

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 118

Introduced by Wightman, 36.

Read first time January 09, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to decedents' estates; to amend sections
2 30-24,125 and 30-24,129, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to collection
4 of personal property by affidavit and succession to
5 real property by affidavit; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-24,125, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 30-24,125 (a) Thirty days after the death of a decedent,
4 any person indebted to the decedent or having possession of
5 tangible personal property or an instrument evidencing a debt,
6 obligation, stock, or chose in action belonging to the decedent
7 shall make payment of the indebtedness or deliver the tangible
8 personal property or an instrument evidencing a debt, obligation,
9 stock, or chose in action to a person claiming to be the successor
10 of the decedent upon being presented an affidavit made by or on
11 behalf of the successor stating:

12 (1) the value of all of the personal property in the
13 decedent's estate, wherever located, less liens and encumbrances,
14 does not exceed ~~twenty-five~~ fifty thousand dollars;

15 (2) thirty days have elapsed since the death of the
16 decedent as shown in a certified or authenticated copy of the
17 decedent's death certificate attached to the affidavit;

18 (3) the claiming successor's relationship to the decedent
19 or, if there is no relationship, the basis of the successor's claim
20 to the personal property;

21 (4) the person or persons claiming as successors under
22 the affidavit swear or affirm that all statements in the affidavit
23 are true and material and further acknowledge that any false
24 statement may subject the person or persons to penalties relating
25 to perjury under section 28-915;

1 (5) no application or petition for the appointment of
2 a personal representative is pending or has been granted in any
3 jurisdiction; and

4 (6) the claiming successor is entitled to payment or
5 delivery of the property.

6 (b) A transfer agent of any security shall change the
7 registered ownership on the books of a corporation from the
8 decedent to the successor or successors upon the presentation of an
9 affidavit as provided in subsection (a).

10 (c) In addition to compliance with the requirements of
11 subsection (a), a person seeking a transfer of a certificate
12 of title to a motor vehicle, motorboat, all-terrain vehicle, or
13 minibike shall be required to furnish to the Department of Motor
14 Vehicles an affidavit showing applicability of this section and
15 compliance with the requirements of this section to authorize the
16 department to issue a new certificate of title.

17 Sec. 2. Section 30-24,129, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 30-24,129 (a) Thirty days after the death of a decedent,
20 any person claiming as successor to the decedent's interest in real
21 property in this state may file or cause to be filed on his or her
22 behalf, with the register of deeds office of a county in which the
23 real property of the decedent that is the subject of the affidavit
24 is located, an affidavit describing the real property owned by the
25 decedent and the interest of the decedent in the property. The

1 affidavit shall be signed by all persons claiming as successors or
2 by parties legally acting on their behalf and shall be prima facie
3 evidence of the facts stated in the affidavit. The affidavit shall
4 state:

5 (1) the value of the decedent's interest in all real
6 property in the decedent's estate located in this state does
7 not exceed ~~twenty-five~~ thirty thousand dollars. The value of the
8 decedent's interest shall be determined from the value of the
9 property as shown on the assessment rolls for the year in which the
10 decedent died;

11 (2) thirty days have elapsed since the death of the
12 decedent as shown in a certified or authenticated copy of the
13 decedent's death certificate attached to the affidavit;

14 (3) no application or petition for the appointment of
15 a personal representative is pending or has been granted in any
16 jurisdiction;

17 (4) the claiming successor is entitled to the real
18 property by reason of the homestead allowance, exempt property
19 allowance, or family allowance, by intestate succession, or by
20 devise under the will of the decedent;

21 (5) the claiming successor has made an investigation and
22 has been unable to determine any subsequent will;

23 (6) no other person has a right to the interest of the
24 decedent in the described property;

25 (7) the claiming successor's relationship to the decedent

1 and the value of the entire estate of the decedent; and

2 (8) the person or persons claiming as successors under
3 the affidavit swear or affirm that all statements in the affidavit
4 are true and material and further acknowledge that any false
5 statement may subject the person or persons to penalties relating
6 to perjury under section 28-915.

7 (b) The recorded affidavit and certified or authenticated
8 copy of the decedent's death certificate shall also be recorded
9 by the claiming successor in any other county in this state in
10 which the real property of the decedent that is the subject of the
11 affidavit is located.

12 Sec. 3. Original sections 30-24,125 and 30-24,129,
13 Reissue Revised Statutes of Nebraska, are repealed.