

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 46

Introduced by Wightman, 36.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to decedents' estates; to amend sections
2 30-2485 and 30-2487, Reissue Revised Statutes of
3 Nebraska; to provide for costs and expenses of
4 administration of estates; to harmonize provisions; and
5 to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-2485, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 30-2485 (a) All claims against a decedent's estate which
4 arose before the death of the decedent, including claims of
5 the state and any subdivision thereof, whether due or to become
6 due, absolute or contingent, liquidated or unliquidated, founded
7 on contract, tort, or other legal basis, if not barred earlier
8 by other statute of limitations, are barred against the estate,
9 the personal representative, and the heirs and devisees of the
10 decedent, unless presented as follows:

11 (1) Within two months after the date of the first
12 publication of notice to creditors if notice is given in compliance
13 with sections 25-520.01 and 30-2483, except that claims barred by
14 the nonclaim statute at the decedent's domicile before the first
15 publication for claims in this state are also barred in this state.
16 If any creditor has a claim against a decedent's estate which arose
17 before the death of the decedent and which was not presented within
18 the time allowed by this subdivision, including any creditor who
19 did not receive notice, such creditor may apply to the court within
20 sixty days after the expiration date provided in this subdivision
21 for additional time and the court, upon good cause shown, may allow
22 further time not to exceed thirty days;

23 (2) Within three years after the decedent's death if
24 notice to creditors has not been given in compliance with sections
25 25-520.01 and 30-2483.

1 (b) All claims, other than for ~~administration expenses,~~
2 costs and expenses of administration as defined in section
3 30-2487, against a decedent's estate which arise at or after
4 the death of the decedent, including claims of the state and any
5 subdivision thereof, whether due or to become due, absolute or
6 contingent, liquidated or unliquidated, founded on contract, tort,
7 or other legal basis, are barred against the estate, the personal
8 representative, and the heirs and devisees of the decedent, unless
9 presented as follows:

10 (1) A claim based on a contract with the personal
11 representative, within four months after performance by the
12 personal representative is due;

13 (2) Any other claim, within four months after it arises.

14 (c) Nothing in this section affects or prevents:

15 (1) Any proceeding to enforce any mortgage, pledge, or
16 other lien upon property of the estate; or

17 (2) To the limits of the insurance protection only, any
18 proceeding to establish liability of the decedent or the personal
19 representative for which he or she is protected by liability
20 insurance.

21 Sec. 2. Section 30-2487, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 30-2487 (a) If the applicable assets of the estate are
24 insufficient to pay all claims in full, the personal representative
25 shall make payment in the following order:

- 1 (1) Costs and expenses of administration;
- 2 (2) Reasonable funeral expenses;
- 3 (3) Debts and taxes with preference under federal law;
- 4 (4) Reasonable and necessary medical and hospital
- 5 expenses of the last illness of the decedent, including
- 6 compensation of persons attending the decedent and claims filed by
- 7 the Department of Health and Human Services pursuant to section
- 8 68-919;
- 9 (5) Debts and taxes with preference under other laws of
- 10 this state;
- 11 (6) All other claims.

12 (b) No preference shall be given in the payment of any

13 claim over any other claim of the same class, and a claim due and

14 payable shall not be entitled to a preference over claims not due.

15 (c) For purposes of this section and section 30-2485,

16 costs and expenses of administration includes expenses incurred in

17 taking possession or control of estate assets and the management,

18 protection, and preservation of the estate assets, expenses related

19 to the sale of estate assets, and expenses in the day-to-day

20 operation and continuation of business interests for the benefit of

21 the estate.

22 Sec. 3. Original sections 30-2485 and 30-2487, Reissue

23 Revised Statutes of Nebraska, are repealed.