

Amendment No. 233

Assembly Amendment to Assembly Bill No. 130

(BDR 12-862)

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

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BJF



Date: 4/16/2015

A.B. No. 130—Revises provisions relating to the administration of estates of deceased persons. (BDR 12-862)



ASSEMBLY BILL NO. 130—ASSEMBLYMEN NELSON, JONES, ARMSTRONG, FIORE;
DICKMAN, GARDNER, KIRNER, MOORE, OHRENSCHALL, SILBERKRAUS AND
WOODBURY

FEBRUARY 9, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the administration of estates of deceased persons. (BDR 12-862)

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

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

AN ACT relating to estates; revising provisions authorizing the summary administration of the estate of a decedent; revising provisions concerning the distribution or transfer of assets from certain small estates of decedents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs wills and estates of deceased persons. (Title 12 of NRS) Under existing law, a court is authorized to enter an order for the summary administration of an estate if the court deems summary administration advisable and the gross value of the estate does not exceed \$200,000 after deducting any encumbrances. (NRS 145.040) **Sections 1 and 2 of this bill increase that amount to ~~(\$250,000.)~~ \$300,000.**

~~Existing law provides, under certain circumstances, for the setting aside of small estates that do not exceed a gross value of \$100,000, after deducting any encumbrances, for distribution to certain survivors of decedents or other claimants without requiring the administration of such estates. (NRS 146.070) Section 3 of this bill increases that amount to \$150,000.~~

Existing law provides, under certain circumstances, for the transfer of assets from the estate of a decedent to certain claimants pursuant to an affidavit showing the right to receive the assets without the issuance of a letter of administration or, if applicable, the probate of a will if the gross value of the estate does not exceed \$20,000. (NRS 146.080) **Section 4 of this bill : (1) increases that amount to \$100,000 ~~if the claimant is the surviving spouse of the decedent and to \$25,000 for any other claimant;~~ and (2) excludes the value of any motor vehicles registered to the decedent from the determination of whether the gross value of the estate exceeds these amounts. Section 4 also requires the affidavit required for such transfer of assets to include a declaration that the claimant has no knowledge of any existing claims for personal injury or tort damages against the decedent. Finally, section 4 requires a governmental agency that issues certificates of title, ownership or registration to personal property to accept an affidavit containing the required information, regardless of the form of the affidavit.**

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

Section 1. NRS 145.040 is hereby amended to read as follows:

145.040 If it is made to appear to the court that the gross value of the estate, after deducting any encumbrances, does not exceed ~~[\$200,000, \$250,000,]~~ \$300,000, the court may, if deemed advisable considering the nature, character and obligations of the estate, enter an order for a summary administration of the estate.

Sec. 2. NRS 145.110 is hereby amended to read as follows:

145.110 If at any time after the entry of an order for the summary administration of an estate it appears that the gross value of the estate, after deducting any encumbrances, exceeds ~~[\$200,000, \$250,000,]~~ \$300,000 as of the death of the decedent, the personal representative shall petition the court for an order revoking summary administration. The court may, if deemed advisable considering the nature, character and obligations of the estate, provide in its order revoking summary administration that regular administration of the estate may proceed unabated upon providing such portions of the regular proceedings and notices as were dispensed with by the order for summary administration.

Sec. 3. ~~NRS 146.070 is hereby amended to read as follows:~~

~~146.070 1. If a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed [\$100,000,] \$150,000, and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.~~

~~2. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed [\$100,000,] \$150,000, 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 payment of benefits for Medicaid and creditors, if there are any; and~~

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

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

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

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

~~(c) An estimate of the value of the property;~~

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

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

~~4. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the 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. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.~~

~~6. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of [\$100,000,] \$150,000, 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.] (Deleted by amendment.)~~

Sec. 4. NRS 146.080 is hereby amended to read as follows:

146.080 1. If a decedent leaves no real property, nor interest therein, nor mortgage or lien thereon, in this State, and the gross value of the decedent's property in this State, over and above any amounts due to the decedent for services in the Armed Forces of the United States, ~~++~~ and the value of any motor vehicles registered to the decedent, does not exceed ~~[\$20,000, \$100,000,] the applicable amount,~~ a person who has a right to succeed to the property of the decedent pursuant to the laws of succession for a decedent who died intestate or pursuant to the valid will of a decedent who died testate, on behalf of all persons entitled to succeed to the property claimed, or the Director of the Department of Health and Human Services or public administrator on behalf of the State or others entitled to the property, may, 40 days after the death of the decedent, without procuring letters of administration or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to the claimant upon furnishing the person, representative, corporation, officer or body owing the money, having custody of the property or acting as registrar or transfer agent of the evidences of interest, indebtedness or right, with an affidavit showing the right of the affiant or affiants to receive the money or property or to have the evidence transferred.

2. An affidavit made pursuant to this section must state:

(a) The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;

(b) The date and place of death of the decedent;

(c) That the gross value of the decedent's property in this State, except amounts due the decedent for services in the Armed Forces of the United States, ~~++~~ or the value of any motor vehicles registered to the decedent, does not exceed ~~[\$20,000, \$100,000,] the applicable amount,~~ and that the property does not include any real property nor interest therein, nor mortgage or lien thereon;

(d) That at least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the certificate of death of the decedent attached to the affidavit;

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

(f) That all debts of the decedent, including funeral and burial expenses, and money owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid, have been paid or provided for;

(g) A description of the personal property and the portion claimed;
(h) That the affiant has given written notice, by personal service or by certified mail, identifying the affiant's claim and describing the property claimed, to every person whose right to succeed to the decedent's property is equal or superior to that of the affiant, and that at least 14 days have elapsed since the notice was served or mailed;

(i) That the affiant is personally entitled, or the Department of Health and Human Services is entitled, to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property; ~~and~~

(j) That the affiant has no knowledge of any existing claims for personal injury or tort damages against the decedent; and

(k) That the affiant acknowledges an understanding that filing a false affidavit constitutes a felony in this State.

3. If the affiant:

(a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property the affiant receives is subject to all debts of the decedent.

(b) Fails to give notice to other successors as required by subsection 2, any money or property the affiant receives is held by the affiant in trust for all other successors who have an interest in the property.

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

5. Upon receiving proof of the death of the decedent and an affidavit containing the information required by this section:

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

(b) A governmental agency required to issue certificates of title, ownership or registration to personal property shall issue a new certificate of title, ownership or registration to the person claiming to succeed to ownership of the property. The governmental agency may not refuse to accept an affidavit containing the information required by this section, regardless of the form of the affidavit.

6. If any property of the estate not exceeding ~~\$20,000~~ ~~\$100,000~~ the applicable amount is located in a state which requires an order of a court for the transfer of the property, or if the estate consists of stocks or bonds which must be transferred by an agent outside this State, any person qualified pursuant to the provisions of subsection 1 to have the stocks or bonds or other property transferred may do so by obtaining a court order directing the transfer. The person desiring the transfer must file a petition, which may be ex parte, containing:

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

(d) The names, ages of any minors and residences of the decedent's heirs and devisees.

(e) A request for the court to issue an order directing the transfer of the stocks or bonds or other property if the court finds the gross value of the estate does not exceed ~~\$20,000~~ ~~\$100,000~~ the applicable amount.

(f) An attached copy of the executed affidavit made pursuant to subsection 2.

1 ➤ If the court finds that the gross value of the estate does not exceed ~~the applicable amount~~ ~~\$20,000~~
2 ~~\$100,000~~ the applicable amount and the person requesting the transfer is entitled
3 to it, the court may enter an order directing the transfer.

4 7. As used in this section, "applicable amount" means:

5 (a) If the claimant is the surviving spouse of the decedent, \$100,000.

6 (b) For any other claimant, \$25,000.