

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 348

Introduced by Morfeld, 46.

Read first time January 13, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to decedents' estates; to amend section
- 2 30-24,129, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to succession to real property by affidavit for
- 4 small estates; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-24,129, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 30-24,129 (a) Thirty days after the death of a decedent, any person
4 claiming as successor to the decedent's interest in real property in this
5 state may file or cause to be filed on his or her behalf, with the
6 register of deeds office of a county in which the real property of the
7 decedent that is the subject of the affidavit is located, an affidavit
8 describing the real property owned by the decedent and the interest of
9 the decedent in the property. The affidavit shall be signed by any person
10 ~~all persons~~ claiming as a successor ~~successors~~ or by any party ~~parties~~
11 legally acting on such successor's ~~their~~ behalf and shall be prima facie
12 evidence of the facts stated in the affidavit. The affidavit shall state:

13 (1) the value of the decedent's interest in all real property in the
14 decedent's estate located in this state does not exceed fifty thousand
15 dollars. The value of the decedent's interest shall be determined from
16 the value of the property as shown on the assessment rolls for the year
17 in which the decedent died, as adjusted to one hundred percent of fair
18 market value as of the date of the affidavit, less real estate taxes and
19 interest thereon if any is due at the time of death;

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

23 (3) no application or petition for the appointment of a personal
24 representative is pending or has been granted in the State of Nebraska
25 ~~any jurisdiction~~;

26 (4) the claiming successor is entitled to the real property either
27 by reason of the homestead allowance, exempt property allowance, or
28 family allowance, by intestate succession, or by devise under the will of
29 the decedent. If claiming by devise under the will of the decedent, a
30 copy of such will shall be attached to the affidavit;

31 (5) the claiming successor has made an investigation and has been

1 unable to determine any subsequent will;

2 (6) the name and address of any ~~no~~ other person who has a potential
3 right to the interest of the decedent in the described property;

4 (7) the claiming successor's relationship to the decedent and the
5 value of the entire estate of the decedent subject to probate; and

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

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

14 Sec. 2. Original section 30-24,129, Reissue Revised Statutes of
15 Nebraska, is repealed.