

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:

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

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



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 **Section 7** does not prohibit an action to establish that the will was revoked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

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

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

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

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

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

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

53 Existing law authorizes the court to impose certain sanctions on a person whom
54 the court finds to be a vexatious litigant in a proceeding related to the
55 administration of the estate of a deceased person or a trust. (NRS 155.165) **Section**
56 **25** of this bill includes a trustee or a personal representative as a person who may
57 be a vexatious litigant.

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

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

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



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

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

76 Existing law sets forth factors that may not be considered the exercise of
77 improper dominion or control over a trust by a beneficiary or settlor. (NRS
78 163.4177) Existing law also requires clear and convincing evidence to find a settlor
79 to be an alter ego of a trustee of an irrevocable trust. (NRS 163.418) **Section 38** of
80 this bill places these provisions of existing law in a single section and sets forth a
81 standard for establishing that a person is the alter ego of or has improper dominion
82 or control over an irrevocable trust.

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

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

96 Existing law provides that a trust may be created by a declaration by the owner
97 of property that he or she holds the property as trustee. (NRS 163.002, 163.004,
98 163.006) **Section 42** of this bill provides that regardless of the formal title to the
99 property, in the absence of a contrary declaration by the owner or a transfer of the
100 property to a third party: (1) property declared to be trust property and all the
101 income and reinvestment thereof remains trust property; and (2) any additions or
102 contributions to accounts or certain other property declared to be trust property are
103 also trust property.

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

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

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

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



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

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

138 Existing law exempts proceeds of certain insurance policies and annuities from
139 the claims of a creditor. (NRS 687B.260, 687B.290) **Sections 65 and 66** of this bill
140 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:

1 **Section 1.** Chapter 132 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Testamentary trust” means a trust created by the*
4 *terms of the will of a person.*

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

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

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

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

20 *(2) Has a property right in or claim against the estate of a*
21 *decedent, including, without limitation, the Director of the*
22 *Department of Health and Human Services in any case in which*
23 *money is owed to the Department of Health and Human Services*
24 *as a result of the payment of benefits for Medicaid;*



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

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

4 (c) *A trust, if the person:*

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

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

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

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

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

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

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

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

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

28 (d) *A revocable trust that is the subject of a petition under NRS*
29 *164.015 relating to the validity of the trust or any trust-related*
30 *document, if the person, after the death of the settlor, under the*
31 *terms of any version of the trust documents in dispute, would be:*

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

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

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

39 (1) *A beneficiary of that will; or*

40 (2) *A fiduciary, as defined in NRS 132.145, designated in or*
41 *pursuant to the terms of that will.*

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



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

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

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

11 (d) *As to the estate of a decedent:*

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

15 (2) *A creditor whose claim has not been accepted by the*
16 *personal representative, if the enforcement of the claim of the*
17 *creditor is barred under the provisions of chapter 11 or 147 of*
18 *NRS or any other applicable statute of limitations.*

19 (e) *As to a trust:*

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

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

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

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

31 **Sec. 4.** NRS 132.025 is hereby amended to read as follows:

32 132.025 As used in this title, unless the context otherwise
33 requires, the words and terms defined in NRS 132.030 to 132.370,
34 inclusive, **and section 2 of this act** have the meanings ascribed to
35 them in those sections.

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

37 132.185 ~~“Interested person”~~ ~~includes, without~~
38 ~~limitation, an heir, devisee, child, spouse, creditor, settlor,~~
39 ~~beneficiary and any other person having a property right in or claim~~
40 ~~against a trust estate or the estate of a decedent, including, without~~
41 ~~limitation, the Director of the Department of Health and Human~~
42 ~~Services in any case in which money is owed to the Department of~~
43 ~~Health and Human Services as a result of the payment of benefits~~
44 ~~for Medicaid. The term includes} means a person {having priority~~
45 ~~for appointment as a personal representative and other fiduciaries~~



1 ~~representing interested persons.] whose right or interest under an~~
2 ~~estate or trust may be materially affected by a decision of a~~
3 ~~fiduciary or a decision of the court. The [meaning as it relates to~~
4 ~~particular persons must be determined] fiduciary or court shall~~
5 ~~determine, pursuant to section 3 of this act, who is an interested~~
6 ~~person~~ according to the particular purposes of, and matter involved
7 in, a proceeding.

8 ~~§2. The term does not include:~~

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

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

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

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

19 133.110 1. If a person marries after making a will and the
20 spouse survives the maker, the will is revoked as to the spouse,
21 unless:

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

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

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

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

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

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

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

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



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

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

5 136.240 1. The petition for the probate of a lost or destroyed
6 will must include a copy of the will, or if no copy is available state,
7 or be accompanied by a written statement of, the testamentary
8 words, or the substance thereof.

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

12 3. In addition, no will may be proved as a lost or destroyed will
13 unless it is proved to have been in existence at the death of the
14 person whose will it is claimed to be, or is shown to have been
15 fraudulently destroyed in the lifetime of that person, nor unless its
16 provisions are clearly and distinctly proved by at least two credible
17 witnesses.

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

22 5. Notwithstanding any provision of this section to the
23 contrary:

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

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

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

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

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

44 136.260 1. A will duly proved, allowed and admitted to
45 probate outside of this State may be admitted to probate and



1 recorded in the proper court of any county in this State in which the
2 testator left any estate.

3 2. When a copy of the will and the order admitting it to
4 probate, duly certified, are presented by the personal representative,
5 a nominee or any other interested person, with a petition for probate,
6 the order and copy must be filed, and the clerk shall set a time for a
7 hearing thereon, and notice must be given as required by law on a
8 petition for the original probate of a domestic will pursuant to
9 NRS 136.100.

10 3. If, upon the hearing, it appears to the satisfaction of the court
11 that the will has been duly proved and admitted to probate outside
12 this State, and that it was executed according to the law of the place
13 in which it was made, or in which the testator was at the time
14 domiciled, or in conformity with the laws of this State, it must be
15 admitted to probate with the same force and effect as the original
16 probate of a domestic will.

17 4. If a certified copy of a will from any jurisdiction where
18 probate is not required by the laws of that jurisdiction, with the
19 certificate of the legal custodian of the original will that the certified
20 copy is a true copy and that the will has become operative by the
21 laws of that jurisdiction, or a copy of a notarial will in possession of
22 a notary in a foreign jurisdiction entitled to the custody of the will
23 and required by the laws of that jurisdiction to retain custody of it,
24 duly certified by the notary, is presented by the personal
25 representative, a nominee of the personal representative or another
26 interested person to the proper court in this State, the clerk shall set
27 a time for a hearing thereon, and notice must be given as required by
28 law on a petition for the original probate of a domestic will.

29 5. If it appears to the court that the will should be admitted to
30 probate in this State, as the last will and testament of the decedent,
31 the copy must be filed with the clerk, and the will has the same
32 effect as if originally proved and admitted to probate in the court of
33 this State.

34 **6. As used in this section, "foreign jurisdiction" means any**
35 **jurisdiction other than this State.**

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

37 138.020 1. No person is qualified to serve as an executor
38 who, at the time the will is probated:

39 (a) Is under the age of majority;

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

43 (c) Upon proof, is adjudged by the court disqualified to execute
44 the duties of executor by reason of conflict of interest, drunkenness,



1 improvidence, ~~for~~ lack of integrity or understanding ~~it~~ or *other*
2 *compelling reason; or*

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

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

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

14 138.090 1. Administrators with the will annexed have the
15 same authority as the executor named in the will would have had if
16 the executor had qualified, and their acts are as effectual for every
17 purpose. ~~It, but if~~ *If* the power or authority conferred upon the
18 executor is discretionary, and is not ~~conferred by law,~~ *expressly*
19 *excluded by the will*, it is ~~not~~ conferred upon an administrator with
20 the will annexed.

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

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

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

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

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

40 139.010 No person is entitled to letters of administration if the
41 person:

42 1. Is under the age of majority;

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



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

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

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

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

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

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

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

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

22 143.380 1. Subject to the limitations and requirements of
23 NRS ~~143.300 to 143.815, inclusive,~~ *143.370*, when the personal
24 representative exercises the authority to sell property of the estate
25 *after being granted full authority* pursuant to NRS 143.300 to
26 143.815, inclusive, the personal representative may sell the property
27 at public auction or private sale, and with or without notice, for cash
28 or on credit, for such price and upon such terms and conditions as
29 the personal representative may determine.

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

33 (a) Publication of the notice of sale;

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

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

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

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

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



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

2 144.010 1. ~~Every~~ *Except as otherwise provided in this*
3 *subsection, every* personal representative shall make and file with
4 the clerk, within 60 days after appointment, unless the court extends
5 the time, a true inventory and appraisal or record of value of
6 all the estate of the decedent that has come to the possession or
7 knowledge of the personal representative. *The requirement of filing*
8 *an inventory or the requirement of filing an appraisal or*
9 *verified record of value, or both, may be waived by the unanimous*
10 *written consent of each interested person.*

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

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

18 144.020 1. A personal representative may engage a qualified
19 and disinterested appraiser to ascertain the fair market value, as of
20 the decedent's death, of any asset the value of which is subject to
21 reasonable doubt. Different persons may be engaged to appraise
22 different kinds of assets included in the estate.

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

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

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

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

43 146.070 1. ~~It~~ *Except as otherwise provided in subsection*
44 *2, if* a person dies leaving an estate the gross value of which, after
45 deducting any encumbrances, does not exceed \$100,000, and there



1 is a surviving spouse or minor child or minor children of the
2 decedent, the estate must not be administered upon, but the whole
3 estate, after directing such payments *to*:

4 *(a) The creditors of the decedent, including, without limitation*
5 *the Director of the Department of Health and Human Services in*
6 *any case in which money is owed to the Department as a result of*
7 *the payment of benefits for Medicaid, as may be deemed just* H ;
8 *and*

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

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

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

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

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

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

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

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

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



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

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

7 ~~14~~ 5. The clerk shall set the petition for hearing and the
8 petitioner shall give notice of the petition and hearing in the manner
9 provided in NRS 155.010 to the decedent's heirs and devisees and
10 to the Director of the Department of Health and Human Services. If
11 a complete copy of the petition is not enclosed with the notice, the
12 notice must include a statement setting forth to whom the estate is
13 being set aside.

14 ~~15~~ 6. No court or clerk's fees may be charged for the filing of
15 any petition in, or order of court thereon, or for any certified copy of
16 the petition or order in an estate not exceeding \$2,500 in value.

17 ~~16~~ 7. If the court finds that the gross value of the estate, less
18 encumbrances, does not exceed the sum of \$100,000, the court may
19 direct that the estate be distributed to the father or mother of a minor
20 heir or devisee, with or without the filing of any bond, or to a
21 custodian under chapter 167 of NRS, or may require that a general
22 guardian be appointed and that the estate be distributed to the
23 guardian, with or without bond, as in the discretion of the court is
24 deemed to be in the best interests of the minor. The court may direct
25 the manner in which the money may be used for the benefit of the
26 minor.

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

28 151.180 1. If an assignee or distributee is a nonresident
29 minor or incapacitated person who has a guardian of his or her
30 estate legally appointed under the laws of a foreign jurisdiction, the
31 distribution of the assignee's or distributee's share may be made to
32 the legally appointed guardian, whose receipt therefor, together with
33 a certificate of appointment issued under the seal of the court by the
34 clerk of the court appointing the guardian, when filed with the clerk
35 of the court in which the assignment or distribution was ordered,
36 must be received by the court as a complete receipt and voucher in
37 favor of the personal representative.

38 2. *As used in this section, "foreign jurisdiction" means any*
39 *jurisdiction other than this State.*

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

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

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



1 (a) *Who is appointed as a personal representative by the court;*
2 (b) *Whose appointment as a trustee is confirmed by the court;*
3 (c) *Who files a petition or an objection to a petition in a*
4 *proceeding involving the estate of a decedent or a testamentary*
5 *trust;*

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

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

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

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

18 155.010 1. Except as otherwise provided in **subsection 2** or a
19 specific statute relating to the kind of notice required or otherwise
20 ordered by the court in a particular instance, a petitioner shall cause
21 notice of the time and place of the hearing of a petition to be given
22 to each interested person and to every other person entitled to notice
23 pursuant to this title or his or her attorney if the person has appeared
24 by attorney or requested that notice be sent to his or her attorney.
25 Notice must be given:

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

33 (b) If the address or identity of the person is not known and
34 cannot be ascertained with reasonable diligence, by publishing at
35 least once a week for 3 consecutive weeks a copy thereof in a
36 newspaper having general circulation in the county where the
37 hearing is to be held, the last publication of which must be at least
38 10 days before the date set for the hearing.

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

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



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

3 ~~4-1~~ 5. A person entitled to notice may, in writing, waive
4 notice of the hearing of a petition.

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

6 155.094 "Independent attorney" means an attorney, other than
7 ~~an~~ attorney who:

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

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

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

12 155.0955 "Transfer instrument" means ~~the~~ *a legal document*
13 *intended to effectuate a transfer of property for less than fair*
14 *market value, whether such transfer becomes effective during the*
15 *life of the transferor or* on or after the transferor's death and
16 includes, without limitation ~~the~~:

17 1. *A will* ~~;~~;

18 2. *A trust* ~~;~~;

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

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

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

23 *(b) Creates any type of joint ownership;*

24 *(c) Establishes a right of survivorship;*

25 *(d) Designates a beneficiary;*

26 *(e) Creates or attempts to effectuate a nonprobate transfer,*
27 *which will be effective upon the death of the transferor; or*

28 *(f) Is intended to amend, modify, eliminate, supersede or*
29 *revoke any other transfer instrument.*

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

31 155.096 "Transferee" means a devisee, a beneficiary of trust, a
32 grantee of a deed, including a grantee of a deed pursuant to NRS
33 111.655 to 111.699, inclusive, and any other person designated in a
34 transfer instrument to receive a nonprobate transfer ~~or~~ *or other*
35 *interest in property for less than fair market value.*

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

37 155.097 1. ~~Regardless of when a transfer instrument is~~
38 *made, to* the extent the court finds that a transfer was the product of
39 fraud, duress or undue influence, the transfer is void and each
40 transferee who is found responsible for the fraud, duress or undue
41 influence shall bear the costs of the proceedings, including, without
42 limitation, reasonable attorney's fees.

43 2. Except as otherwise provided in *subsection 3 and* NRS
44 155.0975, a transfer is presumed to be void if the transfer is



1 ~~effective on or after a transferor's death and the transfer is~~ to a
2 transferee who is:

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

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

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

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

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

16 155.0975 The presumption established by NRS 155.097 does
17 not apply:

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

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

32 3. Except as otherwise provided in this subsection, if the court
33 determines, upon clear and convincing evidence, that the transfer
34 was not the product of fraud, duress or undue influence. The
35 determination of the court pursuant to this subsection must not be
36 based solely upon the testimony of a person described in subsection
37 2 of NRS 155.097.

38 ~~3-~~ 4. If the transfer instrument is reviewed by an independent
39 attorney who:

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

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

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



CERTIFICATE OF INDEPENDENT REVIEW

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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)

~~14~~ 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.

~~15. — 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*



1 *court may find that a personal representative or trustee is a*
2 *vexatious litigant if the personal representative or trustee has*
3 *expended the funds of the estate or trust to unreasonably oppose*
4 *the good faith efforts of an interested person to enforce his or her*
5 *rights.* In determining whether the person is a vexatious litigant, the
6 court may take into consideration whether the person has previously
7 filed pleadings in a proceeding that were without merit , ~~for~~
8 intended to harass or annoy a fiduciary ~~or~~ *or intended to*
9 *unreasonably oppose or frustrate the good faith efforts of an*
10 *interested person to enforce his or her rights.*

11 2. If a court finds that a person is a vexatious litigant pursuant
12 to subsection 1, the court may impose sanctions on the person in an
13 amount sufficient to reimburse the estate or trust for all or part of the
14 expenses , *including, without limitation, reasonable attorney's*
15 *fees,* incurred by the estate or trust to respond to the petition,
16 objection, motion or other pleading and for any other pecuniary
17 losses which are associated with the actions of the vexatious litigant.
18 The court may make an order directing entry of judgment for the
19 amount of such sanctions. *If a court finds that a personal*
20 *representative or trustee is a vexatious litigant, the court may*
21 *remove the personal representative or trustee, and any sanctions*
22 *imposed by the court must be imposed against the personal*
23 *representative or trustee personally and not against the estate or*
24 *trust.*

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

- 27 (a) The subject matter of the petition or motion is unrelated to
28 the interests of the interested party;
29 (b) The interests of the interested party are minimal as it relates
30 to the subject matter of the petition or motion; or
31 (c) The interested party is a vexatious litigant pursuant to
32 subsection 1.

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

- 35 (a) Object to the issuance of letters; or
36 (b) Request the removal of a personal representative or a trustee.

37 **Sec. 26.** NRS 21.075 is hereby amended to read as follows:

38 21.075 1. Execution on the writ of execution by levying on
39 the property of the judgment debtor may occur only if the sheriff
40 serves the judgment debtor with a notice of the writ of execution
41 pursuant to NRS 21.076 and a copy of the writ. The notice must
42 describe the types of property exempt from execution and explain
43 the procedure for claiming those exemptions in the manner required
44 in subsection 2. The clerk of the court shall attach the notice to the
45 writ of execution at the time the writ is issued.



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

3
4 NOTICE OF EXECUTION

5
6 YOUR PROPERTY IS BEING ATTACHED OR
7 YOUR WAGES ARE BEING GARNISHED

8
9 A court has determined that you owe money to
10 (name of person), the judgment creditor. The
11 judgment creditor has begun the procedure to collect that
12 money by garnishing your wages, bank account and other
13 personal property held by third persons or by taking money or
14 other property in your possession.

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

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

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

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

28 4. Proceeds from a policy of life insurance.

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

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

33 7. Payments received as unemployment compensation.

34 8. Veteran's benefits **H** *and all benefits from any*
35 *military retirement plan.*

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

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

41 (b) Allodial title has been established and not relinquished
42 for the dwelling or mobile home, in which case all of the
43 dwelling or mobile home and its appurtenances are exempt,
44 including the land on which they are located, unless a valid



1 waiver executed pursuant to NRS 115.010 is applicable to the
2 judgment.

3 10. All money reasonably deposited with a landlord by
4 you to secure an agreement to rent or lease a dwelling that is
5 used by you as your primary residence, except that such
6 money is not exempt with respect to a landlord or landlord's
7 successor in interest who seeks to enforce the terms of the
8 agreement to rent or lease the dwelling.

9 11. A vehicle, if your equity in the vehicle is less than
10 \$15,000.

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

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

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

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

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

26 (d) A trust forming part of a stock bonus, pension or
27 profit-sharing plan that is a qualified plan pursuant to sections
28 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
29 seq. **†**, *and the benefits of a qualified annuity plan under
30 section 403 of the Internal Revenue Code, 26 U.S.C. § 403;*
31 and

32 (e) A trust forming part of a qualified tuition program
33 pursuant to chapter 353B of NRS **†** *and* any applicable
34 regulations adopted pursuant to chapter 353B of NRS , *or*
35 *similar laws and regulations of a jurisdiction other than this*
36 *State*, and section 529 of the Internal Revenue Code, 26
37 U.S.C. § 529, unless the money is deposited after the entry of
38 a judgment against the purchaser or account owner or the
39 money will not be used by any beneficiary to attend a college
40 or university.

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



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

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

8 (a) A present or future interest in the income or principal
9 of a trust that is a contingent interest, if the contingency has
10 not been satisfied or removed;

11 (b) A present or future interest in the income or principal
12 of a trust for which discretionary power is held by a trustee to
13 determine whether to make a distribution from the trust, if the
14 interest has not been distributed from the trust;

15 (c) The power to direct dispositions of property in the
16 trust, other than such a power held by a trustee to distribute
17 property to a beneficiary of the trust;

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

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

21 17. If a trust contains a spendthrift provision:

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

27 (b) A present or future interest in the income or principal
28 of a trust that is a support interest in which the standard for
29 distribution may be interpreted by the trustee or a court, if the
30 interest has not been distributed from the trust.

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

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

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

42 21. Payments received as compensation for the wrongful
43 death of a person upon whom the judgment debtor was
44 dependent at the time of the wrongful death, to the extent



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

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

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

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

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

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

16 ↪ These exemptions may not apply in certain cases such as a
17 proceeding to enforce a judgment for support of a person or a
18 judgment of foreclosure on a mechanic's lien. You should
19 consult an attorney immediately to assist you in determining
20 whether your property or money is exempt from execution. If
21 you cannot afford an attorney, you may be eligible for
22 assistance through (name of organization in
23 county providing legal services to indigent or elderly
24 persons). If you do not wish to consult an attorney or receive
25 legal services from an organization that provides assistance to
26 persons who qualify, you may obtain the form to be used to
27 claim an exemption from the clerk of the court.
28

29 PROCEDURE FOR CLAIMING EXEMPT PROPERTY
30

31 If you believe that the money or property taken from you
32 is exempt, you must complete and file with the clerk of the
33 court an executed claim of exemption. A copy of the claim of
34 exemption must be served upon the sheriff, the garnishee and
35 the judgment creditor within 10 days after the notice of
36 execution or garnishment is served on you by mail pursuant
37 to NRS 21.076 which identifies the specific property that is
38 being levied on. The property must be released by the
39 garnishee or the sheriff within 9 judicial days after you serve
40 the claim of exemption upon the sheriff, garnishee and
41 judgment creditor, unless the sheriff or garnishee receives a
42 copy of an objection to the claim of exemption and a notice
43 for a hearing to determine the issue of exemption. If this
44 happens, a hearing will be held to determine whether the
45 property or money is exempt. The objection to the claim of



1 exemption and notice for the hearing to determine the issue of
2 exemption must be filed within 8 judicial days after the claim
3 of exemption is served on the judgment creditor by mail or in
4 person and served on the judgment debtor, the sheriff and any
5 garnishee not less than 5 judicial days before the date set for
6 the hearing. The hearing to determine whether the property or
7 money is exempt must be held within 7 judicial days after the
8 objection to the claim of exemption and notice for the hearing
9 is filed. You may be able to have your property released more
10 quickly if you mail to the judgment creditor or the attorney of
11 the judgment creditor written proof that the property is
12 exempt. Such proof may include, without limitation, a letter
13 from the government, an annual statement from a pension
14 fund, receipts for payment, copies of checks, records from
15 financial institutions or any other document which
16 demonstrates that the money in your account is exempt.
17

18 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
19 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
20 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
21 TO THE JUDGMENT CREDITOR, EVEN IF THE
22 PROPERTY OR MONEY IS EXEMPT.

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

24 21.090 1. The following property is exempt from execution,
25 except as otherwise specifically provided in this section or required
26 by federal law:

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

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

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

39 (d) Professional libraries, equipment, supplies, and the tools,
40 inventory, instruments and materials used to carry on the trade or
41 business of the judgment debtor for the support of the judgment
42 debtor and his or her family not to exceed \$10,000 in value.

43 (e) The cabin or dwelling of a miner or prospector, the miner's
44 or prospector's cars, implements and appliances necessary for
45 carrying on any mining operations and the mining claim actually



1 worked by the miner or prospector, not exceeding \$4,500 in total
2 value.

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

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

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

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

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

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

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



1 (k) ~~HAH~~ *Except as otherwise provided in NRS 687B.260, all*
2 money, benefits, privileges or immunities accruing or in any manner
3 growing out of any life insurance.

4 (l) The homestead as provided for by law, including a
5 homestead for which allodial title has been established and not
6 relinquished and for which a waiver executed pursuant to NRS
7 115.010 is not applicable.

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

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

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

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

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

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

30 (1) An individual retirement arrangement which conforms
31 with the applicable limitations and requirements of section 408 or
32 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

33 (2) A written simplified employee pension plan which
34 conforms with the applicable limitations and requirements of section
35 408 of the Internal Revenue Code, 26 U.S.C. § 408;

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

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

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

43 (6) A trust forming part of a qualified tuition program
44 pursuant to chapter 353B of NRS ~~H~~ *and any applicable regulations*
45 *adopted pursuant to chapter 353B of NRS , or similar laws and*



1 *regulations of a jurisdiction other than this State*, and section 529
2 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is
3 deposited after the entry of a judgment against the purchaser or
4 account owner or the money will not be used by any beneficiary to
5 attend a college or university.

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

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

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

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

25 (w) Payments received as compensation for the loss of future
26 earnings of the judgment debtor or of a person upon whom the
27 judgment debtor is dependent at the time the payment is received, to
28 the extent reasonably necessary for the support of the judgment
29 debtor and any dependent of the judgment debtor.

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

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

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

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



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

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

5 (1) A distribution interest in the trust as defined in NRS
6 163.4155 that is a contingent interest, if the contingency has not
7 been satisfied or removed;

8 (2) A distribution interest in the trust as defined in NRS
9 163.4155 that is a discretionary interest as described in NRS
10 163.4185, if the interest has not been distributed;

11 (3) A power of appointment in the trust as defined in NRS
12 163.4157 regardless of whether the power has been exercised;

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

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

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

19 (1) A distribution interest in the trust as defined in NRS
20 163.4155 that is a mandatory interest as described in NRS 163.4185,
21 if the interest has not been distributed; and

22 (2) Notwithstanding a beneficiary's right to enforce a support
23 interest, a distribution interest in the trust as defined in NRS
24 163.4155 that is a support interest as described in NRS 163.4185, if
25 the interest has not been distributed.

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

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

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

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

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

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

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

39 ~~(ii)~~ (ll) Money paid or rights existing for vocational
40 rehabilitation pursuant to NRS 615.270.

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

43 ~~(ll)~~ (nn) Child welfare assistance provided pursuant to
44 NRS 432.036.



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

5 3. Any exemptions specified in subsection (d) of section 522 of
6 the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to
7 property owned by a resident of this State unless conferred also by
8 subsection 1, as limited by subsection 2.

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

13 (a) *A life insurance policy;*

14 (b) *An annuity contract;*

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

17 (d) *Any form of compensation set forth in subsection 1,
18 ↪ must continue during the debtor's lifetime as to the property
19 and all property traceable thereto.*

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

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

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

43 (b) *Money held in a trust described in subparagraph (6) of
44 paragraph (r) of subsection 1 must be treated as a spendthrift
45 trust. As to the money held in the trust, as long as it remains*



1 *undistributed, the exemption applies to the debts of the plan*
2 *contributor and as to the debts of any beneficiary or potential*
3 *beneficiary. As to the proceeds paid from the trust, the exemption*
4 *must continue to the extent the proceeds are expended or*
5 *distributed for the education of a designated beneficiary.*

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

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

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

14 *(b) The exemption of property, other than a homestead that*
15 *was exempt before the debtor's death, must continue as to any*
16 *claim or judgment against the debtor, and the exemption as to the*
17 *debts of the deceased debtor continues as to the debtor's estate and*
18 *as to property distributed to each beneficiary, as defined in NRS*
19 *132.050, whether such property is distributed from the debtor's*
20 *estate that is subject to administration or is received pursuant to a*
21 *nonprobate transfer, as defined in NRS 111.721.*

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

25 *(1) A life insurance policy;*

26 *(2) An annuity contract;*

27 *(3) A tax refund described in paragraph (aa) of subsection*
28 *1; and*

29 *(4) Any form of compensation set forth in subsection 1,*
30 *↪ must continue as to any claim or judgment against the debtor,*
31 *whether such property is held by the debtor, the estate of the*
32 *debtor or a beneficiary of the debtor.*

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

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

38 40.515 **1.** If any person has died, or shall hereafter die, who
39 at the time of the person's death was the owner of a life estate which
40 terminates by reason of the person's death, any person interested in
41 the property, or in the title thereto, in which such life estate was
42 held, may file in the district court of the county in which the
43 property is situated, the person's verified petition, setting forth such
44 facts, and thereupon and after such notice by publication or
45 otherwise, as the court or judge may order, the court or judge shall



1 hear such petition and the evidence offered in support thereof, and if
2 upon such hearing it shall appear that such life estate of such
3 deceased person absolutely terminated by reason of the person's
4 death, the court or judge shall make an order to that effect, and
5 thereupon a certified copy of such order may be recorded in the
6 office of the county recorder.

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

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

16 111.365 1. In the case of real property owned by two or more
17 persons as joint tenants or as community property with right of
18 survivorship, it is presumed that all title or interest in and to that real
19 property of each of one or more deceased joint tenants or the
20 deceased spouse has terminated, and vested solely in the surviving
21 joint tenant or spouse or vested jointly in the surviving joint tenants,
22 if there has been recorded in the office of the recorder of the county
23 or counties in which the real property is ~~situate~~ **situated** an
24 affidavit, subscribed and sworn to by a person who has knowledge
25 of the facts required in this subsection, **which is accompanied by a**
26 **certified copy of the death certificate of each deceased joint tenant**
27 **or the deceased spouse and** which sets forth the following:

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

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

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

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

36 2. **In the case of real property owned by a person as a life**
37 **tenant, with the ownership of the real property passing to the**
38 **owner of the remainder interest upon the death of the life tenant,**
39 **it is presumed that all title or interest in and to that real property**
40 **of the life tenant has terminated, and vested solely in the owner or**
41 **owners of the remainder interest, if there has been recorded in the**
42 **office of the recorder of the county or counties in which the real**
43 **property is situated an affidavit, subscribed and sworn to by a**
44 **person who has knowledge of the facts required in this subsection,**



1 *which is accompanied by a certified copy of the death certificate of*
2 *the deceased life tenant and which sets forth the following:*

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

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

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

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

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

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

14 111.779 1. Except as otherwise provided in NRS 21.090 and
15 other applicable law, a transferee of a nonprobate transfer is liable to
16 the probate estate of the decedent for allowed claims against that
17 decedent's probate estate to the extent the estate is insufficient to
18 satisfy those claims.

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

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

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

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

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

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

39 5. If a nonprobate transferee is a spouse or a minor child, the
40 nonprobate transferee may petition the court to be excluded from the
41 liability imposed by this section as if the nonprobate property
42 received by the spouse or minor child were part of the decedent's
43 estate. Such a petition may be made pursuant to the applicable
44 provisions of chapter 146 of NRS, including, without limitation, the



1 provisions of NRS 146.010, NRS 146.020 without regard to the
2 filing of an inventory and subsection ~~2~~ 3 of NRS 146.070.

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

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

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

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

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

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

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

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

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

43 11. Unless a written notice asserting that a decedent's probate
44 estate is nonexistent or insufficient to pay allowed claims and



1 statutory allowances has been received from the decedent's personal
2 representative, the following rules apply:

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

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

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

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

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

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

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

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

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

36 111.781 1. Except as otherwise provided by the express
37 terms of a governing instrument, a court order or a contract relating
38 to the division of the marital estate made between the divorced
39 persons before or after the marriage, divorce or annulment, the
40 divorce or annulment of a marriage:

41 (a) Revokes any revocable:

42 (1) Disposition or appointment of property made by a
43 divorced person to his or her former spouse in a governing
44 instrument and any disposition or appointment created by law or in a



1 governing instrument to a relative of the divorced person's former
2 spouse;

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

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

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

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

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

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

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

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



1 of any event affecting a beneficiary designation. A payor or other
2 third party is liable for a payment made or other action taken after
3 the payor or other third party received written or actual notice of a
4 claimed forfeiture or revocation under this section.

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

24 8. A person who purchases property from a former spouse,
25 relative of a former spouse or any other person for value and
26 without notice, or who receives from a former spouse, relative of a
27 former spouse or any other person a payment or other item of
28 property in partial or full satisfaction of a legally enforceable
29 obligation, is neither obligated under this section to return the
30 payment, item of property or benefit nor is liable under this section
31 for the amount of the payment or the value of the item of property or
32 benefit. A former spouse, relative of a former spouse or other person
33 who, not for value, received a payment, item of property or any
34 other benefit to which that person is not entitled under this section is
35 obligated to return the payment, item of property or benefit or is
36 personally liable for the amount of the payment or the value of the
37 item of property or benefit to the person who is entitled to it under
38 this section.

39 9. If this section or any part of this section is preempted by
40 federal law with respect to a payment, an item of property or any
41 other benefit covered by this section, a former spouse, relative of the
42 former spouse or any other person who, not for value, received a
43 payment, item of property or any other benefit to which that person
44 is not entitled under this section is obligated to return that payment,
45 item of property or benefit or is personally liable for the amount of



1 the payment or the value of the item of property or benefit to the
2 person who would have been entitled to it were this section or part
3 of this section not preempted.

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

8 11. As used in this section:

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

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

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

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

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

25 (f) "Revocable," with respect to a disposition, appointment,
26 provision or nomination, means one under which the divorced
27 person, at the time of the divorce or annulment, was alone
28 empowered, by law or under the governing instrument, to cancel the
29 designation in favor of the person's former spouse or former
30 spouse's relative, whether or not the divorced person was then
31 empowered to designate himself or herself in place of his or her
32 former spouse or in place of his or her former spouse's relative and
33 whether or not the divorced person then had the capacity to exercise
34 the power.

35 **Sec. 32.** Chapter 112 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

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

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

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

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



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

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

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

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

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

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

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

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

29 ***(c) A trustee appointed pursuant to NRS 156.030 or an***
30 ***administrator or executor appointed pursuant to NRS 156.160, the***
31 ***trustee, administrator or executor shall account as provided in***
32 ***chapter 156 of NRS, except that if a trustee is a trustee of a***
33 ***custodial trust the trustee shall account as provided in chapter***
34 ***166A of NRS.***

35 ***(d) A custodian who is nominated or designated under chapter***
36 ***167 of NRS, the custodian shall account as provided in that***
37 ***chapter.***

38 ***4. The duty to account of an agent that has accepted***
39 ***appointment under a power of attorney, as described in NRS***
40 ***162A.310, is subject to the limitations set forth in subsection 8 of***
41 ***NRS 162A.310.***

42 ***5. The duties of a fiduciary set forth in this section do not***
43 ***apply to the extent the governing instrument provides otherwise,***
44 ***except that no provision of the governing instrument supersedes***



1 *the provisions of paragraph (b) of subsection 1, subsection 2 or*
2 *NRS 165.139.*

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

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

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

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

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

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

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

19 162.020 1. In NRS 162.010 to 162.140, inclusive, *and*
20 *section 33 of this act*, unless the context of subject matter otherwise
21 requires:

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

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

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

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

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

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



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

6 **Sec. 37.** *Except as otherwise specifically provided in the*
7 *instrument and except to the extent it would be materially*
8 *detrimental to the administration of the trust or the furtherance of*
9 *its purposes, a trustee may change the name of an irrevocable*
10 *trust and may give a name to an irrevocable trust that does not*
11 *have one.*

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

17 2. *In a proceeding in which an assertion is made that a*
18 *person is the alter ego of, or has improper dominion or control*
19 *over, an irrevocable trust or of a trustee thereof, the following*
20 *factors, alone or in combination, are not sufficient evidence for*
21 *the court to determine that the person is an alter ego of, or has*
22 *improper dominion or control over, the trust or its trustee:*

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

24 (a) *An attorney;*

25 (b) *An accountant;*

26 (c) *An investment adviser;*

27 (d) *A trust adviser, as defined in NRS 163.5545; and*

28 (e) *A trust protector, as defined in NRS 163.5547.*

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

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

39 1. *Has no power to take under the terms of the governing*
40 *instrument;*

41 2. *Is mandated by the governing instrument and for which*
42 *the fiduciary has no discretion to act otherwise; and*

43 3. *Is directed to take or is prohibited from taking by a*
44 *directing trust adviser.*



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

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

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

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

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

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

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

43 **(g) If no trustee is designated or no designated trustee is**
44 *willing or able to act, the district court in the county in which the*
45 *trust is domiciled shall name one or more trustees and may make*



1 *such other orders and determinations as are advisable to carry out*
2 *the interest of the settlor and the purposes of the public benefit*
3 *trust.*

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

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

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

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

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

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

24 163.002 Except as otherwise provided by specific statute, a
25 trust may be created by any of the following methods:

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

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

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

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

40 3. A testamentary transfer of property by the owner to another
41 person as trustee.

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

43 5. An enforceable promise to create a trust.



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

2 163.004 1. A trust may be created for any purpose that is not
3 illegal or against public policy.

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

8 (a) The grounds for removing a fiduciary;

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

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

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

17 4. Nothing in this section shall be construed to:

18 (a) Authorize the exculpation or indemnification of a fiduciary
19 for the fiduciary's own willful misconduct or gross negligence; or

20 (b) Preclude a court of competent jurisdiction from removing a
21 fiduciary because of the fiduciary's willful misconduct or gross
22 negligence.

23 ~~4.~~ 5. The rule that statutes in derogation of the common law
24 are to be strictly construed has no application to this section. This
25 section must be liberally construed to give maximum effect to the
26 principle of freedom of disposition and to the enforceability of trust
27 instruments.

28 **Sec. 44.** NRS 163.006 is hereby amended to read as follows:

29 163.006 A trust ~~[, other than a charitable trust,]~~ is created only
30 if there is a beneficiary. This requirement is satisfied if the trust
31 instrument provides for:

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

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

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

40 4. *A trust for the benefit for animals created pursuant to NRS
41 163.0075; or*

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



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

2 163.020 As used in NRS 163.010 to 163.200, inclusive, *and*
3 *sections 36 and 37 of this act*, unless the context or subject matter
4 otherwise requires:

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

11 2. “Relative” means a spouse, ancestor, descendant, brother or
12 sister.

13 3. “Trust” means an express trust only.

14 4. “Trustee” means the person holding property in trust and
15 includes trustees, a corporate as well as a natural person and a
16 successor or substitute trustee.

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

18 163.414 As used in NRS 163.414 to 163.419, inclusive, *and*
19 *section 38 of this act*, unless the context otherwise requires, the
20 words and terms defined in NRS 163.4145 to 163.4165, inclusive,
21 have the meanings ascribed to them in those sections.

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

23 163.419 *Except as otherwise provided in the trust instrument,*
24 *as to a discretionary interest, as described in NRS 163.4185:*

25 1. A *beneficiary who has a discretionary interest of a trust*
26 *does not have an enforceable right to a distribution from the trust,*
27 *and a court may review a trustee’s exercise of discretion concerning*
28 *a discretionary interest only if the trustee acts dishonestly, with*
29 ~~improper motive~~ *gross negligence* or ~~fails to act.~~ *with willful*
30 *misconduct.*

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

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

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



1 **Sec. 48.** NRS 163.553 is hereby amended to read as follows:
2 163.553 As used in NRS 163.553 to 163.556, inclusive, *and*
3 *sections 39 and 40 of this act*, unless the context otherwise requires,
4 the words and terms defined in NRS 163.5533 to 163.5547,
5 inclusive, *and section 39 of this act* have the meanings ascribed to
6 them in those sections.

7 **Sec. 49.** NRS 163.5549 is hereby amended to read as follows:
8 163.5549 1. ~~[An excluded]~~ *A directed* fiduciary is not liable,
9 individually or as a fiduciary, for any loss which results from:

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

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

17 ~~—(c) Any action taken at the direction of a trust protector.]~~ *if the*
18 *action:*

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

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

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

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

34 **Sec. 50.** NRS 163.555 is hereby amended to read as follows:
35 163.555 If the instrument provides, ~~[an excluded]~~ *a directed*
36 fiduciary may continue to follow the direction of a *directing* trust
37 adviser upon the incapacity or death of the settlor of the trust.

38 **Sec. 51.** NRS 163.556 is hereby amended to read as follows:
39 163.556 1. Unless the terms of a testamentary instrument or
40 irrevocable trust provide otherwise, a trustee with discretion or
41 authority to distribute trust income or principal to or for a
42 beneficiary of the trust may exercise such discretion or authority by
43 appointing the property subject to such discretion or authority in
44 favor of a second trust for the benefit of one or more of those
45 beneficiaries.



1 2. Notwithstanding subsection 1, a trustee may not appoint
2 property of the original trust to a second trust if:

3 (a) The second trust includes a beneficiary who is not a
4 beneficiary of the original trust. For purposes of this paragraph,
5 a permissible appointee of a power of appointment exercised by a
6 beneficiary of the second trust is not considered a beneficiary of the
7 second trust.

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

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

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

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

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

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

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

36 (g) Under the second trust:

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

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

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



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

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

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

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

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

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

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

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

35 5. Before appointing property pursuant to subsection 1, a
36 trustee may give notice of a proposed action pursuant to NRS
37 164.725 or may petition a court for approval pursuant to NRS
38 153.031, 164.015 or 164.725. Any notice of a proposed action or a
39 petition for a court's approval must include the trustee's opinion of
40 how the appointment of property will affect the trustee's
41 compensation and the administration of other trust expenses.

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

43 (a) Grant a power of appointment to one or more of the
44 beneficiaries of the second trust who are proper objects of the
45 exercise of the power in the original trust. The power of



1 appointment includes, without limitation, the power to appoint trust
2 property to the holder of the power, the holder's creditors, the
3 holder's estate, the creditors of the holder's estate or any other
4 person.

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

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

13 8. The exercise of the power to invade principal of the original
14 trust pursuant to subsection 1 is considered the exercise of a power
15 of appointment, other than power to appoint the property to the
16 trustee, the trustee's creditors, the trustee's estate or the creditors of
17 the trustee's estate and the provisions of NRS 111.1031 apply to
18 such power of appointment.

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

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

25 11. The power to appoint property to another trust pursuant to
26 subsection 1 is not a power to amend the trust and a trustee is not
27 prohibited from appointing property to another trust pursuant to
28 subsection 1 if the original trust is irrevocable or provides that it
29 may not be amended.

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

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

36 14. The trustee of a second trust, resulting from the exercise of
37 the power to appoint property to another trust pursuant to subsection
38 1, may also exercise the powers granted pursuant to this section with
39 respect to the second trust.

40 15. As used in this section, "ascertainable standard" means a
41 standard relating to an individual's health, education, support or
42 maintenance within the meaning of section 2041(b)(1)(A) or
43 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A)
44 or 2514(c)(1), and any regulations of the United States Treasury
45 promulgated thereunder.



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

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

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

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

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

17 2. *If the district court determines that there is a clear and*
18 *sufficient nexus between a trust and this State, the court may*
19 *assume jurisdiction during a proceeding conducted pursuant to*
20 *NRS 164.010 unless:*

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

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

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

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

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

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

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

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

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



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

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

8 5. *Notwithstanding the provisions of this section, if a court of*
9 *a jurisdiction other than this State has jurisdiction over a trust and*
10 *grants an order authorizing a transfer of jurisdiction over the trust*
11 *to this State, the district court has the power to assume jurisdiction*
12 *over that trust and to otherwise supervise the administration of*
13 *that trust in accordance with the procedures set forth in this title if*
14 *the requirements of subsection 2 are satisfied. A trust, the situs of*
15 *which is outside this State, that moves its situs to this State is valid*
16 *whether or not the trust complies with the laws of this State at the*
17 *time of its creation or after its creation.*

18 6. *As used in this section, "account" includes, without*
19 *limitation, a checking account, time deposit, certificate of deposit,*
20 *brokerage account, investment fund, a trust company fiduciary*
21 *account and any other similar account or deposit.*

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

23 164.010 1. *Subject to the provisions of section 52 of this act:*

24 (a) *Upon petition of any person appointed as trustee of an*
25 *express trust by any written instrument other than a will, or upon*
26 *petition of a settlor or beneficiary of the trust, the district court of*
27 *the county in which the trustee resides or conducts business, or in*
28 *which the trust has been domiciled, shall consider the application*
29 *for the court to ~~confirm the appointment of the trustee and specify~~*
30 *~~the manner in which the trustee must qualify. Thereafter the court~~*
31 *~~has~~ assume jurisdiction of the trust as a proceeding in rem.*

32 ~~2-~~ (b) *If the court grants the petition, it ~~may~~:*

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

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

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

38 (4) *May consider at the same time ~~any petition for~~*
39 *~~instructions filed with the petition for confirmation.~~*

40 ~~3-~~ *granting orders on other matters related to the trust,*
41 *including, without limitation, matters that might be addressed in a*
42 *declaratory judgment relating to the trust under subsection 2 of*
43 *NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015,*
44 *and such matters may be raised in the petition to assume*



1 *jurisdiction or in one or more separate petitions that are filed*
2 *concurrently with the petition to assume jurisdiction.*

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

5 ~~14.1~~ 2. *For the purposes of this section, a trust is domiciled:*

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

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

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

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

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

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

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

24 164.015 1. The court has exclusive jurisdiction of
25 proceedings initiated by the petition of an interested person
26 concerning the internal affairs of a nontestamentary trust, including
27 a revocable living trust while the settlor is still living if the court
28 determines that the settlor cannot adequately protect his or her own
29 interests or if the interested person shows that the settlor is
30 incompetent or susceptible to undue influence. Proceedings which
31 may be maintained under this section are those concerning the
32 administration and distribution of trusts, the declaration of rights
33 and the determination of other matters involving trustees and
34 beneficiaries of trusts, including petitions with respect to a
35 nontestamentary trust for any appropriate relief provided with
36 respect to a testamentary trust in NRS 153.031 ~~H~~ *and petitions for*
37 *a ruling that property not formally titled in the name of a trust or*
38 *its trustee constitutes trust property pursuant to NRS 163.002.*

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

43 3. If an interested person contests the validity of a revocable
44 nontestamentary trust, the interested person is the plaintiff and the
45 trustee is the defendant. The written grounds for contesting the



1 validity of the trust constitutes a pleading and must conform with
2 any rules applicable to pleadings in a civil action. *This subsection*
3 *applies whether the person contesting the validity of the trust is the*
4 *petitioner or the objector and whether or not the opposition to the*
5 *validity of the trust is asserted under this section or subsection 2 of*
6 *NRS 30.040.*

7 4. In a proceeding pursuant to subsection 3, the competency of
8 the settlor to make the trust, the freedom of the settlor from duress,
9 menace, fraud or undue influence at the time of execution of the
10 will, the execution and attestation of the trust instrument, or any
11 other question affecting the validity of the trust is a question of fact
12 and must be tried by the court, subject to the provisions of
13 subsection 5.

14 5. A court may consolidate the cases if there is a contest of a
15 revocable nontestamentary trust and a contest relating to a will
16 executed on the same date. If a jury is demanded pursuant to NRS
17 137.020 for the contest of the will, the court may instruct the jury to
18 render an advisory opinion with respect to an issue of fact pursuant
19 to subsection 4 in the contest of the trust.

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

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

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

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

43 164.410 1. A certification of trust may confirm the following
44 facts or contain the following information:



- 1 (a) The existence of the trust and date of execution of any trust
2 instrument;
- 3 (b) The identity of the settlor and each currently acting trustee;
- 4 (c) The powers of the trustee and any restrictions imposed upon
5 the trustee in dealing with assets of the trust;
- 6 (d) The revocability or irrevocability of the trust and the identity
7 of any person holding a power to revoke it;
- 8 (e) If there is more than one trustee, whether all of the currently
9 acting trustees must or less than all may act to exercise identified
10 powers of the trustee;
- 11 (f) ~~The identifying number of the trust and whether it is a social~~
12 ~~security number or an employer identification number;~~ *A*
13 *declaration regarding the situs or domicile of the trust and*
14 *regarding the law that governs the validity, construction and*
15 *administration of the trust;* and
- 16 (g) The form in which title to assets of the trust is to be taken.
- 17 2. The certification must contain a statement that the trust has
18 not been revoked or amended to make any representations contained
19 in the certification incorrect, and that the signatures are those of all
20 the currently acting trustees.
- 21 **Sec. 56.** NRS 164.725 is hereby amended to read as follows:
22 164.725 1. As used in this section, "action" includes a course
23 of action and a decision on whether or not to take action.
- 24 2. A trustee may provide a notice of proposed action regarding
25 any matter governed by NRS 163.556 or 164.700 to 164.925,
26 inclusive. *Except as otherwise provided in the trust instrument, a*
27 *trustee may provide a notice of proposed action regarding any*
28 *aspect of the administration of the trust.*
- 29 3. If a trustee provides a notice of proposed action, the trustee
30 shall mail the notice of proposed action to every adult beneficiary
31 who, at the time the notice is provided, receives, or is entitled to
32 receive, income under the trust or who would be entitled to receive a
33 distribution of principal if the trust were terminated. A notice of
34 proposed action need not be provided to a person who consents in
35 writing to the proposed action. A consent to a proposed action may
36 be executed before or after the proposed action is taken.
- 37 4. The notice of proposed action must state:
- 38 (a) That the notice is provided pursuant to this section;
- 39 (b) The name and mailing address of the trustee;
- 40 (c) The name and telephone number of a person with whom to
41 communicate for additional information regarding the proposed
42 action;
- 43 (d) A description of the proposed action and an explanation of
44 the reason for taking the action;



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

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

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

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

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

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

31 9. If the proposed action for which notice has been proved is an
32 adjustment to principal and income pursuant to NRS 164.795 or
33 164.796, the sole remedy a court may order, pursuant to subsections
34 7 and 8, is to make the adjustment, to make the adjustment with a
35 modification or to order the adjustment not to be made.

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

37 164.740 Except as otherwise provided in chapter 669A of
38 NRS, a trustee who invests and manages trust property owes a duty
39 to the beneficiaries of the trust to comply with the prudent investor
40 rule as set forth in NRS 164.700 to 164.775, inclusive, but a trustee
41 is not liable to a beneficiary to the extent that the trustee ~~acted~~ :

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

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



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

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

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

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

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

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

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

24 165.050 1. Within 60 days after the termination of a
25 testamentary trust, the trustee ~~[, and in the case of the transfer of the~~
26 ~~trusteeship because of the death, resignation, removal, dissolution,~~
27 ~~merger or consolidation of a sole trustee, the successor in interest of~~
28 ~~the old trustee,]~~ shall file with the court of the county where the will
29 was admitted to probate a final account under oath ~~[, showing]~~ for
30 the period since the ~~{filing of the last}~~ *most recent* account ~~{the facts~~
31 ~~required by NRS 165.040 regarding intermediate accountings, and~~
32 ~~in the case of termination of the trust,}~~ *was provided to and*
33 *approved or deemed approved by the beneficiaries. The final*
34 *account must comply with subsection 3 or 4 of NRS 165.135 and*
35 *must set forth the distribution of the trust property which the*
36 ~~{accountant}~~ *trustee proposes to make.*

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

43 3. *Notwithstanding the provisions of this section, any*
44 *beneficiary may waive the right to receive an account, the right to*



1 *a hearing on the account or the right to receive notice of a*
2 *hearing.*

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

4 165.137 1. The following provisions apply to the extent that
5 the trust instrument does not expressly provide otherwise:

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

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

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

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

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

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

24 (2) The court, in considering a petition filed under NRS
25 164.015, determines that the settlor is incompetent or is susceptible
26 to undue influence and directs the trustee to provide an account,
27 specifying the nature and extent of the account to be provided and
28 the person or persons who are entitled to receive the account;

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

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

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

39 ~~¶(i)~~ (i) An account shall be deemed approved by a beneficiary
40 who received a copy of the account if no written objection thereto is
41 given to the trustee within ~~¶(20)~~ 90 days after the date on which the
42 trustee provided the account to that beneficiary;

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



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

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

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

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

19 2. As used in this section:

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

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

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

25 165.139 Notwithstanding any provision to the contrary in the
26 trust instrument:

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

35 2. Except as otherwise provided in this subsection ~~and NRS~~
36 **165.137**, upon request, an account must be provided annually to
37 each remainder beneficiary of an irrevocable trust. A beneficiary
38 who has been eliminated by the exercise of a power of appointment
39 has no right to request or receive an account . ~~pursuant to this~~
40 ~~subsection.~~ **Upon request, an account must be provided annually**
41 **to each living settlor, and a settlor has standing to enforce the**
42 **terms of the trust and all applicable law on behalf of any**
43 **beneficiaries.**

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



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

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

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

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

17 165.147 1. *Except as otherwise provided in subsections 2, 3*
18 *and 4, a trustee shall provide to each beneficiary who is entitled to*
19 *receive an account pursuant to NRS 165.135 and 165.137 notice*
20 *of the existence of a trust for his or her benefit within 120 days*
21 *after the beneficiary becomes entitled to an account or within 120*
22 *days after the trustee assumes the trusteeship, whichever occurs*
23 *later.*

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

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

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

37 (2) *Give notice of a proposed action to a person who is*
38 *entitled to receive such notice; and*

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

43 (b) *Notwithstanding any provision in the trust instrument to*
44 *the contrary, if the trustee, by taking any action in accordance*
45 *with paragraph (a), discloses the existence of the trust to any*



1 *beneficiary, the trustee is not liable for the disclosure and must not*
2 *be considered in breach of his or her duties.*

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

5 *(a) An account of the trustee;*

6 *(b) The notice permitted in NRS 164.021;*

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

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

10 *4. The requirements of subsection 1 do not apply to any*
11 *beneficiary who has:*

12 *(a) Received notice of the trust's existence from a predecessor*
13 *trustee;*

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

15 *(c) Made an appearance in a court proceeding related to the*
16 *trust.*

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

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

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

22 *(1) The guardian of the estate of the minor appointed by the*
23 *court, if a court has appointed such a guardian;*

24 *(2) The guardian of the person of the minor, if a court has*
25 *appointed such a guardian but has not appointed a guardian of*
26 *the estate of the minor; or*

27 *(3) A parent who has custody of the minor, if a court has*
28 *not appointed a guardian of the estate of the minor or a guardian*
29 *of the person of the minor.*

30 *(c) Notice to an adult beneficiary who is under a legal*
31 *disability must be given to:*

32 *(1) The guardian of the estate of the beneficiary appointed*
33 *by a court; or*

34 *(2) If a court has not appointed a guardian of the estate of*
35 *the beneficiary, the guardian of the person of the beneficiary*
36 *appointed by a court.*

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

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



1 6. Upon request by a beneficiary who is entitled to receive an
2 account pursuant to the terms of NRS 165.122 to 165.149, inclusive,
3 a trustee shall provide a copy of the trust instrument to that
4 beneficiary except as expressly provided otherwise in the trust
5 instrument.

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

14 ~~8.~~ 8. Except as otherwise provided in NRS 165.145 or by
15 order of the court for good cause shown, the trustee must not be
16 compelled to provide a copy of the trust instrument to a person who
17 is not a beneficiary of the trust or a person who is not entitled to an
18 account of the trust pursuant to the provisions of NRS 165.122 to
19 165.149, inclusive.

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

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

31 2. Payments by the trustee to the beneficiary, whether such
32 payments are mandatory or discretionary, must be made only to or
33 for the benefit of the beneficiary and not by way of acceleration or
34 anticipation, nor to any assignee of the beneficiary, nor to or upon
35 any order, written or oral, given by the beneficiary, whether such
36 assignment or order be the voluntary contractual act of the
37 beneficiary or be made pursuant to or by virtue of any legal process
38 in judgment, execution, attachment, garnishment, bankruptcy or
39 otherwise, or whether it be in connection with any contract, tort or
40 duty. Any action to enforce the beneficiary's rights, to determine if
41 the beneficiary's rights are subject to execution, to levy an
42 attachment or for any other remedy must be made only in a
43 proceeding commenced pursuant to chapter 153 of NRS, if against a
44 testamentary trust, or NRS 164.010, if against a nontestamentary



1 trust. ~~1A~~ *The district court , as defined in NRS 132.116, has*
2 *exclusive jurisdiction over any proceeding pursuant to this section.*

3 3. The beneficiary shall have no power or capacity to make any
4 disposition whatever of any of the income by his or her order,
5 voluntary or involuntary, and whether made upon the order or
6 direction of any court or courts, whether of bankruptcy or otherwise;
7 nor shall the interest of the beneficiary be subject to any process of
8 attachment issued against the beneficiary, or to be taken in
9 execution under any form of legal process directed against the
10 beneficiary or against the trustee, or the trust estate, or any part of
11 the income thereof, but the whole of the trust estate and the income
12 of the trust estate shall go to and be applied by the trustee solely for
13 the benefit of the beneficiary, free, clear, and discharged of and
14 from any and all obligations of the beneficiary whatsoever and of all
15 responsibility therefor.

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

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

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

25 166.170 1. ~~1A~~ *Except as otherwise provided in this section,*
26 *a person may not bring an action with respect to a ~~transfer of~~*
27 *~~property to a~~ spendthrift trust ~~;~~*

28 ~~—(a) If the person is a creditor when the transfer is made, that is~~
29 ~~unrelated to a transfer of property unless the action is commenced~~
30 ~~within ~~;~~~~

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

32 ~~—(2) Six months after the person discovers or reasonably~~
33 ~~should have discovered the transfer,~~
34 ~~↪ whichever is later.~~

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

44 2. *Except as otherwise provided in this subsection, a person*
45 *may not bring an action that is related to a transfer of property to*



1 *a spendthrift trust unless that action is brought within 2 years*
2 *after the transfer of that property to the spendthrift trust. A person*
3 *who was a creditor of the transferor at the time the transfer was*
4 *made may commence an action related to the transfer of that*
5 *property more than 2 years after the transfer is made to the*
6 *spendthrift trust as long as the action is commenced within 6*
7 *months after the person discovers or reasonably should have*
8 *discovered the transfer of the property to the spendthrift trust.*

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

16 ~~3.1~~ *For the purposes of this subsection:*

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

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

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

34 5. *Except as expressly provided for in the trust instrument,*
35 *the property of a spendthrift trust is not subject to the claims of a*
36 *creditor of the settlor. A creditor may not reach any property of a*
37 *spendthrift trust to satisfy the creditor's claim against a settlor or*
38 *beneficiary unless the creditor establishes that the specific*
39 *property was not properly transferred to the trust or has been*
40 *transferred from the trust pursuant to the terms of the trust*
41 *instrument or that the trust is invalid as a spendthrift trust as to*
42 *such specific property, subject to the following limitations:*

43 (a) A creditor may not bring an action with respect to transfer of
44 property to a spendthrift trust unless a creditor can prove by clear
45 and convincing evidence that the transfer of *specific* property was ~~to~~



1 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the~~
2 ~~transfer violates a legal obligation owed to the creditor under a~~
3 ~~contract or a valid court order that is legally enforceable by that~~
4 ~~creditor. In the absence of such clear and convincing proof, the~~
5 ~~property transferred is not subject to the claims of the creditor.]~~
6 ~~made:~~

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

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

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

19 ~~{4}~~ 6. If property transferred to a spendthrift trust is conveyed
20 to the settlor or to a beneficiary for the purpose of obtaining a loan
21 secured by a mortgage or deed of trust on the property and then
22 reconveyed to the trust, for the purpose of ~~{subsection 1}~~ *this*
23 *section*, the transfer is disregarded and the reconveyance relates
24 back to the date the property was originally transferred to the trust.
25 The mortgage or deed of trust on the property shall be enforceable
26 against the trust.

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

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

40 ~~{7}~~ 9. If more than one transfer is made to a spendthrift trust:

41 (a) The subsequent transfer to the spendthrift trust must be
42 disregarded for the purpose of determining whether a person may
43 bring an action pursuant to subsection ~~{2}~~ 2 with respect to a prior
44 transfer to the spendthrift trust; and



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

4 ~~8.1~~ 10. Notwithstanding any other provision of law ~~7, no~~:

5 (a) *No* action of any kind, including, without limitation, an
6 action to enforce a judgment entered by a court or other body having
7 adjudicative authority, may be brought at law or in equity against
8 the trustee of a spendthrift trust if, as of the date the action is
9 brought, an action by a creditor with respect to a transfer to the
10 spendthrift trust would be barred pursuant to this section. †

11 ~~9.1~~ (b) *No action of any kind, including, without limitation, an*
12 *action to enforce a judgment entered by a court or other body*
13 *having adjudicative authority, may be brought at law or in equity*
14 *for an attachment or other provisional remedy against property*
15 *that is owned by a spendthrift trust unless a creditor can provide*
16 *either:*

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

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

22 11. For purposes of this section, if a trustee exercises his or her
23 discretion or authority to distribute trust income or principal to or
24 for a beneficiary of the spendthrift trust, by appointing the property
25 of the original spendthrift trust in favor of a second spendthrift trust
26 for the benefit of one or more of the beneficiaries as authorized by
27 NRS 163.556, the time of the transfer for purposes of this section
28 shall be deemed to have occurred on the date the settlor of the
29 original spendthrift trust transferred assets into the original
30 spendthrift trust, regardless of the fact that the property of the
31 original spendthrift trust may have been transferred to a second
32 spendthrift trust †

33 ~~10.1~~ *on a later date.*

34 12. As used in this section:

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

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

40 (2) *Declare any property that was assigned to or transferred*
41 *to the spendthrift trust or otherwise declared to be trust property*
42 *not to be part of the trust estate, including, without limitation, the*
43 *imposition of a constructive trust or a resulting trust that is*
44 *inconsistent with the governing trust instrument of the spendthrift*
45 *trust; or*



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

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

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

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

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

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

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

22 ***(6) Compel a distribution to a beneficiary or to a creditor***
23 ***from a support interest, as described in NRS 163.4185, or from a***
24 ***discretionary interest, as described in NRS 163.4185.***

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

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

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

36 ***(e) "Trustee" includes a cotrustee, if any and a predecessor***
37 ***trustee.***

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

39 687B.260 1. If a policy of insurance, whether issued before,
40 on or after January 1, 1972, is effected by any person on his or her
41 own life, or on another life, in favor of a person other than himself
42 or herself, ***including, without limitation, a trust established by the***
43 ***insured or the person so effecting such insurance,*** or, except in
44 cases of transfer with intent to defraud creditors, if a policy of life
45 insurance is assigned or in any way made payable to any such



1 person, the lawful beneficiary or assignee thereof, *including,*
2 *without limitation, a trust established by the insured or the person*
3 *so effecting such insurance,* other than the insured or the person so
4 effecting such insurance or executors or administrators of the
5 insured or the person so effecting such insurance, is entitled to its
6 proceeds and avails against the creditors and representatives of the
7 insured and of the person effecting the same, whether or not the
8 right to change the beneficiary is reserved or permitted and whether
9 or not the policy is made payable to the person whose life is insured
10 or to the executors or administrators of such person if the
11 beneficiary or assignee predeceases the person. Except as otherwise
12 provided in this subsection, such proceeds and avails are exempt
13 from all liability for any debt of the beneficiary existing at the time
14 the proceeds and avails are made available for the use of the
15 beneficiary. Subject to the statute of limitations, the amount of any
16 premiums for such insurance paid with intent to defraud creditors,
17 with interest thereon, inures to the benefit of the creditors from the
18 proceeds of the policy. The insurer issuing the policy is discharged
19 of all liability thereon by payment of its proceeds in accordance with
20 its terms, unless, before the payment, the insurer has received
21 written notice at its home office, by or in behalf of a creditor, of a
22 claim to recover for transfer made or premiums paid with intent to
23 defraud creditors, with specification of the amount claimed along
24 with such facts as will assist the insurer to ascertain the particular
25 policy.

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

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

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

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

41 (b) *Except as to any transfer that is established to be subject to*
42 *the claims of a creditor under subsection 3 of NRS 166.170, all*
43 *money, benefits, privileges or immunities accruing or in any*
44 *manner growing out of any life insurance policy are fully exempt*



1 *from the claims of creditors if a spendthrift trust is the owner or is*
2 *irrevocably designated as the beneficiary of that policy.*

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

4 687B.290 1. The benefits, rights, privileges and options
5 which under any annuity contract issued prior to or after January 1,
6 1972, are due or prospectively due the annuitant shall not be subject
7 to execution nor shall the annuitant be compelled to exercise any
8 such rights, powers or options, nor shall creditors be allowed to
9 interfere with or terminate the contract, except as to amounts paid
10 for or as premium on any such annuity with intent to defraud
11 creditors, with interest thereon, and of which the creditor has given
12 the insurer written notice at its home office prior to the making of
13 the payment to the annuitant out of which the creditor seeks to
14 recover. Any such notice shall specify the amount claimed or such
15 facts as will enable the insurer to ascertain such amount, and shall
16 set forth such facts as will enable the insurer to ascertain the annuity
17 contract, the annuitant and the payment sought to be avoided on the
18 ground of fraud.

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

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

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

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

33 **Sec. 67.** NRS 163.4177, 163.418, 163.5539, 165.040, 165.045,
34 165.055 and 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.



