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Administration of Estates; sales of real property

N.R.S. §§148.270, 148.290 (amended).

SB 448 (Committee on Judiciary); STATS 1981, Ch 297

Existing law requires that all sales of property from estates of decedents must be reported to and approved by the court before the transfer of title.¹ In approving the sale of real property, the court must examine the return from the sale and determine whether the sale is necessary, or will benefit the estate.² A sale of real property will not be approved, however, if the bid price does not represent the fair market value of the property.³ Under prior law, a bid on the property could not be accepted if a subsequent offer that would exceed the bid price by ten percent could be obtained.⁴ Chapter 297 now requires that the bid may not be accepted if a subsequent offer may be received that exceeds the bid price by at least five percent for bids less than \$100,000, or by at least \$5,000 for bids \$100,000 or more.⁵

Prior to the enactment of Chapter 297, the court was permitted to accept a subsequent written offer that exceeded the earlier bid price by at least ten percent.⁶ Chapter 297 now provides that a subsequent offer may be accepted if it exceeds the earlier bid price by five percent for bids less than \$100,000 or by \$5,000 for bids of \$100,000 or more.⁷ Existing law continues to provide that if the subsequent offer complies with the provisions for acceptance, the court may reject the subsequent offer and order a new sale or conduct a public auction in open court.⁸ Existing law further provides that sales of real property must be for cash or for a note secured by a mortgage or deed of trust on the property.⁹ Chapter 297 now specifies that the mortgage or deed of trust may provide for release of parts of the property.¹⁰ These provisions, however, must be approved by the court.¹¹

1. See N.R.S. §148.060.

2. See N.R.S. §§148.050, 148.270. See generally T. ATKINSON, HANDBOOK OF THE LAW OF WILLS, §123 (2d ed. 1953) (the court's concern is that unpaid debts exist and there is insufficient personal property to pay them).

3. See N.R.S. §§148.260, 148.270 2 (allowing value to be verified by appraisal within one year of the time of the sale).

4. See STATUTES OF NEVADA 1941, c. 107, §161, at 199 (amending N.R.S. §148.270).

5. Compare N.R.S. §148.270 with STATUTES OF NEVADA 1941, c. 107, §163, at 199.

6. See STATUTES OF NEVADA 1941, c. 107, §161, at 199.

7. See N.R.S. §148.270 3.

8. See *id.*

9. See *id.* §148.290 1.

10. Compare N.R.S. §148.290 1, 2 with STATUTES OF NEVADA 1941, c. 107, §163, at 200 (amending N.R.S. §148.290).

11. See N.R.S. §148.290 2.