

*Synopsis of
Nevada
Probate Law*

*Don W. Ashworth
Probate Commissioner
Eighth Judicial District Court*

SYNOPSIS OF NEVADA PROBATE LAW

LETTER OF ENTITLEMENT

- 146.080 This section is only applicable to estates that do not exceed \$20,000 and have no assets consisting of real property in Nevada. At least 40 days must have passed since date of death of the decedent to use the affidavit. See form # 1 for copy of affidavit.
- 146.080 2 (b) The decedent need not be a resident of Nevada at the time of death.
- 146.080 (6) If assets are located in a state that requires an Order to transfer; or consists of stock or bonds which must be transferred by a transfer agent outside this state, the interested party can file an ex parte petition and receive from the Court an Order directing the transfer.

SET ASIDE ESTATE WITHOUT ADMINISTRATION

- 146.070 This section is only applicable to estates whose net value do not exceed \$75,000; but it is applicable to both real and personal property be a Nevada resident. Net value is computed by taking the fair market value of all probate assets of the estate and subtracting there from all mortgages and/or liens, but not non secured debt.
- 146.070 (3) At least 30 days must have passed since the death of the decedent before a petition can be filed.
- Contents of Petition:
- (a) A specific description of all the decedent's property;
 - (b) A list of all the liens and mortgages of record as of the date of decedent's death;
 - (c) An estimate of the value of the assets;
 - (d) A statement of the debts of the decedent so far as known to the petitioner; and
 - (e) The names and residences of the heirs and devisees of the decedent and the age of anyone who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner.
- 146.070 (4) Prepare a Notice which sets the hearing date and gives notice to all interested persons and to the Nevada State Welfare Department as provided in 155.010 (10 days before the hearing.). No publication in a newspaper is required under
- 155.020. If petition is not mailed with the Notice then the Notice must specifically state to whom the estate is being set aside.

SUMMARY ADMINISTRATION
(Estates up to \$200,000 if Ordered by the Court)

- 145.010 All regular proceedings and notices are dispensed with except:
- (1) Notice of initial petition for summary administration (145 .030);
 - (2) Notice and Confirmation of Sale of Real Property (145.070);
 - (3) Notice of Final Account and Petition for Distribution and request for attorney's fees (Must either send copy of Petition with Notice or specify amount of attorney's fees in Notice) 145.075;
 - (4) Notice to Creditors, 145.060; and
 - (5) Must file an inventory. 144.010
- 145.020 Content of Petition for Summary Administration:
- (1) Jurisdictional information;
 - (2) A description of the property of the decedent, including the character and estimated value of the property;
 - (3) The names and residences of the heirs and devisees of the decedent and the age of anyone who is a minor and the relationship of each heir and devisee to the decedent so far as known to the petitioner; and
 - (4) A statement that the person to be appointed as Personal Representative has never been convicted of a felony.
- 145.030 Notice mailed by regular mail to all interested parties as provided in NRS 155.010 (10 days before hearing). No publication is required under 155.020. File Notice and Affidavit of Mailing with clerk's office.
- 145 .040 If it appears to the Court that the gross estate does not exceed \$200,000; the Court may, if it deems advisable, enter an Order granting summary administration.
- 145.070 The sale of real property must be noticed and the sale must be confirmed by the Court as required under Chapter 148 of NRS. All other sales are without Court confirmation.
- 145.110 If at any time after the entry of Order for summary administration, it is discovered that the value of the gross estate as of the decedent's death exceeded \$200,000 the Personal Representative must petition the Court to revoke the summary administration status and order general administration and also must publish notice to creditors for an additional 30 days if first publication was just for 60 days.
- 145.075 A Petition for Final Account and Distribution must be prepared and filed along with a notice of hearing. The Notice must be mailed to all persons entitled thereto at least 10 days before hearing.

**GENERAL ADMINISTRATION
PROBATE OF WILL AND APPOINTMENT OF PERSONAL REPRESENTATIVE
FOR ESTATES OVER \$200,000**

(Cites in brackets are for estates administered without a will.)

- 136.050 The original will must be filed with the County Clerk's office within 30 days of the death of the Testator.
- 136.090 A petition for Probate of Will and Issuance of Letters must contain:
- (139.090) (a) The jurisdictional facts;
- (b) Whether the person named in the will as personal representative consents to act or renounces the right to letters;
- (c) The names and residences of the heirs, next of kin and devisees of the decedent, their relationship to the decedent, and the age of those persons who is a minor, so far as known to the petitioner;
- (d) The character and estimated value of the property of the estate;
- (e) The name of the person for whom letters are requested, and that the person has never been convicted of a felony; and
- (f) The name of any devisee who is deceased.
- (139.010) If there is no personal representative named in the will or there is no will, the personal representative must be a resident of the state of Nevada.
- 136.100 Notice can be sent by regular mail to all interested parties and to Nevada State (139.100) Welfare Department as provided in NRS 155.010 (10 days before hearing). File Notice and Affidavit of Mailing with clerk's office.
- 155.020 Notice of the time for hearing the initial petition for probate of a Will or administration must be published 3 times in local newspaper and there must be 10 days from first to last dates of publication. File affidavit of publication with the Clerk's office.

**All remaining sections are applicable to both General and Summary Administration
except as specifically noted.**

GENERAL PROVISIONS

- 132.270 All probate petitions must be verified under oath or affirmed under penalty of perjury.
- 142.010 Clerk's office issues Letters to Personal Representative. Personal Representative needs to take the oath of office before the clerk or a Notary Public.

- 142.020 (1) The requirement of a bond of a Personal Representative is discretionary with the Court. Whether a bond is expressly required by the will or not, the Court may:
- (a) Require a bond if it determines a bond is desirable; or
 - (b) Dispense with the requirement of a bond if it determines a bond is unnecessary.

(2) See form for proof of blocked account in NRS 142.020.

143.035 The duty of Personal Representative is to use reasonable diligence in closing the estate. Within 6 months from the date of the Personal Representative being appointed, if there is no estate tax return required to be filed, or 15 months if an estate tax return is required to be filed, the Personal Representative must file a report explaining to the Court why the estate is not closed.

143.037 Except as otherwise provided in this section all estates must be closed within 18 months of the appointment of the Personal Representative.

INVENTORY

144.010 Within 60 days of appointment, the Personal Representative must file an Inventory with the clerk's office; within 10 days of filing the Inventory, the Personal Representative must mail a copy of the Inventory to all heirs or beneficiaries.

144.020 Appraisers, certified public accountants or other experts may be engaged by the Personal representative to ascertain the fair market value of the assets of the estate as of the decedent's date of death. If it appears beyond a reasonable doubt that the assets will not be liquidated to pay the estate's debts, expenses or distributions in kind to heirs or beneficiaries, the Personal Representative can petition to be allowed to file a verification of value instead of an appraisal.

144.040 The Inventory shall include only the decedent's **1/2** interest in community assets together with all separate personal assets and only the real property located in Nevada and a statement of the debts.

Inventory contents, see form # 2

144.090 Amended inventory of newly discovered property is to be filed within 20 days of discovery of new assets.

NOTICE TO CREDITORS

- 147.040 Notice to Creditors must be published in a newspaper as required under 155.020 and the notice must be mailed to all creditors who are readily ascertainable at the time of the first publication. Creditor's claims must be filed with the Clerk's office within 60 days for a summary administration and within 90 days for a general administration of mailing or publication whichever is applicable. Personal Representative must allow or reject each claim within 10 days after the period for filing claims expires.
- 155.070 A creditor not readily ascertainable at the time of first publication but discovered before the time expires to file claims, must be mailed a copy of the Notice to Creditors informing the creditor he has the later of 30 days from the date of mailing or the balance of the 60 day period or 90 day period (which ever is applicable) after first publication to file a claim.

SALES

- 148.060 (1) Except as provided in NRS 148.170, 148.180 and in summary administration under chapter 145 of NRS in reference to sales of personal property; all other sales must be confirmed by the Court within 30 days of the sale.
- (2) Notice of all petitions for confirmation of sale must be given as provided under *155.010*.
- 148.080 If the will of a testator directs the real property to be sold or gives authority to sell real property, it can be sold without notice but the Personal Representative must file a petition to have the sale confirmed by the Court as in all other cases.
- 148.170 Perishable and depreciating personal property can be sold and title pass without notice of the sale or court confirmation of the sale. The Personal Representative is responsible for the actual value of the personal property sold unless the Personal Representative obtains an Order approving the sale before the close of the estate.
- 148.180 (1) Sale of Securities: If the will of a testator authorizes or the beneficiaries to receive the securities under the will consent to the sale of securities and the securities are sold on an established exchange, title passes without Court confirmation.
- (2) An Order confirming the sale of all other securities being sold must be obtained from the Court. This can be done ex parte at the discretion of the Court.
- 148.190 Notice of all sales of personal property must be published in a local newspaper three times over a two week period before the day of the sale except as provided in 148.080, 148.170, 148.180 and in summary administration under chapter 145 of

NRS, or if all devisees or heirs consent in writing the sale may be confirmed by the court without publication.

148.195 If all Devisees have consent in writing, the sale may be confirmed by the court without an appraisal.

148.220 Notice of all sales of real property must be published in a local newspaper three times over a two week period before the day of the sale except as provided in 148.080 or if all devisees or heirs of the estate consent in writing, the Court may waive the requirement of publication.

148.260 (1) No sale may be confirmed unless the Court is satisfied that the sum offered represents the fair market value of the property sold, and the property was appraised within 1 year before the time of sale except as provided in (2) below.

(2) If the Personal Representative is the sole devisee or heir of the estate or if all devisees or heirs consent in writing, sale may be made without an appraisal. The Personal Representative may rely on the assessed value of the property for taxation in obtaining confirmation of the sale.

148.280 A certified copy of the Order confirming sale of real property must be recorded in the office of the county recorder where the real property is located.

ATTORNEY'S FEES

150.060 All attorney's fees must be approved by the Court. Attorneys are entitled to reasonable compensation for their services rendered to the estate. The petition for approval of attorney's fees can be combined with the petition for First and Final account. The petition must contain specific and detailed information supporting the entitlement to compensation, including:

- (a) Reference to time and hours;
- (b) The nature and extent of services rendered;
- (c) Claimed ordinary and extraordinary services;
- (d) The complexity of the work required; and
- (e) Other information considered to be relevant to a determination of entitlement.

The Notice of the hearing approving attorney's fees must state specifically the amount of the attorney's fees being requested if a copy of the petition is not sent to all interested persons with the Notice under 55.010.

150.020 Ordinary fees for a personal representative are computed on the value of the entire Probate estate less liens and encumbrances, as follows:

- (a) For the first \$15,000, at the rate of 4 percent.

- (b) For the next \$85,000, at the rate of 3 percent.
- (c) For all above \$100,000, at the rate of 2 percent.

150.030 Extraordinary fees for a Personal Representative may be made as the court deems just and reasonable for extraordinary services such as:

1. Management, sales or mortgages or real or personal property.
2. Contested or litigated claims against the estate
3. The adjustment and payments of extensive or complicate estate taxes.
4. Litigation in regard to the property of the estate.
5. The carrying on of the decedent's business pursuant to an order of the court.
6. Such other litigation or special services as may be necessary for the personal representative to prosecute, defend or perform.

ACCOUNTING AND REPORT

150.080 Within 6 months of Personal Representative's appointment, he must file a verified account and report showing:

- (1) The amount of money received and expended by him;
- (2) The claims filed or presented against the estate, giving the name of each claimant, the nature of his claim, when it became due or will become due, whether it was allowed or rejected by him, or not yet acted upon; an
- (3) All other matters necessary to show the condition of the estate. See form # 3 relating to an accounting.

150.105 Until all remaining property is distributed pursuant to a final Order, the Personal Representative shall file with the Court annually an accounting for the estate.

150.110 A final account and report is required to be filed with the Court

150.115 A supplemental accounting must be filed subsequent to the final account detailing any receipts and disbursements made by the Personal Representative since the filing of the final account. This can be ex parte.

151.230 A Final Discharge Order may be obtained following the filing of the proper receipts.

**AFFIDAVIT OF ENTITLEMENT FOR ESTATES
THAT DO NOT EXCEED \$20,000
NRS 146.080**

(STATE OF NEVADA)

) ss:

(COUNTY OF CLARK)

_____ being first duly sworn upon oath says: That he/she is the person who has a right to succeed to the property of the decedent or is the sole beneficiary under the last will and testament of the decedent, _____, who died in the County of _____, State of, _____ on the ____ day of, _____, being a resident of the _____, leaving an estate in the County of _____, State of _____, which is not real property nor a lien thereon, of a gross value that does not exceed \$20,000 consisting of the following:

_____ (Set forth whatever the asset may be: Bank account, stock certificate, insurance proceeds, vehicle, payroll check, personal property, et cetera, and the portion claimed.)

That he/she has the right, pursuant to the provisions of NRS 146.080 to succeed to said property of said decedent, and to have any evidences of interest, indebtedness or right transferred to him/her by _____.

(Person, representative, corporation or body having custody of such property or acting as registrar or transfer agent of such evidence of interest.)

That at least forty days have elapsed since the date of death of decedent.

That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.

That all debts of decedent, including funeral and burial expenses, have been paid or provided for.

That no funds are owed to the Nevada State Welfare.

That affiant has given written notice, if necessary, by personal service or by certified mail, identifying his/her 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 affiant, and that at least 14 days have elapsed since the notice was served or mailed.

That affiant is personally 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.

That affiant acknowledges that he/she understands that filing a false affidavit constitutes a felony in the State of Nevada.

Subscribed and sworn to before me

_____ this _____ day of _____,

(Signature)

(Name, printed or typed)

(Street Address)

Notary Public in and for said
County and State

(City, State & Zip Code)

District Court
CLARK COUNTY, NEVADA

In the Matter of the Estate of



Case No. _____

_____ Deceased.

INVENTORY, APPRAISAL AND RECORD OF VALUE

	(1)	(2)	(1 Less 2)
	Gross Asset Value	Amount of Encumbrance	Estate's* Interest
			Net VALUE of Estate's Interest
A. <u>REAL PROPERTY</u> - Description			
1. _____	\$	\$	% ()
2. _____			
3. _____			
B. <u>PERSONAL PROPERTY</u> - Cash and deposits (list)			
4. _____			
5. _____			
6. _____			
Partnership interests, etc. (describe)			
7. _____			
8. _____			
Notes, bonds, securities, debts, etc. (list name & address of debtor, date debt originated, endorsement w/date, estimate as to amount collectible)			
9. _____			
10. _____			
11. _____			
12. _____			
Vehicles (describe)			
13. _____			
14. _____			
15. _____			
Misc. Personal Property (describe)			
16. _____			
17. _____			
TOTAL			

* Designate nature of estate's interest & % of ownership, (C) community; (S) separate; i.e. 50% (C) or (S).

(STATE OF NEVADA)
COUNTY OF CLARK)

OATH OF APPRAISER

I, the undersigned, appraiser of the Estate of the above-named Decedent, solemnly affirm that I will truly, honestly, and impartially appraise the inventory of the Estate to the best of my knowledge and ability.

SUBSCRIBED AND AFFIRMED to before me this

_____ day of _____,

Appraiser

NOTARY PUBLIC

(Type name & address)

APPRAISAL

I, the undersigned appraiser of the Estate of the above-named Decedent, hereby certify that items _____ of the inventory of the Estate have been examined by me and that I appraise these items on the inventory at te value shown

_____ (\$ _____) Dollars.

Appraiser

Date

(Repeat Oath & Certification for each Appraiser, attach separate sheets if necessary)

(STATE OF NEVADA)
COUNTY OF CLARK)

OATH OF PERSONAL REPRESENTATIVE

I, the undersigned Personal Representative of the Estate of the above-named Decedent, solemnly affirm that the foregoing inventory is a true statement of all assets of the Estate which have come into my possession or of which I have knowledge and includes all money and claims of the Deceased.

SUBSCRIBED AND AFFIRMED to before me this

_____ day of _____,

Personal Representative

NOTARY PUBLIC

VERIFIED RECORD OF VALUE IN LIEU OF APPRAISEMENT

I, the undersigned, solemnly affirm that items _____ of the inventory of the Estate have been examined by me and that I recorded the value of these items on the Inventory at the value shown opposite thereof for a total sum

of _____

_____ (\$ _____) Dollars.

Personal Representative

(STATE OF NEVADA)
COUNIYOF CLARK)

The undersigned, being duly sworn, states that he/she is the Personal Representative of the Estate of the above-named Decedent; that the Personal Representative has read the above and foregoing record of value, knows the contents thereof, and that the same is true of his/her own knowledge, except for those matters therein stated on information and belief, and as for those matters he/she believes them to be true.

SUBSCRIBED AND AFFIRMED to before me this

_____ day of _____,

Personal Representative

NOTARY PUBLIC

INITIAL ACCOUNTING

INVENTORY as filed on (date of filing Inventory) \$ _____

ADDITIONS:

Income received (Schedule A) \$ _____

Gain from sale of assets (Schedule B) _____

Refunds (Schedule C) _____

Other Additions (Schedule D) _____

TOTAL ADDITIONS _____

TOTAL CHARGEABLE ASSETS _____

DEDUCTIONS:

Expenses paid (Schedule E) \$ _____

Losses from sale of assets (Schedule F) _____

Other Deductions (Schedule G) _____

TOTAL DEDUCTIONS _____

TOTAL ASSETS ON HAND (as of _____) \$ _____

RECAP OF ACCOUNTING (as of _____)

Cash in Banks (Schedule H) _____

Notes Receivable (Schedule I) _____

Shares of Stock (Schedule J) _____

Real Property (Schedule K) _____

Vehicles (Schedule L) _____

Other Assets (Schedule M) _____

RECAP TOTAL ASSETS as of _____ \$ _____