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Administration of Estates; Wills and Bond Requirements

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Administration of Estates

Administration of Estates; wills and bond requirements

NEV. REV. STAT. §133.— (new); §§136.180, 142.020 (amended).
SB 21 (Committee on Judiciary); 1983 STAT. Ch 49

Under prior law, a testator was not permitted to incorporate an extrinsic document into a will unless the document was in existence at the time the will was made and the will clearly referred to the document.¹ Chapter 49 provides that a will may refer to a written statement or list that disposes of tangible personal property. This extrinsic document, however, cannot dispose of money, evidence of indebtedness, documents of title, securities, or property that is used in a trade or business.² Under Chapter 49, the statement or list must contain (1) the date of its execution, (2) a title indicating its purpose, (3) a reference to the referring will, (4) a reasonably certain description of the items and legatees, and (5) the testator's signature.³ In addition, the statement or list may be prepared before or after the execution of the will, may be altered by the testator after its preparation, and may have no significance apart from the effect on the disposition of the will.⁴

Prior law also provided that when the original will of a resident of Nevada at the time of death was beyond the jurisdiction of the State, a copy of the will could be admitted to probate.⁵ Chapter 49 deletes the requirement that the person be a resident of Nevada at the time of death.⁶

Furthermore, prior law required that an executor or administrator post a bond with two or more sureties.⁷ The penalties could not be less than the value of the personal property including rents and profits from the estate. If the court ordered the sale of real property, however, the penalty was to include the expected proceeds from the sale.⁸ Chapter 49 eliminates the harsh results caused by these bond requirements by

1. *Soady v. First National Bank*, 82 Nev. 97, 101, 411 P.2d 482, 484 (1966).

2. 1983 Nev. Stat. c. 49, §1, at 198.

3. *Id.*

4. *Id.*

5. 1941 Nev. Stat. c. 107, §29, at — (enacting NEV. REV. STAT. §136.180).

6. NEV. REV. STAT. §136.180 (amended by 1983 Nev. Stat. c. 49, §2, at 199).

7. 1973 Nev. Stat. c. 307, §2, at 385 (amending NEV. REV. STAT. §142.020).

8. *Id.*

making the requirement of a bond discretionary with the court.⁹ The court may require a bond if it determines that one is desirable, or the court may dispense with the bond requirement upon a determination that a bond is unnecessary.¹⁰ If a bond is required by the court, the amount of the bond will include the value of all personal property plus the income for one year from both real and personal property. The bond, however, can be for a different amount if the amount is expressly mentioned in the will, or if the amount is changed by the court.¹¹ Moreover, any person with an interest in the estate greater than \$10,000 may demand that the executor, administrator, or any successor submit a bond.¹² The executor, administrator, or successor must either refrain from exercising any power until the bond requirement is met in an amount not greater than the demanding party's interest, or petition the court to dispense with the requirement.¹³

9. NEV. REV. STAT. §142.020 (amended by 1983 Nev. Stat. c. 49, §3, at 199).

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

Administration of Estates; bonds

NEV. REV. STAT. §253.040 (amended).

AB 551 (Committee on Judiciary); 1983 STAT. Ch 285

Under prior law, public administrators¹ were required to file and have approved a bond² for each estate they administered³ with an estimated value of personal property exceeding \$500.⁴ With the enactment of Chapter 285, public administrators are required to file separate bonds only in counties having a population over 100,000.⁵ In counties having a population *less than* 100,000, Chapter 285 provides that the bond required of the public administrator to hold office⁶ will also be

1. See NEV. REV. STAT. §253.020 (qualifications for office of public administrator); see also NEV. CONST. art. IV, §32. The legislature has the power to establish duties of public administrators. *Id.*

2. NEV. REV. STAT. §142.020(1) (specifications of bond).

3. See *id.* §253.040(1). Public administrators must be issued letters of administration prior to administering estates. *Id.*

4. 1979 Nev. Stat. c. 407, §1, at 829 (amending NEV. REV. STAT. §253.040).

5. NEV. REV. STAT. §253.040(1) (amended by 1983 Nev. Stat. c. 285, §1(1), at 678); see also *id.* §253.040(3). The public administrator is also required to execute separate bonds for any estate valued at over \$25,000. *Id.*

6. See *id.* §253.020(2). An official bond in an amount not less than \$10,000 is required unless a blanket fidelity bond is furnished by the county. *Id.*