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the ~~distribution~~ trustee of the second trust with a beneficiary of the second trust or with a ~~distribution~~ trustee that is related to or subordinate to a beneficiary of the second trust.

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

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

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

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

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

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse 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

1 discretion to make distributions that will discharge the trustee's legal support
2 obligations but under the second trust the trustee's discretion is not limited.

3 4. The provisions of subsection 3 do not prohibit a trustee who is not a
4 beneficiary of the original trust from exercising the authority to appoint property of
5 the original trust to a second trust pursuant to the provisions of subsection 1.

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

12 6. The trust instrument of the second trust may:

13 (a) Grant a power of appointment to one or more of the beneficiaries of the
14 second trust who are proper objects of the exercise of the power in the original
15 trust. The power of appointment includes, without limitation, the power to appoint
16 trust property to the holder of the power, the holder's creditors, the holder's estate,
17 the creditors of the holder's estate or any other person.

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

22 7. The power to appoint the property of the original trust pursuant to
23 subsection 1 must be exercised by a writing, signed by the trustee and filed with the
24 records of the trust.

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

30 9. The provisions of this section do not abridge the right of any trustee who
31 has the power to appoint property which arises under any other law.

32 10. The provisions of this section do not impose upon a trustee a duty to
33 exercise the power to appoint property pursuant to subsection 1.

34 11. The power to appoint property to another trust pursuant to subsection 1 is
35 not a power to amend the trust and a trustee is not prohibited from appointing
36 property to another trust pursuant to subsection 1 if the original trust is irrevocable
37 or provides that it may not be amended.

38 12. A trustee's power to appoint property to another trust pursuant to
39 subsection 1 is not limited by the existence of a spendthrift provision in the original
40 trust.

41 13. A trustee exercising any power granted pursuant to this section may
42 designate himself or herself or any other person permitted to act as a trustee as the
43 trustee of the second trust.

44 14. The trustee of a second trust, resulting from the exercise of the power to
45 appoint property to another trust pursuant to subsection 1, may also exercise the
46 powers granted pursuant to this section with respect to the second trust.

47 15. As used in this section, "ascertainable standard" means a standard relating
48 to an individual's health, education, support or maintenance within the meaning of
49 section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. §
50 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury
51 promulgated thereunder.

1 **Sec. 52.** Chapter 164 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 1. *The laws of this State govern the validity and construction of a trust if:*

4 (a) *The trust instrument so provides;*

5 (b) *Designated by a person who, under the terms of the trust instrument, has*
6 *the right to designate the laws that govern the validity and construction of the*
7 *trust at the time the designation is made; or*

8 (c) *The trust instrument does not provide for the law that governs the validity*
9 *and construction of the trust, a person designated under the terms of the trust*
10 *instruments to designate the law that governs the validity and construction of the*
11 *trust has not made such a designation and the settlor or the trustee of a trust was*
12 *a resident of this State at the time the trust was created or at the time the trust*
13 *became irrevocable.*

14 2. *If the district court, as defined in NRS 132.116, determines that there is*
15 *a clear and sufficient nexus between a trust and this State, the court may assume*
16 *jurisdiction during a proceeding conducted pursuant to NRS 164.010 unless:*

17 (a) *Another court has properly assumed jurisdiction in accordance with the*
18 *laws of that jurisdiction;*

19 (b) *The trust instrument expressly provides that the situs of the trust is*
20 *outside of this State or that a court of a jurisdiction other than this State has*
21 *jurisdiction over the trust; or*

22 (c) *A person has designated for the trust a situs or jurisdiction other than*
23 *this State, if such person made the designation at a time during which he or she*
24 *held the power to make such a designation under the express terms of the trust*
25 *instrument.*

26 3. *For the purposes of subsection 2, there is a clear and sufficient nexus*
27 *between the trust and this State if:*

28 (a) *The trust owns an interest in real or personal property located in the*
29 *State, including, without limitation, the right to receive interest, dividends,*
30 *royalties, rents or other income from the property;*

31 (b) *The trust has money or other property deposited with, or left in the*
32 *custody of, an entity that is authorized to do business in this State, even if the*
33 *entity was formed pursuant to the laws of a jurisdiction other than this State and*
34 *even if the trust's account was opened or is maintained remotely via the Internet;*

35 (c) *The trustee or a cotrustee is a bank or trust company that is authorized to*
36 *exercise trust powers in this State;*

37 (d) *The trustee or a cotrustee is a resident of this State;*

38 (e) *One or more beneficiaries of the trust reside in this State; or*

39 (f) *At least part of the administration of the trust occurs in this State.*

40 4. *For paragraphs (c) and (d) of subsection 3 to apply with respect to a*
41 *cotrustee, such cotrustee must have the authority to maintain records for the trust*
42 *and to prepare income tax returns for the trust, even if such authority may also*
43 *be exercised by another cotrustee.*

44 5. *Notwithstanding the provisions of this section, if a court of a jurisdiction*
45 *other than this State has jurisdiction over a trust and grants an order authorizing*
46 *a transfer of jurisdiction over the trust to this State, the district court has the*
47 *power to assume jurisdiction over that trust and to otherwise supervise the*
48 *administration of that trust in accordance with the procedures set forth in this*
49 *title if the requirements of subsection 2 are satisfied. A trust, the situs of which is*
50 *outside this State, that moves its situs to this State is valid whether or not the trust*
51 *complies with the laws of this State at the time of its creation or after its creation.*

52 6. *As used in this section, "account" includes, without limitation, a*
53 *checking account, time deposit, certificate of deposit, brokerage account,*

1 *investment fund, a trust company fiduciary account and any other similar*
2 *account or deposit.*

3 **Sec. 53.** NRS 164.010 is hereby amended to read as follows:

4 164.010 1. *Subject to the provisions of section 52 of this act:*

5 (a) Upon petition of any person appointed as trustee of an express trust by any
6 written instrument other than a will, or upon petition of a settlor or beneficiary of
7 the trust, the district court of the county in which the trustee resides or conducts
8 business, or in which the trust has been domiciled, shall consider the application *for*
9 *the court* to ~~confirm the appointment of the trustee and specify the manner in~~
10 ~~which the trustee must qualify. Thereafter the court has~~ *assume* jurisdiction of the
11 trust as a proceeding in rem.

12 ~~2-1~~ (b) If the court grants the petition, it ~~may~~ :

13 (1) *Has jurisdiction of the trust as a proceeding in rem.*

14 (2) *Has personal jurisdiction over any person listed in subsection 2 of*
15 *section 18 of this act.*

16 (3) *May confirm at the same time the appointment of the trustee and*
17 *specify the manner in which the trustee must qualify.*

18 (4) *May consider at the same time* ~~any petition for instructions filed with~~
19 ~~the petition for confirmation-~~

20 ~~—3-1~~ *granting orders on other matters related to the trust, including, without*
21 *limitation, matters that might be addressed in a declaratory judgment relating to*
22 *the trust under subsection 2 of NRS 30.040 or petitions filed pursuant to NRS*
23 *153.031 or 164.015, and such matters may be raised in the petition to assume*
24 *jurisdiction or in one or more separate petitions that are filed concurrently with*
25 *the petition to assume jurisdiction.*

26 (c) At any time, the trustee may petition the court for removal of the trust from
27 continuing jurisdiction of the court.

28 ~~4-1~~ 2. *For the purposes of this section, a trust is domiciled:*

29 (a) *In this State if there is a clear and sufficient nexus between the trust and*
30 *this State pursuant to subsection 3 of section 52 of this act.*

31 (b) *In a county of this State that provides the nexus required pursuant to*
32 *paragraph (a) giving preference:*

33 (1) *First, to the situs or domicile most recently declared by a person*
34 *granted the power to make such a declaration under the terms of the trust*
35 *instrument;*

36 (2) *Second, to the situs or domicile declared in the trust instrument; and*

37 (3) *Finally, to the situs or domicile declared by the trustee in a*
38 *certification of the trust which complies with subsection 2 of NRS 164.400 and*
39 *subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs*
40 *or domicile as authorized in subsection 1 of NRS 164.410.*

41 3. As used in this section, "written instrument" includes, without limitation,
42 an electronic trust as defined in NRS 163.0015.

43 **Sec. 54.** NRS 164.015 is hereby amended to read as follows:

44 164.015 1. The court *, as defined in NRS 132.116,* has exclusive
45 jurisdiction of proceedings initiated by the petition of an interested person
46 concerning the internal affairs of a nontestamentary trust, including a revocable
47 living trust while the settlor is still living if the court determines that the settlor
48 cannot adequately protect his or her own interests or if the interested person shows
49 that the settlor is incompetent or susceptible to undue influence. Proceedings which
50 may be maintained under this section are those concerning the administration and
51 distribution of trusts, the declaration of rights and the determination of other
52 matters involving trustees and beneficiaries of trusts, including petitions with
53 respect to a nontestamentary trust for any appropriate relief provided with respect to

1 a testamentary trust in NRS 153.031 ~~and~~ *and petitions for a ruling that property not*
2 *formally titled in the name of a trust or its trustee constitutes trust property*
3 *pursuant to NRS 163.002.*

4 2. A petition under this section *or subsection 2 of NRS 30.040 that relates to*
5 *a trust* may be filed in conjunction with a petition under NRS 164.010 or at any
6 time after the court has assumed jurisdiction under that section.

7 3. If an interested person contests the validity of a revocable nontestamentary
8 trust, the interested person is the plaintiff and the trustee is the defendant. The
9 written grounds for contesting the validity of the trust constitutes a pleading and
10 must conform with any rules applicable to pleadings in a civil action. *This*
11 *subsection applies whether the person contesting the validity of the trust is the*
12 *petitioner or the objector and whether or not the opposition to the validity of the*
13 *trust is asserted under this section or subsection 2 of NRS 30.040.*

14 4. In a proceeding pursuant to subsection 3, the competency of the settlor to
15 make the trust, the freedom of the settlor from duress, menace, fraud or undue
16 influence at the time of execution of the will, the execution and attestation of the
17 trust instrument, or any other question affecting the validity of the trust is a
18 question of fact and must be tried by the court, subject to the provisions of
19 subsection 5.

20 5. A court may consolidate the cases if there is a contest of a revocable
21 nontestamentary trust and a contest relating to a will executed on the same date. If a
22 jury is demanded pursuant to NRS 137.020 for the contest of the will, the court may
23 instruct the jury to render an advisory opinion with respect to an issue of fact
24 pursuant to subsection 4 in the contest of the trust.

25 6. Upon the hearing, the court shall enter such order as it deems appropriate.
26 The order is final and conclusive as to all matters determined and is binding in rem
27 upon the trust estate and upon the interests of all beneficiaries, vested or contingent,
28 except that appeal to the Supreme Court may be taken from the order within 30
29 days after notice of its entry by filing notice of appeal with the clerk of the district
30 court. The appellant shall mail a copy of the notice to each person who has
31 appeared of record. If the proceeding was brought pursuant to subsection 3, 4 or 5,
32 the court must also award costs pursuant to chapter 18 of NRS.

33 7. ~~Except as otherwise ordered by the court, a~~ *Except as otherwise ordered by the court, a* proceeding under this
34 section does not result in continuing supervisory proceedings ~~and the~~ *and the*
35 administration of the trust must proceed expeditiously in a manner consistent with
36 the terms of the trust, without judicial intervention or the order, approval or other
37 action of any court, unless the jurisdiction of the court is invoked by an interested
38 person or exercised as provided by other law.

39 8. *As used in this section, "nontestamentary trust" means a trust validly*
40 ~~*created pursuant to the provisions of chapter 163 of NRS, whether revocable or*~~
41 ~~*irrevocable, and whether or not any settlor thereof is living or deceased. The term*~~
42 ~~*does not include a trust created by the terms of a will of a person.*~~ *has the*
43 *meaning ascribed to it in section 1.7 of this act.*

44 **Sec. 54.5. NRS 164.025 is hereby amended to read as follows:**

45 164.025 1. The trustee of a nontestamentary trust may after the death of the
46 settlor of the trust cause to be published a notice in the manner specified in
47 paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to
48 known or readily ascertainable creditors.

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

50
51 NOTICE TO CREDITORS

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

Dated

.....
Trustee

.....
Address

3. A person having a claim, due or to become due, against a settlor or the trust must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. Any claim against the trust estate not filed within that time is forever barred. After the expiration of the time, the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor who has failed to file a claim with the trustee.

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

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

6. As used in this section, "nontestamentary trust" has the meaning ascribed to it in section 1.7 of this act.

Sec. 55. NRS 164.410 is hereby amended to read as follows:

164.410 1. A certification of trust may confirm the following facts or contain the following information:

- (a) The existence of the trust and date of execution of any trust instrument;
- (b) The identity of the settlor and each currently acting trustee;
- (c) The powers of the trustee and any restrictions imposed upon the trustee in dealing with assets of the trust;
- (d) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;
- (e) If there is more than one trustee, whether all of the currently acting trustees must or less than all may act to exercise identified powers of the trustee;
- (f) ~~The identifying number of the trust and whether it is a social security number or an employer identification number.~~ *A declaration regarding the situs or domicile of the trust and regarding the law that governs the validity, construction and administration of the trust;* and
- (g) The form in which title to assets of the trust is to be taken.

2. The certification must contain a statement that the trust has not been revoked or amended to make any representations contained in the certification incorrect, and that the signatures are those of all the currently acting trustees.

Sec. 56. NRS 164.725 is hereby amended to read as follows:

164.725 1. As used in this section, "action" includes a course of action and a decision on whether or not to take action.

2. A trustee may provide a notice of proposed action regarding any matter governed by NRS 163.556 or 164.700 to 164.925, inclusive. *Except as otherwise provided in the trust instrument, a trustee may provide a notice of proposed action regarding any aspect of the administration of the trust.*

3. If a trustee provides a notice of proposed action, the trustee shall mail the notice of proposed action to every adult beneficiary who, at the time the notice is provided, receives, or is entitled to receive, income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated. A notice of proposed action need not be provided to a person who consents in writing to the proposed action. A consent to a proposed action may be executed before or after the proposed action is taken.

4. The notice of proposed action must state:

(a) That the notice is provided pursuant to this section;

(b) The name and mailing address of the trustee;

(c) The name and telephone number of a person with whom to communicate for additional information regarding the proposed action;

(d) A description of the proposed action and an explanation of the reason for taking the action;

(e) The time within which objection to the proposed action may be made, which must be not less than 30 days after the notice of proposed action is mailed; and

(f) The date on or after which the proposed action is to be taken or is to be effective.

5. A beneficiary may object to the proposed action by mailing a written objection to the trustee at the address and within the time stated in the notice.

6. If no beneficiary entitled to receive notice of a proposed action objects to the proposed action and the other requirements of this section are met, the trustee is not liable to any present or future beneficiary with respect to that proposed action.

7. If the trustee received a written objection to the proposed action within the period specified in the notice, the trustee or a beneficiary may petition the court for an order to take the action as proposed, take the action with modification or deny the proposed action. A beneficiary who failed to object to the proposed action is not estopped from opposing the proposed action. The burden is on a beneficiary to prove that the proposed action should not be taken or should be modified. If the trustee takes the proposed action as approved by the court, the trustee is not liable to any beneficiary with respect to that action.

8. If the trustee decides not to take a proposed action for which notice has been provided, the trustee shall notify the beneficiaries of his or her decision not to take the proposed action and the reasons for the decision. The trustee is not liable to any present or future beneficiary with respect to the decision not to take the proposed action. A beneficiary may petition the court for an order to take the action as proposed. The burden is on the beneficiary to prove that the proposed action should be taken.

9. If the proposed action for which notice has been proved is an adjustment to principal and income pursuant to NRS 164.795 or 164.796, the sole remedy a court may order, pursuant to subsections 7 and 8, is to make the adjustment, to make the adjustment with a modification or to order the adjustment not to be made.

1 **Sec. 57.** NRS 164.740 is hereby amended to read as follows:

2 164.740 Except as otherwise provided in chapter 669A of NRS, a trustee who
3 invests and manages trust property owes a duty to the beneficiaries of the trust to
4 comply with the prudent investor rule as set forth in NRS 164.700 to 164.775,
5 inclusive, but a trustee is not liable to a beneficiary to the extent that the trustee

6 ~~acted~~ :

7 1. *Acted* in reasonable reliance on the terms of the trust ~~or~~ *or a court order*;
8 *and*

9 2. *Determined in good faith not to diversify the investments of a trust*
10 *pursuant to NRS 164.750.*

11 **Sec. 57.5.** NRS 164.950 is hereby amended to read as follows:

12 164.950 1. If two settlors who are married establish a nontestamentary trust
13 jointly, and the trust provides for the pecuniary or fractional division of the
14 community property held by the settlors upon the death of one of the settlors, the
15 trustee has the authority to distribute the community property unless the trust
16 instrument expressly provides otherwise. The trustee may distribute the community
17 property on a non-pro rata basis so long as the fair market value of the distribution
18 is, at the time of the distribution, the same as if the distribution were made pro rata.
19 The provisions of this section do not affect the distribution of assets that are
20 specifically allocated in the trust instrument to be distributed in kind.

21 2. As used in this section, "nontestamentary trust" has the meaning
22 ascribed to it in section 1.7 of this act.

23 **Sec. 58.** Chapter 165 of NRS is hereby amended by adding thereto a new
24 section to read as follows:

25 1. *Except as otherwise provided by the will creating a testamentary trust or*
26 *by court order, until the termination of a testamentary trust:*

27 (a) *The trustee shall account for the trust in the same manner as the trustee*
28 *of a nontestamentary trust; and*

29 (b) *The provisions of NRS 165.122 to 165.149, inclusive, apply to a*
30 *testamentary trust, and all references therein to the trust instrument shall be*
31 *construed to refer to the will under which the testamentary trust was created.*

32 2. *Notwithstanding any other provision of this section, the trustee of a*
33 *testamentary trust may file an intermediate account with the court and may*
34 *petition for the approval of such an account at any time. Notice of a hearing on*
35 *such a petition must be given as provided in NRS 155.010, and the procedural*
36 *provisions of chapter 155 of NRS apply to the petition.*

37 3. *As used in this section, "nontestamentary trust" means a trust validly*
38 *created pursuant to the provisions of chapter 163 of NRS, whether revocable or*
39 *irrevocable, and whether or not any settlor thereof is living or deceased. The term*
40 *does not include a trust created by the terms of a will of a person.*

41 **Sec. 59.** NRS 165.050 is hereby amended to read as follows:

42 165.050 1. Within 60 days after the termination of a testamentary trust, the
43 trustee ~~or, and in the case of the transfer of the trusteeship because of the death,~~
44 ~~resignation, removal, dissolution, merger or consolidation of a sole trustee, the~~
45 ~~successor in interest of the old trustee,~~ shall file with the court of the county where
46 the will was admitted to probate a final account under oath ~~or, showing,~~ for the
47 period since the ~~filing of the last~~ *most recent* account ~~[the facts required by NRS~~
48 ~~165.040 regarding intermediate accountings, and in the case of termination of the~~
49 ~~trust,~~ *was provided to and approved or deemed approved by the beneficiaries.*
50 *The final account must comply with subsection 3 or 4 of NRS 165.135 and must*
51 *set forth the distribution of the trust property which the ~~accountant~~ *trustee**
52 *proposes to make.*

2. *The beneficiaries entitled to a share in the final distribution must be provided a copy of the account, and the trustee shall petition the court for approval of the account. Notice of a hearing on such a petition must be given in the manner provided in NRS 155.010, and the procedural provisions of chapter 155 of NRS apply to the petition.*

3. *Notwithstanding the provisions of this section, any beneficiary may waive the right to receive an account, the right to a hearing on the account or the right to receive notice of a hearing.*

Sec. 60. NRS 165.137 is hereby amended to read as follows:

165.137 1. The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:

(a) ~~The~~ *Except as otherwise provided in paragraphs (e), (f) and (g), the trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;*

(b) A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;

(c) Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;

(d) In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;

(e) While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:

(1) A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or

(2) The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;

(f) While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;

(g) *While a beneficiary's only interest is a discretionary interest, as described in NRS 163.4185, except as otherwise provided by any other provision of law, the trustee is not required to provide an account to such a beneficiary;*

(h) The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;

~~(h)~~ (i) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within ~~120~~ 90 days after the date on which the trustee provided the account to that beneficiary;

~~(i)~~ (j) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

~~(j)~~ (k) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

~~(((b)))~~ (b) For the purposes of paragraph ~~(((b)))~~ (i), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 61. NRS 165.139 is hereby amended to read as follows:

165.139 Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection ~~and NRS 165.137~~, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account. ~~Upon request, an account must be provided annually to each living settlor, and a settlor has standing to enforce the terms of the trust and all applicable law on behalf of any beneficiaries.~~

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that ~~there is clear and convincing evidence that~~ the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to *the terms of the trust instrument or* NRS 165.122 to 165.149, inclusive, is personally liable to each ~~beneficiary~~ *person entitled to receive an account* who requested the account in writing for all costs reasonably incurred by each such ~~beneficiary~~ *person* to enforce *the terms of the trust or* NRS 165.122 to 165.149, inclusive, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 62. NRS 165.147 is hereby amended to read as follows:

165.147 1. *Except as otherwise provided in subsections 2, 3 and 4, a trustee shall provide to each beneficiary who is entitled to receive an account pursuant to NRS 165.135 and 165.137 notice of the existence of a trust for his or her benefit within 120 days after the beneficiary becomes entitled to an account or within 120 days after the trustee assumes the trusteeship, whichever occurs later.*

2. *The provisions of subsection 1 apply only to a trust created or amended on or after October 1, 2013, and do not apply as to a beneficiary whose sole interest is a discretionary interest, as described in NRS 163.4185, if the trust instrument expressly authorizes or directs the trustee not to disclose the existence of the trust to that beneficiary. Notwithstanding the provisions of this subsection:*

1 (a) Nothing in this subsection shall be construed to exempt the trustee from
2 complying with the requirements of other applicable provisions of state or federal
3 law, including, without limitation, the requirement to:

4 (1) Give notice to an interested party with respect to a hearing on a
5 petition, an appeal or any other judicial proceeding;

6 (2) Give notice of a proposed action to a person who is entitled to receive
7 such notice; and

8 (3) Comply with the applicable federal tax law, including, without
9 limitation, the obligation to provide an Internal Revenue Service Form 1041
10 (Schedule K-1) or other tax form to any beneficiary who is entitled to receive
11 such a form.

12 (b) Notwithstanding any provision in the trust instrument to the contrary, if
13 the trustee, by taking any action in accordance with paragraph (a), discloses the
14 existence of the trust to any beneficiary, the trustee is not liable for the disclosure
15 and must not be considered in breach of his or her duties.

16 3. The requirements of subsection 1 may be satisfied by sending the
17 beneficiary any one of the following:

18 (a) An account of the trustee;

19 (b) The notice permitted in NRS 164.021;

20 (c) An Internal Revenue Service Form 1041 (Schedule K-1) showing the
21 beneficiary's share of trust income; or

22 (d) A copy of the trust in compliance with subsection 6 or 7.

23 4. The requirements of subsection 1 do not apply to any beneficiary who
24 has:

25 (a) Received notice of the trust's existence from a predecessor trustee;

26 (b) Acknowledged the trust's existence in writing; or

27 (c) Made an appearance in a court proceeding related to the trust.

28 5. Except as to a beneficiary for whom the requirements of subsection 1
29 have been satisfied or does not apply:

30 (a) Notice must be sent by first-class mail to each beneficiary's at his or her
31 last known address.

32 (b) Notice to a minor beneficiary must be given to:

33 (1) The guardian of the estate of the minor appointed by the court, if a
34 court has appointed such a guardian;

35 (2) The guardian of the person of the minor, if a court has appointed
36 such a guardian but has not appointed a guardian of the estate of the minor; or

37 (3) A parent who has custody of the minor, if a court has not appointed a
38 guardian of the estate of the minor or a guardian of the person of the minor.

39 (c) Notice to an adult beneficiary who is under a legal disability must be
40 given to:

41 (1) The guardian of the estate of the beneficiary appointed by a court; or

42 (2) If a court has not appointed a guardian of the estate of the
43 beneficiary, the guardian of the person of the beneficiary appointed by a court.

44 (d) If the address or identity of a beneficiary is not known and cannot be
45 ascertained after due diligence, notice must be given by publishing a copy of the
46 notice once each week for 3 consecutive weeks in a newspaper of general
47 circulation in the county where the trust has its legal situs. A single published
48 notice may be given for multiple beneficiaries as long as each known
49 beneficiary's name is mentioned in the notice.

50 (e) Notwithstanding any other provision of this section, the court may
51 authorize or require an alternative form of notice.

52 6. Upon request by a beneficiary who is entitled to receive an account
53 pursuant to the terms of NRS 165.122 to 165.149, inclusive, a trustee shall provide

1 a copy of the trust instrument to that beneficiary except as expressly provided
2 otherwise in the trust instrument.

3 ~~7.~~ 7. Notwithstanding the provisions of subsection ~~6~~ 6 or any provision to
4 the contrary in the trust instrument, the court may direct the trustee to provide a
5 beneficiary who is entitled to receive an account pursuant to the terms of NRS
6 165.122 to 165.149, inclusive, a copy of the trust instrument, or such portions as the
7 court deems to be pertinent to the determination of the adequacy of the trustee's
8 account and to the enforcement of the beneficiary's rights under the trust.

9 ~~8.~~ 8. Except as otherwise provided in NRS 165.145 or by order of the court
10 for good cause shown, the trustee must not be compelled to provide a copy of the
11 trust instrument to a person who is not a beneficiary of the trust or a person who is
12 not entitled to an account of the trust pursuant to the provisions of NRS 165.122 to
13 165.149, inclusive.

14 **Sec. 63.** NRS 166.120 is hereby amended to read as follows:

15 166.120 1. A spendthrift trust as defined in this chapter restrains and
16 prohibits generally the assignment, alienation, acceleration and anticipation of any
17 interest of the beneficiary under the trust by the voluntary or involuntary act of the
18 beneficiary, or by operation of law or any process or at all. The trust estate, or
19 corpus or capital thereof, shall never be assigned, aliened, diminished or impaired
20 by any alienation, transfer or seizure so as to cut off or diminish the payments, or
21 the rents, profits, earnings or income of the trust estate that would otherwise be
22 currently available for the benefit of the beneficiary.

23 2. Payments by the trustee to the beneficiary, whether such payments are
24 mandatory or discretionary, must be made only to or for the benefit of the
25 beneficiary and not by way of acceleration or anticipation, nor to any assignee of
26 the beneficiary, nor to or upon any order, written or oral, given by the beneficiary,
27 whether such assignment or order be the voluntary contractual act of the beneficiary
28 or be made pursuant to or by virtue of any legal process in judgment, execution,
29 attachment, garnishment, bankruptcy or otherwise, or whether it be in connection
30 with any contract, tort or duty. Any action to enforce the beneficiary's rights, to
31 determine if the beneficiary's rights are subject to execution, to levy an attachment
32 or for any other remedy must be made only in a proceeding commenced pursuant to
33 chapter 153 of NRS, if against a testamentary trust, or NRS 164.010, if against a
34 nontestamentary trust. ~~7.~~ *The district court, as defined in NRS 132.116, has*
35 *exclusive jurisdiction over any proceeding pursuant to this section.*

36 3. The beneficiary shall have no power or capacity to make any disposition
37 whatever of any of the income by his or her order, voluntary or involuntary, and
38 whether made upon the order or direction of any court or courts, whether of
39 bankruptcy or otherwise; nor shall the interest of the beneficiary be subject to any
40 process of attachment issued against the beneficiary, or to be taken in execution
41 under any form of legal process directed against the beneficiary or against the
42 trustee, or the trust estate, or any part of the income thereof, but the whole of the
43 trust estate and the income of the trust estate shall go to and be applied by the
44 trustee solely for the benefit of the beneficiary, free, clear, and discharged of and
45 from any and all obligations of the beneficiary whatsoever and of all responsibility
46 therefor.

47 4. The trustee of a spendthrift trust is required to disregard and defeat every
48 assignment or other act, voluntary or involuntary, that is attempted contrary to the
49 provisions of this chapter.

50 5. *As used in this section, "nontestamentary trust" means a trust validly*
51 *created pursuant to the provisions of chapter 163 of NRS, whether revocable or*
52 *irrevocable, and whether or not any settlor thereof is living or deceased. The term*

~~does not include a trust created by the terms of a will of a person.~~ has the meaning ascribed to it in section 1.7 of this act.

Sec. 64. NRS 166.170 is hereby amended to read as follows:

166.170 1. ~~1A~~ Except as otherwise provided in this section, a person may not bring an action with respect to a ~~transfer of property to a~~ spendthrift trust ~~if~~:

~~(a) If the person is a creditor when the transfer is made, that is unrelated to a transfer of property unless the action is commenced within ~~if~~:~~

~~(1) Two~~ 2 years after the ~~transfer is made; or~~

~~(2) Six months after the person discovers or reasonably should have discovered the transfer;~~

~~whichever is later.~~

~~(b) If the~~ creation of the spendthrift trust. A person ~~becomes~~ who was a creditor ~~after the transfer is made, then unless the action is commenced within~~ of the transferor at the time the spendthrift trust was created may commence an action with respect to a spendthrift trust that is unrelated to a transfer of property more than 2 years after the ~~transfer is made.~~ creation of the trust as long as the action is commenced within 6 months after the person discovers or reasonably should have discovered the creation of the trust.

2. Except as otherwise provided in this subsection, a person may not bring an action that is related to a transfer of property to a spendthrift trust unless that action is brought within 2 years after the transfer of that property to the spendthrift trust. A person who was a creditor of the transferor at the time the transfer was made may commence an action related to the transfer of that property more than 2 years after the transfer is made to the spendthrift trust as long as the action is commenced within 6 months after the person discovers or reasonably should have discovered the transfer of the property to the spendthrift trust.

3. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property, ~~or a document referencing the transfer of other property,~~ that is located in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

~~3.1~~ For the purposes of this subsection:

(a) A public record that references the transfer of an account, contract, certificate, note, judgment, business interest, safe deposit box or other property interest that is subject to additions or contributions does not need to be updated to reflect such additions or contributions and, subject to the provisions of paragraph (b) of subsection 9, the limitation of this subsection applies separately to each addition or contribution.

(b) Income and capital appreciation that accrue with respect to trust property after the transfer of such property to a spendthrift trust are not considered additional transfers.

4. A person shall be deemed to have discovered the creation of a spendthrift trust at the time a public record is made of the spendthrift trust, including, without limitation, a transfer of property to the trust as provided in subsection 3 or a document that shows the existence of the trust, including, without limitation, the recording of a certification of trust that complies with the provisions of NRS 164.410.

5. Except as expressly provided for in the trust instrument, the property of a spendthrift trust is not subject to the claims of a creditor of the settlor. A creditor may not reach any property of a spendthrift trust to satisfy the creditor's claim against a settlor or beneficiary unless the creditor establishes that the specific property was not properly transferred to the trust or has been transferred from

1 *the trust pursuant to the terms of the trust instrument or that the trust is invalid*
2 *as a spendthrift trust as to such specific property, subject to the following*
3 *limitations:*

4 (a) A creditor may not bring an action with respect to transfer of property to a
5 spendthrift trust unless a creditor can prove by clear and convincing evidence that
6 the transfer of *specific* property was ~~fraudulent transfer pursuant to chapter 112~~
7 ~~of NRS or that the transfer violates a legal obligation owed to the creditor under a~~
8 ~~contract or a valid court order that is legally enforceable by that creditor. In the~~
9 ~~absence of such clear and convincing proof, the property transferred is not subject~~
10 ~~to the claims of the creditor.~~ made:

11 (1) *With the actual intent to defraud such creditor; or*

12 (2) *In violation of an express provision or a written contract or a court*
13 *order prohibiting the transferor from transferring the property that was legally*
14 *enforceable by such creditor against the transferor at the time of the transfer.*

15 (b) Proof by one creditor that a transfer of property was ~~fraudulent or~~
16 ~~wrongful~~ made in violation of subparagraph (1) or (2) of paragraph (a) does not
17 constitute proof of a violation as to any other creditor and proof ~~of a fraudulent or~~
18 ~~wrongful~~ that a transfer of the specific property ~~is~~ is subject to the claims of one
19 creditor ~~shall~~ does not invalidate that transfer as to any other creditor and does
20 not invalidate any other transfer of property.

21 ~~4.~~ 6. If property transferred to a spendthrift trust is conveyed to the settlor
22 or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or
23 deed of trust on the property and then reconveyed to the trust, for the purpose of
24 ~~subsection 1.~~ this section, the transfer is disregarded and the reconveyance relates
25 back to the date the property was originally transferred to the trust. The mortgage or
26 deed of trust on the property shall be enforceable against the trust.

27 ~~5.~~ 7. A person may not bring a claim against an adviser to the settlor or
28 trustee of a spendthrift trust unless the person can show by clear and convincing
29 evidence that the adviser acted in violation of the laws of this State, knowingly and
30 in bad faith, and the adviser's actions directly caused the damages suffered by the
31 person.

32 ~~6.~~ 8. A person other than a beneficiary or settlor may not bring a claim
33 against a trustee of a spendthrift trust unless the person can show by clear and
34 convincing evidence that the trustee acted in violation of the laws of this State,
35 knowingly and in bad faith, and the trustee's actions directly caused the damages
36 suffered by the person. ~~As used in this subsection, "trustee" includes a cotrustee, if~~
37 ~~any, and a predecessor trustee.~~

38 ~~7.~~ 9. If more than one transfer is made to a spendthrift trust:

39 (a) The subsequent transfer to the spendthrift trust must be disregarded for the
40 purpose of determining whether a person may bring an action pursuant to
41 subsection ~~H.~~ 2 with respect to a prior transfer to the spendthrift trust; and

42 (b) Any distribution to a beneficiary from the spendthrift trust shall be deemed
43 to have been made from the most recent transfer made to the spendthrift trust.

44 ~~8.~~ 10. Notwithstanding any other provision of law ~~1. not~~ :

45 (a) No action of any kind, including, without limitation, an action to enforce a
46 judgment entered by a court or other body having adjudicative authority, may be
47 brought at law or in equity against the trustee of a spendthrift trust if, as of the date
48 the action is brought, an action by a creditor with respect to a transfer to the
49 spendthrift trust would be barred pursuant to this section. ~~1.~~

50 ~~9.~~ (b) *No action of any kind, including, without limitation, an action to*
51 *enforce a judgment entered by a court or other body having adjudicative*
52 *authority, may be brought at law or in equity for an attachment or other*

1 *provisional remedy against property that is owned by a spendthrift trust unless a*
2 *creditor can provide either:*

3 *(1) The proof required in paragraph (a) of subsection 5 that the settlor's*
4 *transfer of such property is subject to the claims of that creditor; or*

5 *(2) Clear and convincing evidence that the trust is not valid as a*
6 *spendthrift trust as to the creditor's claim.*

7 *11. For purposes of this section, if a trustee exercises his or her discretion or*
8 *authority to distribute trust income or principal to or for a beneficiary of the*
9 *spendthrift trust, by appointing the property of the original spendthrift trust in favor*
10 *of a second spendthrift trust for the benefit of one or more of the beneficiaries as*
11 *authorized by NRS 163.556, the time of the transfer for purposes of this section*
12 *shall be deemed to have occurred on the date the settlor of the original spendthrift*
13 *trust transferred assets into the original spendthrift trust, regardless of the fact that*
14 *the property of the original spendthrift trust may have been transferred to a second*
15 *spendthrift trust †*

16 ~~*10.† on a later date.*~~

17 *12. As used in this section:*

18 *(a) "Action that is related to a transfer of property to a spendthrift trust"*
19 *includes any legal action seeking to obtain a court order, decree or judgment that*
20 *would:*

21 *(1) Set aside one or more transfers of property to a spendthrift trust;*

22 *(2) Declare any property that was assigned to or transferred to the*
23 *spendthrift trust or otherwise declared to be trust property not to be part of the*
24 *trust estate, including, without limitation, the imposition of a constructive trust or*
25 *a resulting trust that is inconsistent with the governing trust instrument of the*
26 *spendthrift trust; or*

27 *(3) Subject any trust property to covenants, conditions, restrictions or*
28 *obligations that are inconsistent with the terms of the trust instrument, not*
29 *including covenants, conditions, restrictions or obligations of record that were*
30 *existing at the time of the transfer of the property to the trust.*

31 *(b) "Action with respect to a spendthrift trust that is unrelated to a transfer*
32 *of property" includes any legal action related to a spendthrift trust that is not*
33 *covered by paragraph (a), including, without limitation, an action seeking to*
34 *obtain a court order, decree or judgment which would:*

35 *(1) Declare that any trust property is available to satisfy any claim*
36 *against a beneficiary, trustee or settlor of the trust;*

37 *(2) Disqualify the trust as a trust, as an irrevocable trust or as a*
38 *spendthrift trust, whether in whole or in part;*

39 *(3) Impose a lien or other encumbrance on any asset of the spendthrift*
40 *trust without the consent of the trustee and of each other person whose consent is*
41 *required by the trust instrument;*

42 *(4) Impose a liability on an adviser;*

43 *(5) Compel a distribution to a beneficiary or to a creditor from a*
44 *mandatory interest, as described in NRS 163.4185, in violation of the trust; or*

45 *(6) Compel a distribution to a beneficiary or to a creditor from a support*
46 *interest, as described in NRS 163.4185, or from a discretionary interest, as*
47 *described in NRS 163.4185.*

48 *(c) "Adviser" means any person, including, without limitation, an accountant,*
49 *attorney or investment adviser, who gives advice concerning or was involved in the*
50 *creation of, transfer of property to, or administration of the spendthrift trust or who*
51 *participated in the preparation of accountings, tax returns or other reports related to*
52 *the trust. †*

~~(b)~~ *The term includes a trust protector designated in the trust instrument, whether or not that person is acting in a fiduciary capacity.*

~~(d) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150. means a person who has a claim.~~

~~(e) "Trustee" includes a cotrustee, if any and a predecessor trustee.~~

Sec. 65. NRS 687B.260 is hereby amended to read as follows:

687B.260 1. If a policy of insurance, whether issued before, on or after January 1, 1972, is effected by any person on his or her own life, or on another life, in favor of a person other than himself or herself, *including, without limitation, a trust established by the insured or the person so effecting such insurance*, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, *including, without limitation, a trust established by the insured or the person so effecting such insurance*, other than the insured or the person so effecting such insurance or executors or administrators of the insured or the person so effecting such insurance, is entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured or to the executors or administrators of such person if the beneficiary or assignee predeceases the person. Except as otherwise provided in this subsection, such proceeds and avails are exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails are made available for the use of the beneficiary. Subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors, with interest thereon, inures to the benefit of the creditors from the proceeds of the policy. The insurer issuing the policy is discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before the payment, the insurer has received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specification of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy.

2. For the purposes of subsection 1, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or a similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such a clause.

3. This section does not apply to insurance issued pursuant to this Code to a creditor covering his or her debtors to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

4. With respect to transfers of an insurance policy or proceeds of a policy to a spendthrift trust, as defined in NRS 166.020:

(a) The provisions of NRS 166.170 constitute the statute of limitations applicable to the provisions of subsection 1.

(b) Except as to any transfer that is established to be subject to the claims of a creditor under subsection 3 of NRS 166.170, all money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance policy are fully exempt from the claims of creditors if a spendthrift trust is the owner or is irrevocably designated as the beneficiary of that policy.

Sec. 66. NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be

1 compelled to exercise any such rights, powers or options, nor shall creditors be
2 allowed to interfere with or terminate the contract, except as to amounts paid for or
3 as premium on any such annuity with intent to defraud creditors, with interest
4 thereon, and of which the creditor has given the insurer written notice at its home
5 office prior to the making of the payment to the annuitant out of which the creditor
6 seeks to recover. Any such notice shall specify the amount claimed or such facts as
7 will enable the insurer to ascertain such amount, and shall set forth such facts as
8 will enable the insurer to ascertain the annuity contract, the annuitant and the
9 payment sought to be avoided on the ground of fraud.

10 2. If the contract so provides, the benefits, rights, privileges or options
11 accruing under such contract to a beneficiary or assignee shall not be transferable or
12 subject to commutation, and the same exemptions and exceptions contained in this
13 section for the annuitant shall apply with respect to such beneficiary or assignee.

14 3. *With respect to the amounts payable under any annuity contract to a*
15 *spendthrift trust, as defined in NRS 166.020:*

16 (a) *The provisions of NRS 166.170 constitute the statute of limitations*
17 *applicable to the provisions of subsection 1.*

18 (b) *Except as to any transfer that is established to be subject to the claims of*
19 *a creditor pursuant to subsection 3 of NRS 166.170, the benefits, rights, privileges*
20 *and options which are due or prospectively due to a spendthrift trust under any*
21 *annuity contract are fully exempt from the claims of creditors.*

22 Sec. 67. NRS 163.4177, 163.418, 163.5539, 165.040, 165.045, 165.055 and
23 165.110 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

163.4177 Factors which must not be considered exercising improper
dominion or control over trust.

163.418 Clear and convincing evidence required to find settlor to be alter
ego of trustee of irrevocable trust; certain factors insufficient for finding that
settlor controls or is alter ego of trustee of irrevocable trust.

163.5539 "Excluded fiduciary" defined.

165.040 Intermediate accountings: General requirements; exceptions.

165.045 Intermediate accountings: Notice; hearing.

165.055 Final accounting: Notice.

165.110 Proceedings in court.