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## Administration of Estates; Reform of Public Administrator Office

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15. NRS 159.035.
16. NRS 159.061.
17. NRS 159.065.
18. NRS 159.177.
19. NRS 159.183.
20. Ch. 277 §1 (adding to NRS Ch. 17).

ADMINISTRATION OF ESTATES; FILING AFFIDAVITS

Amends NRS 147.070

SB 364 (Committee on Judiciary); STATS 1979, Ch 302

Chapter 302 eliminates the necessity of filing an affidavit in support of a claim against an estate when the claim is for less than \$250.<sup>1</sup> Prior law required that an affidavit of support be filed with every claim against an estate.<sup>2</sup>

An affidavit of support required for claims exceeding \$250 must aver that the amount demanded: (a) is due, or will be due on a specified date; (b) includes credit for prior payments; and (c) to the knowledge of the affiant, is not subject to offset.<sup>3</sup>

Rosalie Lazzarotto

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FOOTNOTES

1. 1979 Nev. Stats. ch. 302 §1 (hereinafter "Ch. 302") (amending NRS 147.070(1)).
2. 1967 Nev. Stats. ch. 180 §1, at 361 (NRS 147.070(1)). See also Maples v. Geller, 1 Nev. 195, 196 (1865).
3. Ch. 302 §1 (amending NRS 147.070(1)(9)(b)).

ADMINISTRATION OF ESTATES; REFORM OF PUBLIC ADMINISTRATOR OFFICE

Adds to NRS Chapter 253

Amends NRS 253.010, 253.020, 253.030, 253.050, 253.130, 253.210

Repeals NRS 253.090

SB 556 (Committee on Government Affairs); STATS 1979, Ch 515

(\$3 effective 1980; §§10-12, 18 conditionally effective January 1, 1981;  
remainder effective July 1, 1979.)

Chapter 515 defines and enlarges the scope of duties of public administrators in counties having a population of 200,000<sup>1</sup> or more,<sup>2</sup> and, subject to ratification of an enabling constitutional amendment, makes the office an appointive one,<sup>3</sup> with salary levels set by the state legislature.<sup>4</sup>

Chapter 515 requires that when a person requests the services of the public administrator the public administrator must (a) determine whether there are any other qualified people willing and able to serve as guardian or administrator,<sup>5</sup> and (b) if no such person is found, petition the court for appointment as guardian of the person and the estate.<sup>6</sup>

The public administrator must also estimate the gross value of the estate of any person dying intestate with no qualified person willing and able to administer the estate.<sup>7</sup> If the estate appears to be worth less than \$10,000, the public administrator must either assist a proper person<sup>8</sup> to have the estate set aside without administration, or himself so petition the court.<sup>9</sup> If the estate appears to be worth more than \$10,000, the public administrator is to proceed with appropriate administration, retaining an attorney to assist him if such assistance is needed.<sup>10</sup> The employment of attorneys is to be rotated among qualified and willing attorneys practicing in the county; the fees are to be charged against the estate.<sup>11</sup>

The public administrator is empowered to obtain information from any public records without paying fees<sup>12</sup> and may require any proposed ward or relative of the proposed ward to provide access to otherwise confidential records needed to evaluate the public administrator's eligibility to serve.<sup>13</sup>

The public administrator offices are no longer required to submit quarterly reports of compensation received,<sup>14</sup> although public administrators will still receive fees from the estates administered.<sup>15</sup> Instead, these fees must be deposited in the county's general fund,<sup>16</sup> and the county will pay the public administrator a salary of \$26,500 per annum.<sup>17</sup>

Chapter 515 changes the position of public administrator from an elective one to an appointive one.<sup>18</sup> This change is subject to voter ratification of an enabling constitutional amendment at the 1980 general election.<sup>19</sup> The office is to be

appointed by the county administrator (subject to confirmation by the board of county commissioners) in those counties which have administrators or managers.<sup>20</sup> Other counties will have public administrators appointed directly by the board of county commissioners,<sup>21</sup> except that in Lander, Lincoln and White Pine counties, the district attorney will continue to serve as an ex officio public administrator.<sup>22</sup> Every person appointed to the office of public administrator must take the oath of office and post \$10,000 bond within ten days of appointment.<sup>23</sup>

The boards of county commissioners will assume closer supervision of the office. Chapter 515 requires the boards to enact legislation for public administrators' reports, review those reports, and investigate any complaints received against the public administrator.<sup>24</sup> The boards may also, at their discretion, investigate any guardianship or estate being served by the public administrator.<sup>25</sup>

Special administrators are still to be appointed when a public administrator is unavailable.<sup>26</sup> The district court may appoint a special administrator when there is a vacancy in the office of public administrator.<sup>27</sup> The appointment terminates when the public administrator is appointed.<sup>28</sup>

Finally, Chapter 515 amends NRS 159.051, which provides for court appointment of a temporary guardian. Formerly, the temporary guardian was appointed for a period not to exceed six months.<sup>29</sup> The amendment shortens this period to five days, but allows extensions upon showing of good cause in a court hearing.<sup>30</sup>

The new duties of the public administrator are identical to those of the public guardian.<sup>31</sup> Because the legislature has established no separate eligibility requirements for wards requesting that the public administrator serve as their guardian, and because the public guardian sections<sup>32</sup> have been left intact, it might be inferred that the legislature anticipates the designation of the individual counties' public administrators as ex officio public guardians. Any board of county commissioners has the option of appointing and paying a public guardian for a four year term,<sup>33</sup> designating another county commissioner as ex officio public guardian,<sup>34</sup> or simply not establishing a public guardian position at all.<sup>35</sup>

Wesley Kumagai

## FOOTNOTES

1. This population threshold will become 250,000 in 1980 when the official 1980 U.S. census is reported. 1979 Nev. Stats. ch. 515 (hereinafter "Ch. 515") §§3, 19 (adding to NRS Ch. 253).
2. Ch. 515 §§2-9 (adding to NRS Ch. 253).
3. Id. §10 (amending NRS 253.010).
4. Id. §6 (adding to NRS Ch. 253).
5. Id. §4 ¶1(b) (adding to NRS Ch. 253).
6. Id. §4 ¶2 (adding to NRS Ch. 253).
7. Id. §8 ¶1 (adding to NRS Ch. 253).
8. See NRS 146.080 (as amended by 1979 Nev. Stats. ch. 322 §1).
9. Ch. 515 §8 ¶2 (adding to NRS Ch. 253).
10. Id. §8 ¶3(a) (adding to NRS Ch. 253).
11. Id. §8 ¶3(b), (adding to NRS Ch. 253).
12. Id. §5 ¶2 (adding to NRS Ch. 253).
13. Id. §5 ¶1 (adding to NRS Ch. 253).
14. Id. §17 (repealing NRS 253.090).
15. Id. §13 (amending NRS 253.050).
16. Id. §6 (adding to NRS Ch. 253).
17. Id.
18. Id. §10 (amending NRS 253.010(1), (2)).
19. Id. §19 ¶2.
20. Id. §10 (adding NRS 253.010(1)(a)).
21. Id. §10 (adding NRS 253.010(1)(b)).
22. NRS 253.010(2) (as renumbered by Ch. 515 §10).
23. Ch. 515 §11 (amending NRS Ch. 253).
24. Id. §9 (adding to NRS Ch. 253).
25. Id.
26. NRS 140.010.
27. Ch. 515 §12 (amending NRS 253.030(2)).
28. Id.
29. 1969 Nev. Stats. ch. 246 §21, at 414 (NRS 159.051).
30. Ch. 515 §16 (amending NRS 159.051).
31. Compare NRS 253.220 with Ch. 515 §4 (Adding to NRS Ch. 253).
32. NRS 253.150 through 253.250.
33. NRS 253.150(2)(a), 253.150(3).
34. NRS 253.150(2)(b).

35. NRS 253.150(1).

BUSINESS AND PROFESSIONS; MAXIMUM CONTRACTUAL INTEREST RATE (USURY)

Amends NRS 99.050

Adds to NRS Chapters 99, 645B

SB 26 (Committee on Judiciary); STATS 1979, Ch 498

(Effective May 25, 1979)

Chapter 498 changes the maximum contractual interest rate to 18% per annum, clarifies that agreements for interest in excess of the maximum are void as to all interest, and provides for the computation of annual interest.<sup>1</sup> Chapter 498 adds a section to NRS Chapter 99 defining "interest."<sup>2</sup> Additionally, Chapter 498 adds a section to NRS Chapter 645B making specific provisions for loans made by or through mortgage companies and secured by mortgages or deeds of trust of real property.<sup>3</sup> Those loans are subject to a different maximum contractual interest rate<sup>4</sup> and interest on those loans excludes mortgage brokerage fees.<sup>5</sup> The provisions of Chapter 498 do not apply to any contract or note made prior to May 25, 1979, the effective date of the law, regardless of any provision in a contract or note.<sup>6</sup>

Interest Rate

Chapter 498 affects the maximum rate of interest which may be set by a contract; it does not affect the rate of interest applied in the absence of a contract setting the rate of interest.<sup>7</sup> Furthermore, the rate of interest or time price differential which may be charged by licensed small loan lenders,<sup>8</sup> thrift companies,<sup>9</sup> pawn brokers,<sup>10</sup> or installment retailers<sup>11</sup> is unaffected. Prior to enactment of Chapter 498, NRS 99.050 set the maximum contractual interest rate at 12% per annum or at a rate based on the lowest daily prime rate at the three largest United States lending institutions (if more than 9%) plus 2.5%, whichever was greater.<sup>12</sup> Chapter 498 provides that the above maximum still applies to loans made by or through mortgage companies and secured by mortgages or deeds of trust of real property.<sup>13</sup>