

COMMITTEE STATEMENT

LB 100

HEARING DATE: January 29, 1999

COMMITTEE ON: Judiciary

TITLE: (D. Pederson, Engel, Matzke, Schrock) Provide for and change provisions relating to transfer of real and personal property under the Nebraska Probate Code

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Baker, Bourne, Brashear, Chambers, Connealy, Hilgert, Robak
	No	
	Present, not voting	
1	Absent	Senator Pedersen

PROPONENTS

Senator Don Pederson

Tom Fitchett

REPRESENTING

Introducer

Nebraska Bar Association

OPPONENTS

REPRESENTING

NEUTRAL

REPRESENTING

SUMMARY OF PURPOSE AND/OR CHANGES:

Legislative Bill 100 would **amend the Nebraska Probate Code to provide for the transfer of real property from an estate by affidavit.**

LB 100 would **allow a person claiming an interest in real property** as successor to the decedent **to file an affidavit**, 30 days after the death of the decedent, with the registrar of deeds of the county where the subject real property is located. Upon receipt of the affidavit, the registrar of deeds shall record such in all counties in which the real property of the decedent is located.

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The affidavit shall state: (1) the value of all real property in the decedent's estate located in Nebraska does not exceed \$25,000 as shown on the assessment rolls for the year in which the decedent died; (2) 30 days have elapsed since the death of the decedent; (3) no application for the appointment of a personal representative is pending or has been granted in any jurisdiction; (4) the claiming successor is entitled to the real property by reason of law; (5) the claiming successor has made an investigation and has been unable to determine any subsequent will; and (6) no other person has a right to the interest of the decedent in the described property.

Upon filing and recording of the affidavit, the distributee, and a purchaser of the property or a lender to the claiming successor is entitled to the same protection as a person purchasing from or lending to a distributee who has received a deed from a personal representative.

LB 100 further amends Neb. Rev. Stat. §30-24,125, relating to the transfer of personal property by affidavit, to allow such when the value of personal property in the estate does not exceed \$25,000, where current law allows such only when the value of the entire estate does not exceed \$25,000.

EXPLANATION OF AMENDMENTS, IF ANY:

The committee amendment adds language stating that “nothing in this section affects or prevents any proceeding to enforce any mortgage, pledge, or other lien upon the real property described in the affidavit.”

Senator