

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.



\* S B 3 0 7 R 1 \*

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.



\* S B 3 0 7 R 1 \*

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.

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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 1.3 to 3, inclusive, of this  
3 act.

4 **Sec. 1.3.** *“Foreign jurisdiction” means any jurisdiction other*  
5 *than this State.*

6 **Sec. 1.7.** *“Nontestamentary trust” means a trust validly*  
7 *created pursuant to the provisions of chapter 163 of NRS, other*  
8 *than a testamentary transfer, whether revocable or irrevocable,*  
9 *and whether or not any settlor thereof is living or deceased. The*  
10 *term does not include a trust created by the terms of a will of a*  
11 *person.*

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (d) *A revocable trust that is the subject of a petition under NRS*  
37 *164.015 relating to the validity of the trust or any trust-related*  
38 *document, if the person, after the death of the settlor, under the*  
39 *terms of any version of the trust documents in dispute, would be:*

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

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



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

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

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

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

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

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

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

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

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

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

27 (e) *As to a trust:*

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

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

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

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

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

40 132.025 As used in this title, unless the context otherwise  
41 requires, the words and terms defined in NRS 132.030 to 132.370,  
42 inclusive, *and sections 1.3, 1.7 and 2 of this act* have the meanings  
43 ascribed to them in those sections.

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

45 132.116 “District court” or “court” means **††** :



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

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

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

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

15 132.185 ~~H~~ “Interested person” ~~includes, without~~  
16 ~~limitation, an heir, devisee, child, spouse, creditor, settlor,~~  
17 ~~beneficiary and any other person having a property right in or claim~~  
18 ~~against a trust estate or the estate of a decedent, including, without~~  
19 ~~limitation, the Director of the Department of Health and Human~~  
20 ~~Services in any case in which money is owed to the Department of~~  
21 ~~Health and Human Services as a result of the payment of benefits~~  
22 ~~for Medicaid. The term includes} means a person {having priority~~  
23 ~~for appointment as a personal representative and other fiduciaries~~  
24 ~~representing interested persons.} whose right or interest under an~~  
25 ~~estate or trust may be materially affected by a decision of a~~  
26 ~~fiduciary or a decision of the court. The {meaning as it relates to~~  
27 ~~particular persons must be determined} fiduciary or court shall~~  
28 ~~determine, pursuant to section 3 of this act, who is an interested~~  
29 ~~person according to the particular purposes of, and matter involved~~  
30 ~~in, a proceeding.~~

31 ~~{2. The term does not include:~~

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

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

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

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

42 133.110 1. If a person marries after making a will and the  
43 spouse survives the maker, the will is revoked as to the spouse,  
44 unless:



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

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

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

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

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

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

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

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

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

27 **Sec. 8.** (Deleted by amendment.)

28 **Sec. 9.** (Deleted by amendment.)

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

30 138.020 1. No person is qualified to serve as an executor  
31 who, at the time the will is probated:

32 (a) Is under the age of majority;

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

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

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





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

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

6 138.090 1. Administrators with the will annexed have the  
7 same authority as the executor named in the will would have had if  
8 the executor had qualified, and their acts are as effectual for every  
9 purpose . ~~†, but if†~~ *If* the power or authority conferred upon the  
10 executor is discretionary, and is not ~~†conferred by law,†~~ *expressly*  
11 *excluded by the will,* it is ~~†not†~~ conferred upon an administrator with  
12 the will annexed.

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

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

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

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

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

32 139.010 No person is entitled to letters of administration if the  
33 person:

34 1. Is under the age of majority;

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

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

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

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



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

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

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

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

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

15 143.380 1. Subject to the limitations and requirements of  
16 NRS ~~143.300 to 143.815, inclusive,~~ **143.370**, when the personal  
17 representative exercises the authority to sell property of the estate  
18 **after being granted full authority** pursuant to NRS 143.300 to  
19 143.815, inclusive, the personal representative may sell the property  
20 at public auction or private sale, and with or without notice, for cash  
21 or on credit, for such price and upon such terms and conditions as  
22 the personal representative may determine.

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

26 (a) Publication of the notice of sale;

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

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

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

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

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

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

39 144.010 1. ~~Every~~ **Except as otherwise provided in this**  
40 **subsection, every** personal representative shall make and file with  
41 the clerk, within 60 days after appointment, unless the court extends  
42 the time, a true inventory and appraisal or record of value of  
43 all the estate of the decedent that has come to the possession or  
44 knowledge of the personal representative. **The requirement of filing**  
45 **an inventory or the requirement of filing an appraisal or**



1 *verified record of value, or both, may be waived by the unanimous*  
2 *written consent of each interested person.*

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

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

10 144.020 1. A personal representative may engage a qualified  
11 and disinterested appraiser to ascertain the fair market value, as of  
12 the decedent's death, of any asset the value of which is subject to  
13 reasonable doubt. Different persons may be engaged to appraise  
14 different kinds of assets included in the estate.

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

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

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

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

35 146.070 1. ~~##~~ *Except as otherwise provided in subsection*  
36 *2, if a person dies leaving an estate the gross value of which, after*  
37 *deducting any encumbrances, does not exceed \$100,000, and there*  
38 *is a surviving spouse or minor child or minor children of the*  
39 *decedent, the estate must not be administered upon, but the whole*  
40 *estate, after directing such payments to:*

41 *(a) The creditors of the decedent, including, without limitation*  
42 *the Director of the Department of Health and Human Services in*  
43 *any case in which money is owed to the Department as a result of*  
44 *the payment of benefits for Medicaid, as may be deemed just ~~##~~ ;*  
45 *and*



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

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

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

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

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

27       ~~13~~ 4. Proceedings taken under this section, whether or not the  
28       decedent left a valid will, must not begin until at least 30 days after  
29       the death of the decedent and must be originated by a petition  
30       containing:

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

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

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

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

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

44       ~~14~~ 5. The clerk shall set the petition for hearing and the  
45       petitioner shall give notice of the petition and hearing in the manner



1 provided in NRS 155.010 to the decedent's heirs and devisees and  
2 to the Director of the Department of Health and Human Services. If  
3 a complete copy of the petition is not enclosed with the notice, the  
4 notice must include a statement setting forth to whom the estate is  
5 being set aside.

6 ~~15.1~~ 6. No court or clerk's fees may be charged for the filing of  
7 any petition in, or order of court thereon, or for any certified copy of  
8 the petition or order in an estate not exceeding \$2,500 in value.

9 ~~16.1~~ 7. If the court finds that the gross value of the estate, less  
10 encumbrances, does not exceed the sum of \$100,000, the court may  
11 direct that the estate be distributed to the father or mother of a minor  
12 heir or devisee, with or without the filing of any bond, or to a  
13 custodian under chapter 167 of NRS, or may require that a general  
14 guardian be appointed and that the estate be distributed to the  
15 guardian, with or without bond, as in the discretion of the court is  
16 deemed to be in the best interests of the minor. The court may direct  
17 the manner in which the money may be used for the benefit of the  
18 minor.

19 **Sec. 17.** (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

43 155.010 1. Except as otherwise provided in *subsection 2* or a  
44 specific statute relating to the kind of notice required or otherwise  
45 ordered by the court in a particular instance, a petitioner shall cause



1 notice of the time and place of the hearing of a petition to be given  
2 to each interested person and to every other person entitled to notice  
3 pursuant to this title or his or her attorney if the person has appeared  
4 by attorney or requested that notice be sent to his or her attorney.

5 Notice must be given:

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

13 (b) If the address or identity of the person is not known and  
14 cannot be ascertained with reasonable diligence, by publishing at  
15 least once a week for 3 consecutive weeks a copy thereof in a  
16 newspaper having general circulation in the county where the  
17 hearing is to be held, the last publication of which must be at least  
18 10 days before the date set for the hearing.

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

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

26 ~~3-~~ 4. Proof of the giving of notice must be made on or before  
27 the hearing and filed in the proceeding.

28 ~~4-~~ 5. A person entitled to notice may, in writing, waive  
29 notice of the hearing of a petition.

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

31 155.094 "Independent attorney" means an attorney, other than  
32 ~~the~~ *an* attorney who:

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

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

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

37 155.0955 "Transfer instrument" means ~~the~~ *a* legal document  
38 intended to effectuate a transfer *of property for less than fair*  
39 *market value, whether such transfer becomes* effective *during the*  
40 *life of the transferor or* on or after the transferor's death and  
41 includes, without limitation ~~the~~ :

42 1. *A* will ~~is~~;

43 2. *A* trust ~~is~~;

44 3. *A* deed ~~is~~; and



1 4. Any form , ~~{designated as payable on death,}~~ contract or  
2 other ~~{beneficiary designation form,}~~ document which:

- 3 (a) Creates, conveys or transfers any interest in property;
- 4 (b) Creates any type of joint ownership;
- 5 (c) Establishes a right of survivorship;
- 6 (d) Designates a beneficiary;
- 7 (e) Creates or attempts to effectuate a nonprobate transfer,  
8 which will be effective upon the death of the transferor; or
- 9 (f) Is intended to amend, modify, eliminate, supersede or  
10 revoke any other transfer instrument.

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

12 155.096 “Transferee” means a devisee, a beneficiary of trust, a  
13 grantee of a deed, including a grantee of a deed pursuant to NRS  
14 111.655 to 111.699, inclusive, and any other person designated in a  
15 transfer instrument to receive a nonprobate transfer ~~{}~~ **or other**  
16 **interest in property for less than fair market value.**

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

18 155.097 1. ~~{}~~ **Regardless of when a transfer instrument is**  
19 **made, to** the extent the court finds that a transfer was the product of  
20 fraud, duress or undue influence, the transfer is void and each  
21 transferee who is found responsible for the fraud, duress or undue  
22 influence shall bear the costs of the proceedings, including, without  
23 limitation, reasonable attorney’s fees.

24 2. Except as otherwise provided in **subsection 3 and** NRS  
25 155.0975, a transfer is presumed to be void if the transfer is  
26 ~~{effective on or after a transferor’s death and the transfer is}~~ to a  
27 transferee who is:

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

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

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

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

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

41 155.0975 The presumption established by NRS 155.097 does  
42 not apply:

43 1. To a transfer of property ~~{under a will}~~ **which is triggered by**  
44 **the transferor’s death** if the transferee is an heir of the ~~{testator~~  
45 ~~whose share in the estate of the testator under the terms of the~~



1 ~~testator's will~~ transferor and the combined value of all transfers  
2 received by that transferee is not greater than the share the  
3 transferee would be entitled to pursuant to chapter 134 of NRS if the  
4 ~~testator~~ transferor had died intestate ~~+~~ and the transferor's estate  
5 included all nonprobate transfers which are triggered by the death  
6 of the transferor.

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

12 3. Except as otherwise provided in this subsection, if the court  
13 determines, upon clear and convincing evidence, that the transfer  
14 was not the product of fraud, duress or undue influence. The  
15 determination of the court pursuant to this subsection must not be  
16 based solely upon the testimony of a person described in subsection  
17 2 of NRS 155.097.

18 ~~3-~~ 4. If the transfer instrument is reviewed by an independent  
19 attorney who:

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

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

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

26  
27 CERTIFICATE OF INDEPENDENT REVIEW  
28

29 I, ..... (attorney's name), have reviewed  
30 ..... (name of transfer instrument) and have  
31 counseled my client, ..... (name of client), on  
32 the nature and consequences of the transfer or transfers of  
33 property to ..... (name of transferee) contained  
34 in the transfer instrument. I am disassociated from the interest  
35 of the transferee to the extent that I am in a position to advise  
36 my client independently, impartially and confidentially as to  
37 the consequences of the transfer. On the basis of this counsel,  
38 I conclude that the transfer or transfers of property in the  
39 transfer instrument that otherwise might be invalid pursuant  
40 to NRS 155.097 are valid because the transfer or transfers are  
41 not the product of fraud, duress or undue influence.  
42

43 .....  
44 (Name of Attorney) (Date)





1 ~~4~~ 5. To a transferee that is:

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

3 (b) An entity that is recognized as exempt under section  
4 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. §  
5 501(c)(3) or 501(c)(19), or a trust holding an interest for such an  
6 entity but only to the extent of the interest of the entity or the  
7 interest of the trustee of the trust.

8 ~~5. — A~~

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

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

20 155.165 1. The court may find that a person , *including,*  
21 *without limitation, a personal representative or trustee,* is a  
22 vexatious litigant if the person files a petition, objection, motion or  
23 other pleading which is without merit , ~~or~~ intended to harass or  
24 annoy the personal representative or a trustee ~~or~~ *intended to*  
25 *unreasonably oppose or frustrate the efforts of an interested*  
26 *person who is acting in good faith to enforce his or her rights. The*  
27 *court may find that a personal representative or trustee is a*  
28 *vexatious litigant if the personal representative or trustee has*  
29 *expended the funds of the estate or trust to unreasonably oppose*  
30 *the good faith efforts of an interested person to enforce his or her*  
31 *rights.* In determining whether the person is a vexatious litigant, the  
32 court may take into consideration whether the person has previously  
33 filed pleadings in a proceeding that were without merit , ~~or~~  
34 intended to harass or annoy a fiduciary ~~or~~ *intended to*  
35 *unreasonably oppose or frustrate the good faith efforts of an*  
36 *interested person to enforce his or her rights.*

37 2. If a court finds that a person is a vexatious litigant pursuant  
38 to subsection 1, the court may impose sanctions on the person in an  
39 amount sufficient to reimburse the estate or trust for all or part of the  
40 expenses , *including, without limitation, reasonable attorney's*  
41 *fees,* incurred by the estate or trust to respond to the petition,  
42 objection, motion or other pleading and for any other pecuniary  
43 losses which are associated with the actions of the vexatious litigant.  
44 The court may make an order directing entry of judgment for the  
45 amount of such sanctions. *If a court finds that a personal*



*representative or trustee is a vexatious litigant, the court may remove the personal representative or trustee, and any sanctions imposed by the court must be imposed against the personal representative or trustee personally and not against the estate or trust.*

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

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

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

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

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

(a) Object to the issuance of letters; or

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

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

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

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

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR  
YOUR WAGES ARE BEING GARNISHED

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

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

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and



1 survivors' benefits, supplemental security income benefits  
2 and disability insurance benefits.

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

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

9 4. Proceeds from a policy of life insurance.

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

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

14 7. Payments received as unemployment compensation.

15 8. Veteran's benefits **H** *and all benefits from any*  
16 *military retirement plan.*

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

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

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

28 10. All money reasonably deposited with a landlord by  
29 you to secure an agreement to rent or lease a dwelling that is  
30 used by you as your primary residence, except that such  
31 money is not exempt with respect to a landlord or landlord's  
32 successor in interest who seeks to enforce the terms of the  
33 agreement to rent or lease the dwelling.

34 11. A vehicle, if your equity in the vehicle is less than  
35 \$15,000.

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

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

42 (a) An individual retirement arrangement which conforms  
43 with the applicable limitations and requirements of section  
44 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408  
45 and 408A;



\* S B 3 0 7 R 1 \*

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

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

6 (d) A trust forming part of a stock bonus, pension or  
7 profit-sharing plan that is a qualified plan pursuant to sections  
8 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et  
9 seq. **H**, *and the benefits of a qualified annuity plan under*  
10 *section 403 of the Internal Revenue Code, 26 U.S.C. § 403;*  
11 and

12 (e) A trust forming part of a qualified tuition program  
13 pursuant to chapter 353B of NRS **H** *and* any applicable  
14 regulations adopted pursuant to chapter 353B of NRS , *or*  
15 *similar laws and regulations of a jurisdiction other than this*  
16 *State*, and section 529 of the Internal Revenue Code, 26  
17 U.S.C. § 529, unless the money is deposited after the entry of  
18 a judgment against the purchaser or account owner or the  
19 money will not be used by any beneficiary to attend a college  
20 or university.

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

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

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

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

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

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

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

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

45 17. If a trust contains a spendthrift provision:



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

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

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

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

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

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

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

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

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

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

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

39 ↪ These exemptions may not apply in certain cases such as a  
40 proceeding to enforce a judgment for support of a person or a  
41 judgment of foreclosure on a mechanic's lien. You should  
42 consult an attorney immediately to assist you in determining  
43 whether your property or money is exempt from execution. If  
44 you cannot afford an attorney, you may be eligible for  
45 assistance through ..... (name of organization in



1 county providing legal services to indigent or elderly  
2 persons). If you do not wish to consult an attorney or receive  
3 legal services from an organization that provides assistance to  
4 persons who qualify, you may obtain the form to be used to  
5 claim an exemption from the clerk of the court.

6  
7 **PROCEDURE FOR CLAIMING EXEMPT PROPERTY**  
8

9 If you believe that the money or property taken from you  
10 is exempt, you must complete and file with the clerk of the  
11 court an executed claim of exemption. A copy of the claim of  
12 exemption must be served upon the sheriff, the garnishee and  
13 the judgment creditor within 10 days after the notice of  
14 execution or garnishment is served on you by mail pursuant  
15 to NRS 21.076 which identifies the specific property that is  
16 being levied on. The property must be released by the  
17 garnishee or the sheriff within 9 judicial days after you serve  
18 the claim of exemption upon the sheriff, garnishee and  
19 judgment creditor, unless the sheriff or garnishee receives a  
20 copy of an objection to the claim of exemption and a notice  
21 for a hearing to determine the issue of exemption. If this  
22 happens, a hearing will be held to determine whether the  
23 property or money is exempt. The objection to the claim of  
24 exemption and notice for the hearing to determine the issue of  
25 exemption must be filed within 8 judicial days after the claim  
26 of exemption is served on the judgment creditor by mail or in  
27 person and served on the judgment debtor, the sheriff and any  
28 garnishee not less than 5 judicial days before the date set for  
29 the hearing. The hearing to determine whether the property or  
30 money is exempt must be held within 7 judicial days after the  
31 objection to the claim of exemption and notice for the hearing  
32 is filed. You may be able to have your property released more  
33 quickly if you mail to the judgment creditor or the attorney of  
34 the judgment creditor written proof that the property is  
35 exempt. Such proof may include, without limitation, a letter  
36 from the government, an annual statement from a pension  
37 fund, receipts for payment, copies of checks, records from  
38 financial institutions or any other document which  
39 demonstrates that the money in your account is exempt.  
40

41 **IF YOU DO NOT FILE THE EXECUTED CLAIM OF**  
42 **EXEMPTION WITHIN THE TIME SPECIFIED, YOUR**  
43 **PROPERTY MAY BE SOLD AND THE MONEY GIVEN**  
44 **TO THE JUDGMENT CREDITOR, EVEN IF THE**  
45 **PROPERTY OR MONEY IS EXEMPT.**



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

2       21.090 1. The following property is exempt from execution,  
3 except as otherwise specifically provided in this section or required  
4 by federal law:

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

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

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

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

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

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

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

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

42       (2) "Earnings" means compensation paid or payable for  
43 personal services performed by a judgment debtor in the regular  
44 course of business, including, without limitation, compensation  
45 designated as income, wages, tips, a salary, a commission or a



1 bonus. The term includes compensation received by a judgment  
2 debtor that is in the possession of the judgment debtor,  
3 compensation held in accounts maintained in a bank or any other  
4 financial institution or, in the case of a receivable, compensation  
5 that is due the judgment debtor.

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

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

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

24 (k) ~~FAH~~ *Except as otherwise provided in NRS 687B.260, all*  
25 money, benefits, privileges or immunities accruing or in any manner  
26 growing out of any life insurance.

27 (l) The homestead as provided for by law, including a  
28 homestead for which allodial title has been established and not  
29 relinquished and for which a waiver executed pursuant to NRS  
30 115.010 is not applicable.

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

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

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





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

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

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

8 (1) An individual retirement arrangement which conforms  
9 with the applicable limitations and requirements of section 408 or  
10 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

11 (2) A written simplified employee pension plan which  
12 conforms with the applicable limitations and requirements of section  
13 408 of the Internal Revenue Code, 26 U.S.C. § 408;

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

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

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

21 (6) A trust forming part of a qualified tuition program  
22 pursuant to chapter 353B of NRS ~~H~~ *and* any applicable regulations  
23 adopted pursuant to chapter 353B of NRS , *or similar laws and*  
24 *regulations of a jurisdiction other than this State*, and section 529  
25 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is  
26 deposited after the entry of a judgment against the purchaser or  
27 account owner or the money will not be used by any beneficiary to  
28 attend a college or university.

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

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

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

43 (v) Payments received as compensation for the wrongful death  
44 of a person upon whom the judgment debtor was dependent at the  
45 time of the wrongful death, to the extent reasonably necessary for



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

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

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

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

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

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

23 (bb) Stock of a corporation described in subsection 2 of NRS  
24 78.746 except as set forth in that section.

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

27 (1) A distribution interest in the trust as defined in NRS  
28 163.4155 that is a contingent interest, if the contingency has not  
29 been satisfied or removed;

30 (2) A distribution interest in the trust as defined in NRS  
31 163.4155 that is a discretionary interest as described in NRS  
32 163.4185, if the interest has not been distributed;

33 (3) A power of appointment in the trust as defined in NRS  
34 163.4157 regardless of whether the power has been exercised;

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

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

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

41 (1) A distribution interest in the trust as defined in NRS  
42 163.4155 that is a mandatory interest as described in NRS 163.4185,  
43 if the interest has not been distributed; and

44 (2) Notwithstanding a beneficiary's right to enforce a support  
45 interest, a distribution interest in the trust as defined in



1 NRS 163.4155 that is a support interest as described in NRS  
2 163.4185, if the interest has not been distributed.

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

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

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

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

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

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

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

16 ~~(ii)~~ *(ll) Money paid or rights existing for vocational*  
17 *rehabilitation pursuant to NRS 615.270.*

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

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

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

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

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

34 *(a) A life insurance policy;*

35 *(b) An annuity contract;*

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

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

41 5. *The exemption for the cash payable to the debtor pursuant*  
42 *to subsection 2 of NRS 115.050 if a homestead is sold in its*  
43 *entirety must continue during the debtor's lifetime as to the cash*  
44 *and all property traceable thereto. After the debtor's death, the*  
45 *cash is no longer exempt under this section, and the property*



1 *traceable thereto is exempt only to the extent that such property*  
2 *qualifies for an exemption pursuant to this section without regard*  
3 *to the source of the funds used to acquire such property.*

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

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

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

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

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

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

35 *(b) The exemption of property, other than a homestead that*  
36 *was exempt before the debtor's death, must continue as to any*  
37 *claim or judgment against the debtor, and the exemption as to the*  
38 *debts of the deceased debtor continues as to the debtor's estate and*  
39 *as to property distributed to each beneficiary, as defined in NRS*  
40 *132.050, whether such property is distributed from the debtor's*  
41 *estate that is subject to administration or is received pursuant to a*  
42 *nonprobate transfer, as defined in NRS 111.721.*

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



- 1       (1) *A life insurance policy;*
- 2       (2) *An annuity contract;*
- 3       (3) *A tax refund described in paragraph (aa) of subsection*
- 4 *I; and*
- 5       (4) *Any form of compensation set forth in subsection 1,*
- 6       ↪ *must continue as to any claim or judgment against the debtor,*
- 7 *whether such property is held by the debtor, the estate of the*
- 8 *debtor or a beneficiary of the debtor.*
- 9       (d) *The exemptions provided by paragraphs (b) and (c) apply*
- 10 *only to the claims and judgments of a deceased debtor, and*
- 11 *nothing therein shall be construed to extend the exemption to*
- 12 *cover the liabilities of a beneficiary of a deceased debtor.*

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

14       40.515 **1.** If any person has died, or shall hereafter die, who  
15 at the time of the person's death was the owner of a life estate which  
16 terminates by reason of the person's death, any person interested in  
17 the property, or in the title thereto, in which such life estate was  
18 held, may file in the district court of the county in which the  
19 property is situated, the person's verified petition, setting forth such  
20 facts, and thereupon and after such notice by publication or  
21 otherwise, as the court or judge may order, the court or judge shall  
22 hear such petition and the evidence offered in support thereof, and if  
23 upon such hearing it shall appear that such life estate of such  
24 deceased person absolutely terminated by reason of the person's  
25 death, the court or judge shall make an order to that effect, and  
26 thereupon a certified copy of such order may be recorded in the  
27 office of the county recorder.

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

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

37       111.365 **1.** In the case of real property owned by two or more  
38 persons as joint tenants or as community property with right of  
39 survivorship, it is presumed that all title or interest in and to that real  
40 property of each of one or more deceased joint tenants or the  
41 deceased spouse has terminated, and vested solely in the surviving  
42 joint tenant or spouse or vested jointly in the surviving joint tenants,  
43 if there has been recorded in the office of the recorder of the county  
44 or counties in which the real property is ~~situate~~ *situated* an  
45 affidavit, subscribed and sworn to by a person who has knowledge



1 of the facts required in this subsection, *which is accompanied by a*  
2 *certified copy of the death certificate of each deceased joint tenant*  
3 *or the deceased spouse and* which sets forth the following:

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

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

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

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

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

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

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

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

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

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

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

34 111.779 1. Except as otherwise provided in NRS 21.090 and  
35 other applicable law, a transferee of a nonprobate transfer is liable to  
36 the probate estate of the decedent for allowed claims against that  
37 decedent's probate estate to the extent the estate is insufficient to  
38 satisfy those claims.

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

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



- 1 (a) A transferee specified in the decedent's will or any other  
2 governing instrument as being liable for such an insufficiency, in the  
3 order of priority provided in the will or other governing instrument;  
4 (b) The trustee of a trust serving as the principal nonprobate  
5 instrument in the decedent's estate plan as shown by its designation  
6 as devisee of the decedent's residuary estate or by other facts or  
7 circumstances, to the extent of the value of the nonprobate transfer  
8 received or controlled; and  
9 (c) Other nonprobate transferees, in proportion to the values  
10 received.

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

16 5. If a nonprobate transferee is a spouse or a minor child, the  
17 nonprobate transferee may petition the court to be excluded from the  
18 liability imposed by this section as if the nonprobate property  
19 received by the spouse or minor child were part of the decedent's  
20 estate. Such a petition may be made pursuant to the applicable  
21 provisions of chapter 146 of NRS, including, without limitation, the  
22 provisions of NRS 146.010, NRS 146.020 without regard to the  
23 filing of an inventory and subsection ~~2~~ 3 of NRS 146.070.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

42 (1) Takes the property free of any claims or of liability to the  
43 owner's estate, creditors of the owner's estate, persons claiming  
44 rights as beneficiaries under the nonprobate transfer or heirs of the





1 owner's estate, in absence of actual knowledge that the transfer was  
2 improper; and

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

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

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

13 111.781 1. Except as otherwise provided by the express  
14 terms of a governing instrument, a court order or a contract relating  
15 to the division of the marital estate made between the divorced  
16 persons before or after the marriage, divorce or annulment, the  
17 divorce or annulment of a marriage:

18 (a) Revokes any revocable:

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

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

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

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

39 2. A severance under paragraph (b) of subsection 1 does not  
40 affect any third-party interest in property acquired for value and in  
41 good faith reliance on an apparent title by survivorship in the  
42 survivor of the former spouses unless a writing declaring the  
43 severance has been noted, registered, filed or recorded in records  
44 appropriate to the kind and location of the property which records



1 are relied upon, in the ordinary course of transactions involving such  
2 property, as evidence of ownership.

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

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

12 5. Unless a court in an action commenced pursuant to chapter  
13 125 of NRS specifically orders otherwise, a restraining order  
14 entered pursuant to NRS 125.050 does not preclude a party to such  
15 an action from making or changing beneficiary designations that  
16 specify who will receive the party's assets upon the party's death.

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

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



1 8. A person who purchases property from a former spouse,  
2 relative of a former spouse or any other person for value and  
3 without notice, or who receives from a former spouse, relative of a  
4 former spouse or any other person a payment or other item of  
5 property in partial or full satisfaction of a legally enforceable  
6 obligation, is neither obligated under this section to return the  
7 payment, item of property or benefit nor is liable under this section  
8 for the amount of the payment or the value of the item of property or  
9 benefit. A former spouse, relative of a former spouse or other person  
10 who, not for value, received a payment, item of property or any  
11 other benefit to which that person is not entitled under this section is  
12 obligated to return the payment, item of property or benefit or is  
13 personally liable for the amount of the payment or the value of the  
14 item of property or benefit to the person who is entitled to it under  
15 this section.

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

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

30 11. As used in this section:

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

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

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

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

43 (e) "Relative of the divorced person's former spouse" means a  
44 person who is related to the divorced person's former spouse by



1 blood, adoption or affinity and who, after the divorce or annulment,  
2 is not related to the divorced person by blood, adoption or affinity.

3 (f) "Revocable," with respect to a disposition, appointment,  
4 provision or nomination, means one under which the divorced  
5 person, at the time of the divorce or annulment, was alone  
6 empowered, by law or under the governing instrument, to cancel the  
7 designation in favor of the person's former spouse or former  
8 spouse's relative, whether or not the divorced person was then  
9 empowered to designate himself or herself in place of his or her  
10 former spouse or in place of his or her former spouse's relative and  
11 whether or not the divorced person then had the capacity to exercise  
12 the power.

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

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

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

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

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

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

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

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

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

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



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

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

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

7       (c) *A trustee appointed pursuant to NRS 156.030 or an*  
8 *administrator or executor appointed pursuant to NRS 156.160, the*  
9 *trustee, administrator or executor shall account as provided in*  
10 *chapter 156 of NRS, except that if a trustee is a trustee of a*  
11 *custodial trust the trustee shall account as provided in chapter*  
12 *166A of NRS.*

13       (d) *A custodian who is nominated or designated under chapter*  
14 *167 of NRS, the custodian shall account as provided in that*  
15 *chapter.*

16       4. *The duty to account of an agent that has accepted*  
17 *appointment under a power of attorney, as described in NRS*  
18 *162A.310, is subject to the limitations set forth in subsection 8 of*  
19 *NRS 162A.310.*

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

25       6. *Nothing in this section shall be construed to prohibit the*  
26 *waiver of a duty by any person to whom the duty is owed. The*  
27 *failure of a person to whom a duty is owed to enforce the duty as*  
28 *to any particular event or conduct shall not be deemed a waiver of*  
29 *that duty as to any other event or conduct.*

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

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

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

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

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

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

41       162.020 1. In NRS 162.010 to 162.140, inclusive, *and*  
42 *section 33 of this act*, unless the context of subject matter otherwise  
43 requires:

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



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

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

9 2. A thing is done "in good faith" within the meaning of NRS  
10 162.010 to 162.140, inclusive, *and section 33 of this act* when it is  
11 in fact done honestly, whether it is done negligently or not.

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

15 **Sec. 36. 1.** *Except as otherwise provided by the terms of the*  
16 *instrument, a trustee may combine two or more trusts into a single*  
17 *trust or divide a trust into two or more separate trusts if*  
18 *the combination or division does not impair the rights of any of*  
19 *the beneficiaries, substantially affect the accomplishment of the*  
20 *purposes of the trust or trusts or violate the rule against*  
21 *perpetuities applicable to the trust or trusts.*

22 **2.** *The combination or division of trusts must be made only*  
23 *after giving notice of the proposed action and following the*  
24 *procedure provided in NRS 164.725. The notice of the proposed*  
25 *action must contain a summary of the anticipated tax*  
26 *consequences, if any, of the proposed combination or division.*

27 **Sec. 37.** *Except as otherwise specifically provided in the*  
28 *instrument and except to the extent it would be materially*  
29 *detrimental to the administration of the trust or the furtherance of*  
30 *its purposes, a trustee may change the name of an irrevocable*  
31 *trust and may give a name to an irrevocable trust that does not*  
32 *have one.*

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

38 **2.** *In a proceeding in which an assertion is made that a*  
39 *person is the alter ego of, or has improper dominion or control*  
40 *over, an irrevocable trust or of a trustee thereof, the following*  
41 *factors, alone or in combination, are not sufficient evidence for*  
42 *the court to determine that the person is an alter ego of, or has*  
43 *improper dominion or control over, the trust or its trustee:*



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 4. *As used in this section, "adviser" means any person*  
43 *advising a trustee with respect to the administration or distribution*  
44 *of a trust, whether or not the person is compensated and whether*



1 *or not the person is acting in a fiduciary capacity. The term*  
2 *includes, without limitation:*

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

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

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

18 1. *Has no power to take under the terms of the governing*  
19 *instrument;*

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

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

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

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

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

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





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

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

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

22       (g) If no trustee is designated or no designated trustee is  
23 willing or able to act, the district court in the county in which the  
24 trust is domiciled shall name one or more trustees and may make  
25 such other orders and determinations as are advisable to carry out  
26 the interest of the settlor and the purposes of the public benefit  
27 trust.

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

31       (a) Is established to further one or more specifically declared  
32 religious, scientific, literary, educational, community development,  
33 personal improvement or philanthropic purposes that is not illegal  
34 or against public policy;

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

41       (c) Does not allow any benefit to the trustee or any cotrustee,  
42 except as to the payment of reasonable compensation and the  
43 reimbursement of expenses incurred for the benefit of the trust;  
44 and



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

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

4 163.002 Except as otherwise provided by specific statute, a  
5 trust may be created by any of the following methods:

6 1. A declaration by the owner of property that he or she holds  
7 the property as trustee. *In the absence of a contrary declaration by*  
8 *the owner of the property or of a transfer of the property to a third*  
9 *party and regardless of formal title to the property:*

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

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

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

20 3. A testamentary transfer of property by the owner to another  
21 person as trustee.

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

23 5. An enforceable promise to create a trust.

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

25 163.004 1. A trust may be created for any purpose that is not  
26 illegal or against public policy.

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

31 (a) The grounds for removing a fiduciary;

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

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

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

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

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

43 (b) Preclude a court of competent jurisdiction from removing a  
44 fiduciary because of the fiduciary's willful misconduct or gross  
45 negligence.



1 ~~4~~ 5. The rule that statutes in derogation of the common law  
2 are to be strictly construed has no application to this section. This  
3 section must be liberally construed to give maximum effect to the  
4 principle of freedom of disposition and to the enforceability of trust  
5 instruments.

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

7 163.006 A trust ~~is, other than a charitable trust,~~ is created only  
8 if there is a beneficiary. This requirement is satisfied if the trust  
9 instrument provides for:

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

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

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

18 4. *A trust for the benefit for animals created pursuant to NRS*  
19 *163.0075; or*

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

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

22 163.020 As used in NRS 163.010 to 163.200, inclusive, *and*  
23 *sections 36 and 37 of this act*, unless the context or subject matter  
24 otherwise requires:

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

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

33 3. "Trust" means an express trust only.

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

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

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

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

43 163.419 *Except as otherwise provided in the trust instrument,*  
44 *as to a discretionary interest, as described in NRS 163.4185:*



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

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

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

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

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

21 163.553 As used in NRS 163.553 to 163.556, inclusive, *and*  
22 *sections 39 and 40 of this act,* unless the context otherwise requires,  
23 the words and terms defined in NRS 163.5533 to 163.5547,  
24 inclusive, *and section 39 of this act* have the meanings ascribed to  
25 them in those sections.

26 **Sec. 49.** NRS 163.5549 is hereby amended to read as follows:

27 163.5549 1. ~~An excluded~~ *A directed* fiduciary is not liable,  
28 individually or as a fiduciary , for any loss which results from:

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

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

36 ~~—(c) Any action taken at the direction of a trust protector.~~ *if the*  
37 *action:*

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

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

43 2. ~~An excluded~~ *A directed* fiduciary is not liable for any  
44 obligation to perform an investment or suitability review, inquiry or  
45 investigation or to make any recommendation or evaluation with



1 respect to any investment, to the extent that the *investment is made*  
2 *by the directing* trust adviser . ~~[, custodial account owner or~~  
3 ~~authorized designee of a custodial account owner had authority to~~  
4 ~~direct the acquisition, disposition or retention of such investment.]~~

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

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

9 163.555 If the instrument provides, ~~an excluded~~ *a directed*  
10 fiduciary may continue to follow the direction of a *directing* trust  
11 adviser upon the incapacity or death of the settlor of the trust.

12 **Sec. 51.** NRS 163.556 is hereby amended to read as follows:

13 163.556 1. Unless the terms of a testamentary instrument or  
14 irrevocable trust provide otherwise, a trustee with discretion or  
15 authority to distribute trust income or principal to or for a  
16 beneficiary of the trust may exercise such discretion or authority by  
17 appointing the property subject to such discretion or authority in  
18 favor of a second trust for the benefit of one or more of those  
19 beneficiaries.

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

22 (a) The second trust includes a beneficiary who is not a  
23 beneficiary of the original trust. For purposes of this paragraph,  
24 a permissible appointee of a power of appointment exercised by a  
25 beneficiary of the second trust is not considered a beneficiary of the  
26 second trust.

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

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

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

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



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

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

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

10 (g) Under the second trust:

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

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

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

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

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

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

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

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

38 (3) The trustee's discretion to make distributions to himself  
39 or herself can only be exercised with the consent of a cotrustee or a  
40 person holding an adverse interest and under the terms of the second  
41 trust the trustee's discretion to make distributions to himself or  
42 herself is not limited by an ascertainable standard and may be  
43 exercised without consent; or

44 (b) Under the terms of the original trust or pursuant to law  
45 governing the administration of the original trust, the trustee of the



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

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

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

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

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

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

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

31 8. The exercise of the power to invade principal of the original  
32 trust pursuant to subsection 1 is considered the exercise of a power  
33 of appointment, other than power to appoint the property to the  
34 trustee, the trustee's creditors, the trustee's estate or the creditors of  
35 the trustee's estate and the provisions of NRS 111.1031 apply to  
36 such power of appointment.

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

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

43 11. The power to appoint property to another trust pursuant to  
44 subsection 1 is not a power to amend the trust and a trustee is not  
45 prohibited from appointing property to another trust pursuant to



1 subsection 1 if the original trust is irrevocable or provides that it  
2 may not be amended.

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

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

9 14. The trustee of a second trust, resulting from the exercise of  
10 the power to appoint property to another trust pursuant to subsection  
11 1, may also exercise the powers granted pursuant to this section with  
12 respect to the second trust.

13 15. As used in this section, "ascertainable standard" means a  
14 standard relating to an individual's health, education, support or  
15 maintenance within the meaning of section 2041(b)(1)(A) or  
16 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A)  
17 or 2514(c)(1), and any regulations of the United States Treasury  
18 promulgated thereunder.

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

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

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

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

28 ***(c) The trust instrument does not provide for the law that***  
29 ***governs the validity and construction of the trust, a person***  
30 ***designated under the terms of the trust instruments to designate***  
31 ***the law that governs the validity and construction of the trust has***  
32 ***not made such a designation and the settlor or the trustee of a***  
33 ***trust was a resident of this State at the time the trust was created***  
34 ***or at the time the trust became irrevocable.***

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

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

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

44 ***(c) A person has designated for the trust a situs or jurisdiction***  
45 ***other than this State, if such person made the designation at a***





1 *time during which he or she held the power to make such a*  
2 *designation under the express terms of the trust instrument.*

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

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

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

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

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

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

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

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

26 *5. Notwithstanding the provisions of this section, if a court of*  
27 *a jurisdiction other than this State has jurisdiction over a trust and*  
28 *grants an order authorizing a transfer of jurisdiction over the trust*  
29 *to this State, the district court has the power to assume jurisdiction*  
30 *over that trust and to otherwise supervise the administration of*  
31 *that trust in accordance with the procedures set forth in this title if*  
32 *the requirements of subsection 2 are satisfied. A trust, the situs of*  
33 *which is outside this State, that moves its situs to this State is valid*  
34 *whether or not the trust complies with the laws of this State at the*  
35 *time of its creation or after its creation.*

36 *6. As used in this section, "account" includes, without*  
37 *limitation, a checking account, time deposit, certificate of deposit,*  
38 *brokerage account, investment fund, a trust company fiduciary*  
39 *account and any other similar account or deposit.*

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

41 164.010 1. *Subject to the provisions of section 52 of this act:*

42 *(a) Upon petition of any person appointed as trustee of an*  
43 *express trust by any written instrument other than a will, or upon*  
44 *petition of a settlor or beneficiary of the trust, the district court of*  
45 *the county in which the trustee resides or conducts business, or in*



1 which the trust has been domiciled, shall consider the application  
2 *for the court* to ~~confirm the appointment of the trustee and specify~~  
3 ~~the manner in which the trustee must qualify. Thereafter the court~~  
4 ~~has~~ *assume* jurisdiction of the trust as a proceeding in rem.

5 ~~{2-}~~ (b) If the court grants the petition, it ~~{may}~~ :

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

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

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

11 (4) *May consider at the same time* ~~{any petition for~~  
12 ~~instructions filed with the petition for confirmation.~~

13 ~~—3-~~ *granting orders on other matters related to the trust,*  
14 *including, without limitation, matters that might be addressed in a*  
15 *declaratory judgment relating to the trust under subsection 2 of*  
16 *NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015,*  
17 *and such matters may be raised in the petition to assume*  
18 *jurisdiction or in one or more separate petitions that are filed*  
19 *concurrently with the petition to assume jurisdiction.*

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

22 ~~{4-}~~ 2. *For the purposes of this section, a trust is domiciled:*

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

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

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

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

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

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

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

41 164.015 1. The court , *as defined in NRS 132.116*, has  
42 exclusive jurisdiction of proceedings initiated by the petition of an  
43 interested person concerning the internal affairs of a  
44 nontestamentary trust, including a revocable living trust while the  
45 settlor is still living if the court determines that the settlor cannot



1 adequately protect his or her own interests or if the interested person  
2 shows that the settlor is incompetent or susceptible to undue  
3 influence. Proceedings which may be maintained under this section  
4 are those concerning the administration and distribution of trusts,  
5 the declaration of rights and the determination of other matters  
6 involving trustees and beneficiaries of trusts, including petitions  
7 with respect to a nontestamentary trust for any appropriate relief  
8 provided with respect to a testamentary trust in NRS 153.031 **H and**  
9 ***petitions for a ruling that property not formally titled in the name***  
10 ***of a trust or its trustee constitutes trust property pursuant to***  
11 ***NRS 163.002.***

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

16 3. If an interested person contests the validity of a revocable  
17 nontestamentary trust, the interested person is the plaintiff and the  
18 trustee is the defendant. The written grounds for contesting the  
19 validity of the trust constitutes a pleading and must conform with  
20 any rules applicable to pleadings in a civil action. ***This subsection***  
21 ***applies whether the person contesting the validity of the trust is the***  
22 ***petitioner or the objector and whether or not the opposition to the***  
23 ***validity of the trust is asserted under this section or subsection 2 of***  
24 ***NRS 30.040.***

25 4. In a proceeding pursuant to subsection 3, the competency of  
26 the settlor to make the trust, the freedom of the settlor from duress,  
27 menace, fraud or undue influence at the time of execution of the  
28 will, the execution and attestation of the trust instrument, or any  
29 other question affecting the validity of the trust is a question of fact  
30 and must be tried by the court, subject to the provisions of  
31 subsection 5.

32 5. A court may consolidate the cases if there is a contest of a  
33 revocable nontestamentary trust and a contest relating to a will  
34 executed on the same date. If a jury is demanded pursuant to NRS  
35 137.020 for the contest of the will, the court may instruct the jury to  
36 render an advisory opinion with respect to an issue of fact pursuant  
37 to subsection 4 in the contest of the trust.

38 6. Upon the hearing, the court shall enter such order as it  
39 deems appropriate. The order is final and conclusive as to all  
40 matters determined and is binding in rem upon the trust estate and  
41 upon the interests of all beneficiaries, vested or contingent, except  
42 that appeal to the Supreme Court may be taken from the order  
43 within 30 days after notice of its entry by filing notice of appeal  
44 with the clerk of the district court. The appellant shall mail a copy of  
45 the notice to each person who has appeared of record. If the



1 proceeding was brought pursuant to subsection 3, 4 or 5, the court  
2 must also award costs pursuant to chapter 18 of NRS.

3 7. ~~1A~~ *Except as otherwise ordered by the court, a* proceeding  
4 under this section does not result in continuing supervisory  
5 proceedings ~~1-The~~ *and the* administration of the trust must proceed  
6 expeditiously in a manner consistent with the terms of the trust,  
7 without judicial intervention or the order, approval or other action of  
8 any court, unless the jurisdiction of the court is invoked by an  
9 interested person or exercised as provided by other law.

10 8. *As used in this section, "nontestamentary trust" has the*  
11 *meaning ascribed to it in section 1.7 of this act.*

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

13 164.025 1. The trustee of a nontestamentary trust may after  
14 the death of the settlor of the trust cause to be published a notice in  
15 the manner specified in paragraph (b) of subsection 1 of NRS  
16 155.020 and mail a copy of the notice to known or readily  
17 ascertainable creditors.

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

19  
20 NOTICE TO CREDITORS

21  
22 Notice is hereby given that the undersigned is the duly appointed  
23 and qualified trustee of the ..... trust. ...., the settlor of  
24 that trust died on ..... A creditor having a claim against the  
25 trust estate must file a claim with the undersigned at the address  
26 given below within 90 days after the first publication of this notice.

27  
28 Dated .....

29  
30 .....  
31 Trustee

32 .....  
33 Address

34  
35 3. A person having a claim, due or to become due, against a  
36 settlor or the trust must file the claim with the trustee within 90 days  
37 after the mailing, for those required to be mailed, or 90 days after  
38 publication of the first notice to creditors. Any claim against the  
39 trust estate not filed within that time is forever barred. After the  
40 expiration of the time, the trustee may distribute the assets of  
41 the trust to its beneficiaries without personal liability to any creditor  
42 who has failed to file a claim with the trustee.

43 4. If the trustee knows or has reason to believe that the settlor  
44 received public assistance during the lifetime of the settlor, the  
45 trustee shall, whether or not the trustee gives notice to other



1 creditors, give notice within 30 days after the death to the  
2 Department of Health and Human Services in the manner provided  
3 in NRS 155.010. If notice to the Department is required by this  
4 subsection but is not given, the trust estate and any assets transferred  
5 to a beneficiary remain subject to the right of the Department to  
6 recover public assistance received.

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

16 **6. As used in this section, “nontestamentary trust” has the**  
17 **meaning ascribed to it in section 1.7 of this act.**

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

19 164.410 1. A certification of trust may confirm the following  
20 facts or contain the following information:

21 (a) The existence of the trust and date of execution of any trust  
22 instrument;

23 (b) The identity of the settlor and each currently acting trustee;

24 (c) The powers of the trustee and any restrictions imposed upon  
25 the trustee in dealing with assets of the trust;

26 (d) The revocability or irrevocability of the trust and the identity  
27 of any person holding a power to revoke it;

28 (e) If there is more than one trustee, whether all of the currently  
29 acting trustees must or less than all may act to exercise identified  
30 powers of the trustee;

31 (f) ~~The identifying number of the trust and whether it is a social~~  
32 ~~security number or an employer identification number;~~ **A**  
33 **declaration regarding the situs or domicile of the trust and**  
34 **regarding the law that governs the validity, construction and**  
35 **administration of the trust;** and

36 (g) The form in which title to assets of the trust is to be taken.

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

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

42 164.725 1. As used in this section, “action” includes a course  
43 of action and a decision on whether or not to take action.

44 2. A trustee may provide a notice of proposed action regarding  
45 any matter governed by NRS 163.556 or 164.700 to 164.925,



1 inclusive. *Except as otherwise provided in the trust instrument, a*  
2 *trustee may provide a notice of proposed action regarding any*  
3 *aspect of the administration of the trust.*

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

12 4. The notice of proposed action must state:

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

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

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

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

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

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

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

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

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

42 8. If the trustee decides not to take a proposed action for which  
43 notice has been provided, the trustee shall notify the beneficiaries of  
44 his or her decision not to take the proposed action and the reasons  
45 for the decision. The trustee is not liable to any present or future



1 beneficiary with respect to the decision not to take the proposed  
2 action. A beneficiary may petition the court for an order to take the  
3 action as proposed. The burden is on the beneficiary to prove that  
4 the proposed action should be taken.

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

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

11 164.740 Except as otherwise provided in chapter 669A of  
12 NRS, a trustee who invests and manages trust property owes a duty  
13 to the beneficiaries of the trust to comply with the prudent investor  
14 rule as set forth in NRS 164.700 to 164.775, inclusive, but a trustee  
15 is not liable to a beneficiary to the extent that the trustee ~~acted~~ :

16 1. *Acted* in reasonable reliance on the terms of the trust ~~H~~ *or a*  
17 *court order; and*

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

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

21 164.950 1. If two settlors who are married establish a  
22 nontestamentary trust jointly, and the trust provides for the  
23 pecuniary or fractional division of the community property held by  
24 the settlors upon the death of one of the settlors, the trustee has the  
25 authority to distribute the community property unless the trust  
26 instrument expressly provides otherwise. The trustee may distribute  
27 the community property on a non-pro rata basis so long as the fair  
28 market value of the distribution is, at the time of the distribution, the  
29 same as if the distribution were made pro rata. The provisions of this  
30 section do not affect the distribution of assets that are specifically  
31 allocated in the trust instrument to be distributed in kind.

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

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

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

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

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



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

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

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

13       165.050 1. Within 60 days after the termination of a  
14 testamentary trust, the trustee ~~[, and in the case of the transfer of the~~  
15 ~~trusteeship because of the death, resignation, removal, dissolution,~~  
16 ~~merger or consolidation of a sole trustee, the successor in interest of~~  
17 ~~the old trustee,]~~ shall file with the court of the county where the will  
18 was admitted to probate a final account under oath ~~[, showing]~~ for  
19 the period since the ~~[filing of the last]~~ *most recent* account ~~[the facts~~  
20 ~~required by NRS 165.040 regarding intermediate accountings, and~~  
21 ~~in the case of termination of the trust,]~~ *was provided to and*  
22 *approved or deemed approved by the beneficiaries. The final*  
23 *account must comply with subsection 3 or 4 of NRS 165.135 and*  
24 *must set forth the distribution of the trust property which the*  
25 ~~[accountant]~~ *trustee* proposes to make.

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

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

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

37       165.137 1. The following provisions apply to the extent that  
38 the trust instrument does not expressly provide otherwise:

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

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





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

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

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

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

12 (2) The court, in considering a petition filed under NRS  
13 164.015, determines that the settlor is incompetent or is susceptible  
14 to undue influence and directs the trustee to provide an account,  
15 specifying the nature and extent of the account to be provided and  
16 the person or persons who are entitled to receive the account;

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

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

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

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

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

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

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

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



1 received the electronic mail in a manner that complies with  
2 subsection 2 of NRS 719.320; and

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

7 2. As used in this section:

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

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

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

13 165.139 Notwithstanding any provision to the contrary in the  
14 trust instrument:

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

23 2. Except as otherwise provided in this subsection ~~{}~~ *and NRS*  
24 *165.137*, upon request, an account must be provided annually to  
25 each remainder beneficiary of an irrevocable trust. A beneficiary  
26 who has been eliminated by the exercise of a power of appointment  
27 has no right to request or receive an account . ~~{pursuant to this~~  
28 ~~subsection.}~~ *Upon request, an account must be provided annually*  
29 *to each living settlor, and a settlor has standing to enforce the*  
30 *terms of the trust and all applicable law on behalf of any*  
31 *beneficiaries.*

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

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

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

38 4. Unless the court determines that ~~{there is clear and~~  
39 ~~convincing evidence that}~~ the trustee was acting in good faith, a  
40 trustee who fails to provide an account when required pursuant to  
41 *the terms of the trust instrument or* NRS 165.122 to 165.149,  
42 inclusive, is personally liable to each ~~{beneficiary}~~ *person entitled*  
43 *to receive an account* who requested the account in writing for all  
44 costs reasonably incurred by each such ~~{beneficiary}~~ *person* to  
45 enforce *the terms of the trust or* NRS 165.122 to 165.149,



1 inclusive, including, without limitation, reasonable attorney's fees  
2 and court costs. The trustee may not expend trust funds therefor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

11 (2) *The guardian of the person of the minor, if a court has*  
12 *appointed such a guardian but has not appointed a guardian of*  
13 *the estate of the minor; or*

14 (3) *A parent who has custody of the minor, if a court has*  
15 *not appointed a guardian of the estate of the minor or a guardian*  
16 *of the person of the minor.*

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

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

21 (2) *If a court has not appointed a guardian of the estate of*  
22 *the beneficiary, the guardian of the person of the beneficiary*  
23 *appointed by a court.*

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

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

33 6. Upon request by a beneficiary who is entitled to receive an  
34 account pursuant to the terms of NRS 165.122 to 165.149, inclusive,  
35 a trustee shall provide a copy of the trust instrument to that  
36 beneficiary except as expressly provided otherwise in the trust  
37 instrument.

38 ~~7.~~ 7. Notwithstanding the provisions of subsection ~~6~~ 6 or  
39 any provision to the contrary in the trust instrument, the court may  
40 direct the trustee to provide a beneficiary who is entitled to receive  
41 an account pursuant to the terms of NRS 165.122 to 165.149,  
42 inclusive, a copy of the trust instrument, or such portions as the  
43 court deems to be pertinent to the determination of the adequacy of  
44 the trustee's account and to the enforcement of the beneficiary's  
45 rights under the trust.



1 ~~13-1~~ 8. Except as otherwise provided in NRS 165.145 or by  
2 order of the court for good cause shown, the trustee must not be  
3 compelled to provide a copy of the trust instrument to a person who  
4 is not a beneficiary of the trust or a person who is not entitled to an  
5 account of the trust pursuant to the provisions of NRS 165.122 to  
6 165.149, inclusive.

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

8 166.120 1. A spendthrift trust as defined in this chapter  
9 restrains and prohibits generally the assignment, alienation,  
10 acceleration and anticipation of any interest of the beneficiary under  
11 the trust by the voluntary or involuntary act of the beneficiary, or by  
12 operation of law or any process or at all. The trust estate, or corpus  
13 or capital thereof, shall never be assigned, aliened, diminished or  
14 impaired by any alienation, transfer or seizure so as to cut off or  
15 diminish the payments, or the rents, profits, earnings or income of  
16 the trust estate that would otherwise be currently available for the  
17 benefit of the beneficiary.

18 2. Payments by the trustee to the beneficiary, whether such  
19 payments are mandatory or discretionary, must be made only to or  
20 for the benefit of the beneficiary and not by way of acceleration or  
21 anticipation, nor to any assignee of the beneficiary, nor to or upon  
22 any order, written or oral, given by the beneficiary, whether such  
23 assignment or order be the voluntary contractual act of the  
24 beneficiary or be made pursuant to or by virtue of any legal process  
25 in judgment, execution, attachment, garnishment, bankruptcy or  
26 otherwise, or whether it be in connection with any contract, tort or  
27 duty. Any action to enforce the beneficiary's rights, to determine if  
28 the beneficiary's rights are subject to execution, to levy an  
29 attachment or for any other remedy must be made only in a  
30 proceeding commenced pursuant to chapter 153 of NRS, if against a  
31 testamentary trust, or NRS 164.010, if against a nontestamentary  
32 trust. ~~1A~~ *The district court, as defined in NRS 132.116,* has  
33 exclusive jurisdiction over any proceeding pursuant to this section.

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



1 from any and all obligations of the beneficiary whatsoever and of all  
2 responsibility therefor.

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

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

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

9 166.170 1. ~~{A}~~ *Except as otherwise provided in this section,*  
10 *a person may not bring an action with respect to a ~~{transfer of~~*  
11 *property to a~~}~~ spendthrift trust ~~{:~~*

12 ~~—(a) If the person is a creditor when the transfer is made,} that is~~  
13 ~~unrelated to a transfer of property unless the action is commenced~~  
14 ~~within ~~{:~~~~

15 ~~—(1) Two} 2 years after the ~~{transfer is made; or~~~~

16 ~~—(2) Six months after the person discovers or reasonably~~  
17 ~~should have discovered the transfer,~~

18 ~~— whichever is later.~~

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

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

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

45 ~~{B}~~ *For the purposes of this subsection:*



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

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

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

18 5. Except as expressly provided for in the trust instrument,  
19 the property of a spendthrift trust is not subject to the claims of a  
20 creditor of the settlor. A creditor may not reach any property of a  
21 spendthrift trust to satisfy the creditor's claim against a settlor or  
22 beneficiary unless the creditor establishes that the specific  
23 property was not properly transferred to the trust or has been  
24 transferred from the trust pursuant to the terms of the trust  
25 instrument or that the trust is invalid as a spendthrift trust as to  
26 such specific property, subject to the following limitations:

27 (a) A creditor may not bring an action with respect to transfer of  
28 property to a spendthrift trust unless a creditor can prove by clear  
29 and convincing evidence that the transfer of *specific* property was ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
30 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
31 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
32 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
33 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
34 ~~fraudulent transfer pursuant to chapter 112 of NRS or that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor.]~~  
35 made:

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

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

41 (b) Proof by one creditor that a transfer of property was  
42 ~~fraudulent or wrongful] made in violation of subparagraph (1) or~~  
43 ~~fraudulent or wrongful] made in violation of subparagraph (1) or~~  
44 ~~fraudulent or wrongful] made in violation of subparagraph (1) or~~  
45 (2) of paragraph (a) does not constitute proof of a violation as to  
any other creditor and proof ~~of a fraudulent or wrongful] that a~~  
~~of a fraudulent or wrongful] that a~~  
~~of a fraudulent or wrongful] that a~~  
transfer of *the specific* property ~~is] is subject~~ to the claims of one



1 creditor ~~shall~~ *does* not invalidate *that transfer as to any other*  
2 *creditor and does not invalidate* any other transfer of property.

3 ~~4.1~~ 6. If property transferred to a spendthrift trust is conveyed  
4 to the settlor or to a beneficiary for the purpose of obtaining a loan  
5 secured by a mortgage or deed of trust on the property and then  
6 reconveyed to the trust, for the purpose of ~~subsection 1.1~~ *this*  
7 *section*, the transfer is disregarded and the reconveyance relates  
8 back to the date the property was originally transferred to the trust.  
9 The mortgage or deed of trust on the property shall be enforceable  
10 against the trust.

11 ~~5.1~~ 7. A person may not bring a claim against an adviser to  
12 the settlor or trustee of a spendthrift trust unless the person can show  
13 by clear and convincing evidence that the adviser acted in violation  
14 of the laws of this State, knowingly and in bad faith, and the  
15 adviser's actions directly caused the damages suffered by the  
16 person.

17 ~~6.1~~ 8. A person other than a beneficiary or settlor may not  
18 bring a claim against a trustee of a spendthrift trust unless the person  
19 can show by clear and convincing evidence that the trustee acted in  
20 violation of the laws of this State, knowingly and in bad faith, and  
21 the trustee's actions directly caused the damages suffered by the  
22 person. ~~As used in this subsection, "trustee" includes a cotrustee, if~~  
23 ~~any, and a predecessor trustee.~~

24 ~~7.1~~ 9. If more than one transfer is made to a spendthrift trust:

25 (a) The subsequent transfer to the spendthrift trust must be  
26 disregarded for the purpose of determining whether a person may  
27 bring an action pursuant to subsection ~~4.1~~ 2 with respect to a prior  
28 transfer to the spendthrift trust; and

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

32 ~~8.1~~ 10. Notwithstanding any other provision of law ~~5.101~~:

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

39 ~~9.1~~ (b) *No action of any kind, including, without limitation,*  
40 *an action to enforce a judgment entered by a court or other body*  
41 *having adjudicative authority, may be brought at law or in equity*  
42 *for an attachment or other provisional remedy against property*  
43 *that is owned by a spendthrift trust unless a creditor can provide*  
44 *either:*





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

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

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

17 ~~—10.† on a later date.~~

18           ***12.*** As used in this section:

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

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

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

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

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

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

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



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

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

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

8           (6) *Compel a distribution to a beneficiary or to a creditor*  
9 *from a support interest, as described in NRS 163.4185, or from a*  
10 *discretionary interest, as described in NRS 163.4185.*

11       (c) "Adviser" means any person, including, without limitation,  
12 an accountant, attorney or investment adviser, who gives advice  
13 concerning or was involved in the creation of, transfer of property  
14 to, or administration of the spendthrift trust or who participated in  
15 the preparation of accountings, tax returns or other reports related to  
16 the trust.

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

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

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

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

25       687B.260 1. If a policy of insurance, whether issued before,  
26 on or after January 1, 1972, is effected by any person on his or her  
27 own life, or on another life, in favor of a person other than himself  
28 or herself, *including, without limitation, a trust established by the*  
29 *insured or the person so effecting such insurance*, or, except in  
30 cases of transfer with intent to defraud creditors, if a policy of life  
31 insurance is assigned or in any way made payable to any such  
32 person, the lawful beneficiary or assignee thereof, *including,*  
33 *without limitation, a trust established by the insured or the person*  
34 *so effecting such insurance*, other than the insured or the person so  
35 effecting such insurance or executors or administrators of the  
36 insured or the person so effecting such insurance, is entitled to its  
37 proceeds and avails against the creditors and representatives of the  
38 insured and of the person effecting the same, whether or not the  
39 right to change the beneficiary is reserved or permitted and whether  
40 or not the policy is made payable to the person whose life is insured  
41 or to the executors or administrators of such person if the  
42 beneficiary or assignee predeceases the person. Except as otherwise  
43 provided in this subsection, such proceeds and avails are exempt  
44 from all liability for any debt of the beneficiary existing at the time  
45 the proceeds and avails are made available for the use of the



1 beneficiary. Subject to the statute of limitations, the amount of any  
2 premiums for such insurance paid with intent to defraud creditors,  
3 with interest thereon, inures to the benefit of the creditors from the  
4 proceeds of the policy. The insurer issuing the policy is discharged  
5 of all liability thereon by payment of its proceeds in accordance with  
6 its terms, unless, before the payment, the insurer has received  
7 written notice at its home office, by or in behalf of a creditor, of a  
8 claim to recover for transfer made or premiums paid with intent to  
9 defraud creditors, with specification of the amount claimed along  
10 with such facts as will assist the insurer to ascertain the particular  
11 policy.

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

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

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

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

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

33 **Sec. 66.** NRS 687B.290 is hereby amended to read as follows:  
34 687B.290 1. The benefits, rights, privileges and options  
35 which under any annuity contract issued prior to or after January 1,  
36 1972, are due or prospectively due the annuitant shall not be subject  
37 to execution nor shall the annuitant be compelled to exercise any  
38 such rights, powers or options, nor shall creditors be allowed to  
39 interfere with or terminate the contract, except as to amounts paid  
40 for or as premium on any such annuity with intent to defraud  
41 creditors, with interest thereon, and of which the creditor has given  
42 the insurer written notice at its home office prior to the making of  
43 the payment to the annuitant out of which the creditor seeks to  
44 recover. Any such notice shall specify the amount claimed or such  
45 facts as will enable the insurer to ascertain such amount, and shall



1 set forth such facts as will enable the insurer to ascertain the annuity  
2 contract, the annuitant and the payment sought to be avoided on the  
3 ground of fraud.

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

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

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

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

18 **Sec. 67.** NRS 163.4177, 163.418, 163.5539, 165.040, 165.045,  
19 165.055 and 165.110 are hereby repealed.

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## LEADLINES OF REPEALED SECTIONS

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**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.**

