

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1160

Introduced by Hallstrom, 1.

Read first time January 20, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to property; to amend sections 25-2701,
2 30-2301, 30-2302, 30-2322, 30-2323, 30-2325, 30-3803, 30-38,103, and
3 77-3503, Reissue Revised Statutes of Nebraska, and sections 30-3801
4 and 77-2004, Revised Statutes Cumulative Supplement, 2024; to change
5 provisions relating to civil procedure and decedents' estates; to
6 redefine terms; to change and add requirements relating to contracts
7 to make or not to revoke a trust, penalties for contesting a trust,
8 and rules of construction for the interpretation of certain trust
9 provisions; to allow a certification of trust to establish ownership
10 of a homestead; to change provisions relating to the persons who are
11 subject to a certain inheritance tax rate; to harmonize provisions;
12 and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 25-2701, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-2701 (1) All provisions in the rules and codes of criminal and
4 civil procedure governing actions and proceedings in the district court
5 not in conflict with statutes specifically governing procedure in county
6 courts and related to matters for which no specific provisions have been
7 made for county courts shall govern and apply to all actions and
8 proceedings in the county court.

9 (2) County courts may seal records of a person as provided under
10 sections 43-2,108.01 to 43-2,108.05.

11 (3) Unless specifically provided to the contrary in the Uniform
12 Probate Code or unless inconsistent with its provisions, the rules and
13 codes of civil procedure, including the rules concerning vacation of
14 orders and appellate review, govern proceedings under this section.

15 **Sec. 2.** Section 30-2301, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 30-2301 (1) Any part of a decedent's estate not effectively disposed
18 of by will passes by intestate succession to the decedent's heirs as
19 prescribed in the following sections of this code, except as modified by
20 the decedent's will.

21 (2) A decedent by will may expressly exclude or limit the right of
22 an individual or class to succeed to property of the decedent passing by
23 intestate succession. If that individual or a member of that class
24 survives the decedent, the share of the decedent's intestate estate to
25 which that individual or class would have succeeded passes as if that
26 individual or each member of that class had disclaimed the intestate
27 share. Any part of the estate of a decedent not effectively disposed of
28 by his will passes to his heirs as prescribed in the following sections
29 of this code.

30 **Sec. 3.** Section 30-2302, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 30-2302 The intestate share of the surviving spouse is:

2 (1) if there is no surviving issue or parent of the decedent, the
3 entire intestate estate;

4 (2) if there is no surviving issue but the decedent is survived by a
5 parent or parents, the first one hundred fifty thousand dollars, plus
6 one-half of the balance of the intestate estate;

7 (3) if there are surviving issue all of whom are issue of the
8 surviving spouse also, the first one hundred fifty thousand dollars, plus
9 one-half of the balance of the intestate estate;

10 (4) if there are surviving issue one or more of whom are not issue
11 of the surviving spouse, one-half of the intestate estate.

12 **Sec. 4.** Section 30-2322, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 30-2322 A surviving spouse of a decedent who was domiciled in this
15 state is entitled to a homestead allowance of seven thousand five hundred
16 dollars for a decedent who dies before January 1, 2011, ~~and~~ twenty
17 thousand dollars for a decedent who dies on or after January 1, 2011, and
18 before January 1, 2027, and twenty-five thousand dollars for a decedent
19 who dies on or after January 1, 2027. If there is no surviving spouse,
20 each minor child and each dependent child of the decedent is entitled to
21 a homestead allowance amounting to the amount allowed for a surviving
22 spouse divided by the number of minor and dependent children of the
23 decedent. The homestead allowance is exempt from and has priority over
24 all claims against the estate except for costs and expenses of
25 administration. Homestead allowance is in addition to any share passing
26 to the surviving spouse or minor or dependent child by the will of the
27 decedent unless otherwise provided therein, by intestate succession or by
28 way of elective share.

29 **Sec. 5.** Section 30-2323, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 30-2323 (1) In addition to the homestead allowance, the surviving

1 spouse of a decedent who was domiciled in this state is entitled from the
2 estate to value not exceeding five thousand dollars for a decedent who
3 dies before January 1, 2011, ~~and~~ twelve thousand five hundred dollars for
4 a decedent who dies on or after January 1, 2011, and before January 1,
5 2027, and seventeen thousand five hundred dollars for a decedent who dies
6 on or after January 1, 2027, in excess of any security interests therein
7 in household furniture, automobiles, furnishings, appliances, and
8 personal effects. If there is no surviving spouse, children of the
9 decedent are entitled jointly to the same value unless the decedent has
10 provided in his or her will that one or more of such children shall be
11 disinherited, in which case only those children not so disinherited shall
12 be so entitled. For purposes of this section, disinherited means
13 providing in one's will that a child shall take nothing or a nominal
14 amount of ten dollars or less from the estate.

15 (2) If encumbered chattels are selected and if the value in excess
16 of security interests, plus that of other exempt property, is less than
17 the amount allowed under subsection (1) of this section, or if there is
18 not that amount worth of exempt property in the estate, the spouse or
19 children are entitled to other assets of the estate, if any, to the
20 extent necessary to make up the amount allowed under subsection (1) of
21 this section. Rights to exempt property and assets needed to make up a
22 deficiency of exempt property have priority over all claims against the
23 estate except for costs and expenses of administration, except for claims
24 filed by the Department of Health and Human Services pursuant to section
25 68-919 notwithstanding the order of payment established in section
26 30-2487, and except that the right to any assets to make up a deficiency
27 of exempt property shall abate as necessary to permit prior payment of
28 homestead allowance and family allowance.

29 (3) These rights are in addition to any benefit or share passing to
30 the surviving spouse by the will of the decedent unless otherwise
31 provided therein, by intestate succession, or by way of elective share.

1 These rights are in addition to any benefit or share passing to the
2 surviving children by intestate succession and are in addition to any
3 benefit or share passing by the will of the decedent to those surviving
4 children not disinherited unless otherwise provided in the will.

5 **Sec. 6.** Section 30-2325, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 30-2325 If the estate is otherwise sufficient, property specifically
8 devised is not used to satisfy rights to homestead and exempt property.
9 Subject to this restriction, the surviving spouse, the guardians of the
10 minor children, or children who are adults may select property of the
11 estate as homestead allowance and exempt property. After giving such
12 notice as the court may require in a proceeding initiated under the
13 provisions of section 30-2405, the personal representative may make these
14 selections if the surviving spouse, the children or the guardians of the
15 minor children are unable or fail to do so within a reasonable time or if
16 there are no guardians of the minor children. The personal representative
17 may execute an instrument or deed of distribution to establish the
18 ownership of property taken as homestead allowance or exempt property.
19 The personal representative may determine the family allowance in a lump
20 sum not exceeding nine thousand dollars for a decedent who dies before
21 January 1, 2011, ~~and~~ twenty thousand dollars for a decedent who dies on
22 or after January 1, 2011, and before January 1, 2027, and twenty-five
23 thousand dollars for a decedent who dies on or after January 1, 2027, or
24 periodic installments not exceeding seven hundred fifty dollars per month
25 for one year for a decedent who dies before January 1, 2011, ~~and~~ one
26 thousand six hundred sixty-six dollars and sixty-seven cents per month
27 for one year for a decedent who dies on or after January 1, 2011, and
28 before January 1, 2027, and two thousand eighty-three dollars and thirty-
29 three cents per month for one year for a decedent who dies on or after
30 January 1, 2027. The personal representative may disburse funds of the
31 estate in payment of the family allowance and any part of the homestead

1 allowance payable in cash. The personal representative or any interested
2 person aggrieved by any selection, determination, payment, proposed
3 payment, or failure to act under this section may petition the court for
4 appropriate relief, which relief may provide a family allowance larger or
5 smaller than that which the personal representative determined or could
6 have determined.

7 The homestead allowance, the exempt property, and the family
8 allowance as finally determined by the personal representative or by the
9 court, shall vest in the surviving spouse as of the date of decedent's
10 death, as a vested indefeasible right of property, shall survive as an
11 asset of the surviving spouse's estate if unpaid on the date of death of
12 such surviving spouse, and shall not terminate upon the death or
13 remarriage of the surviving spouse.

14 **Sec. 7.** Section 30-3801, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 30-3801 (UTC 101) Sections 30-3801 to 30-38,115 and sections 9 to 11
17 of this act shall be known and may be cited as the Nebraska Uniform Trust
18 Code.

19 **Sec. 8.** Section 30-3803, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 30-3803 (UTC 103) In the Nebraska Uniform Trust Code:

22 (1) "Action", with respect to an act of a trustee, includes a
23 failure to act.

24 (2) "Ascertainable standard" means a standard relating to an
25 individual's health, education, support, or maintenance within the
26 meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue
27 Code of 1986, as defined in section 49-801.01.

28 (3) "Beneficiary" means a person that:

29 (A) has a present or future beneficial interest in a trust, vested
30 or contingent; or

31 (B) in a capacity other than that of trustee, holds a power of

1 appointment over trust property.

2 (4) "Charitable trust" means a trust, or portion of a trust, created
3 for a charitable purpose described in subsection (a) of section 30-3831.

4 (5) "Conservator" means a person appointed by the court to
5 administer the estate of a minor or adult individual.

6 (6) "Environmental law" means a federal, state, or local law, rule,
7 regulation, or ordinance relating to protection of the environment.

8 (7) "Guardian" means a person who has qualified as a guardian of a
9 minor or incapacitated person pursuant to testamentary or court
10 appointment, but excludes one who is merely a guardian ad litem.

11 (8) "Interests of the beneficiaries" means the beneficial interests
12 provided in the terms of the trust.

13 (9) "Jurisdiction", with respect to a geographic area, includes a
14 state or country.

15 (10) "Person" means an individual, corporation, business trust,
16 estate, trust, partnership, limited liability company, association, joint
17 venture, government; governmental subdivision, agency, or
18 instrumentality; public corporation, or any other legal or commercial
19 entity.

20 (11) "Power of withdrawal" means a presently exercisable general
21 power of appointment other than a power: (A) which is exercisable by a
22 trustee and limited by an ascertainable standard; or (B) which is
23 exercisable by another person only upon consent of the trustee or a
24 person holding an adverse interest.

25 (12) "Property" means anything that may be the subject of ownership,
26 whether real or personal, legal or equitable, or any interest therein.

27 (13) "Qualified beneficiary" means a beneficiary who, on the date
28 the beneficiary's qualification is determined:

29 (A) is a distributee or permissible distributee of trust income or
30 principal;

31 (B) would be a distributee or permissible distributee of trust

1 income or principal if the interests of the distributees described in
2 subdivision (A) of this subdivision terminated on that date without
3 causing the trust to terminate; or

4 (C) would be a distributee or permissible distributee of trust
5 income or principal if the trust terminated on that date.

6 (14) "Regulated financial-service institution" means a state-
7 chartered or federally chartered financial institution in which the
8 monetary deposits are insured by the Federal Deposit Insurance
9 Corporation.

10 (15) "Revocable", as applied to a trust, means revocable by the
11 settlor without the consent of the trustee or a person holding an adverse
12 interest.

13 (16) "Settlor" means a person, including a testator, who creates, or
14 contributes property to, a trust. If more than one person creates or
15 contributes property to a trust, each person is a settlor of the portion
16 of the trust property attributable to that person's contribution except
17 to the extent another person has the power to revoke or withdraw that
18 portion.

19 (17) "Spendthrift provision" means a term of a trust which restrains
20 both voluntary and involuntary transfer of a beneficiary's interest.

21 (18) "State" includes any state of the United States, the District
22 of Columbia, the Commonwealth of Puerto Rico, and any territory or
23 possession subject to the legislative authority of the United States.

24 (19) "Terms of a trust" means: (A) Except as otherwise provided in
25 subdivision (19)(B) of this section, the manifestation of the settlor's
26 intent regarding a trust's provisions as: (i) Expressed in the trust
27 instrument; or (ii) established by other evidence that would be
28 admissible in a judicial proceeding; or (B) the trust's provisions, as
29 established, determined, or amended by a: (i) Trustee or other person in
30 accordance with applicable law; (ii) court order; or (iii) nonjudicial
31 settlement agreement under section 30-3811. ~~the manifestation of the~~

1 ~~settlor's intent regarding a trust's provisions as expressed in the trust~~
2 ~~instrument or as may be established by other evidence that would be~~
3 ~~admissible in a judicial proceeding.~~

4 (20) "Trust instrument" means an instrument executed by the settlor
5 that contains terms of the trust, including any amendments thereto.

6 (21) "Trustee" includes an original, additional, and successor
7 trustee, and a cotrustee.

8 **Sec. 9.** A contract to make a trust, or not to revoke a trust, if
9 executed on or after January 1, 1977, shall only be established by: (1)
10 Provisions of a will or a trust stating the material provisions of the
11 contract; (2) an express reference in a will or trust to a contract and
12 extrinsic evidence proving the terms of the contract; or (3) a writing
13 signed by the decedent evidencing the contract. The execution of a joint
14 trust does not create a presumption of a contract not to revoke the
15 trust.

16 **Sec. 10.** A provision in a trust purporting to penalize any
17 interested person for contesting the trust or instituting other
18 proceedings relating to the trust is unenforceable if probable cause
19 exists for instituting proceedings.

20 **Sec. 11.** The rules of construction that apply in this state to the
21 interpretation and disposition of property by will shall also apply as
22 appropriate to the interpretation of the terms of a trust and the
23 disposition of the trust property.

24 **Sec. 12.** Section 30-38,103, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 30-38,103 (a) A certification of trust may confirm the following
27 facts or contain the following information:

28 (1) The existence of a trust and, for an inter vivos trust, the date
29 of execution or, for a testamentary trust, the date of death of the
30 decedent;

31 (2) The identity of the grantor, settlor, or testator and each

1 currently acting trustee;

2 (3) The powers of the trustee and any restrictions imposed upon the
3 trustee in dealing with the assets of the trust;

4 (4) The name or method of choosing successor trustees;

5 (5) The revocability or irrevocability of the trust and the identity
6 of any person holding a power to revoke it;

7 (6) If there is more than one trustee, whether all of the currently
8 acting trustees must, or if less than all, may, act to exercise
9 identified powers of the trustee;

10 (7) The identifying number of the trust and whether it is a social
11 security number or an employer identification number;

12 (8) The name of each beneficiary and the relationship to the
13 grantor, settlor, or testator;

14 (9) The state or other jurisdiction under which the trust was
15 established; ~~and~~

16 (10) The form in which title to the assets of the trust is to be
17 taken; and -

18 (11) Any information necessary to establish a person's ownership of
19 a homestead for purposes of obtaining a homestead exemption under
20 sections 77-3501 to 77-3529.

21 (b) The certification of trust shall contain a statement that the
22 trust has not been revoked or amended to make any representations
23 contained in the certification of trust incorrect and that the signatures
24 are those of all the acting trustees.

25 **Sec. 13.** Section 77-2004, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 77-2004 (1) In the case of a person described in subsection (2) of
28 this section ~~father, mother, grandfather, grandmother, brother, sister,~~
29 ~~son, daughter, child or children legally adopted as such in conformity~~
30 ~~with the laws of the state where adopted, any lineal descendant, any~~
31 ~~lineal descendant legally adopted as such in conformity with the laws of~~

1 ~~the state where adopted, any person to whom the deceased for not less~~
2 ~~than ten years prior to death stood in the acknowledged relation of a~~
3 ~~parent, or the spouse or surviving spouse of any such persons, the rate~~
4 of tax shall be:

5 (a) For decedents dying prior to January 1, 2023, one percent of the
6 clear market value of the property received by each person in excess of
7 forty thousand dollars; and

8 (b) For decedents dying on or after January 1, 2023, one percent of
9 the clear market value of the property received by each person in excess
10 of one hundred thousand dollars.

11 (2) Persons subject to inheritance tax at the rate prescribed by
12 this section are:

13 (a) A father, mother, grandfather, grandmother, brother, sister,
14 son, daughter, child or children legally adopted as such in conformity
15 with the laws of the state where adopted;

16 (b) Any lineal descendant;

17 (c) Any lineal descendant legally adopted as such in conformity with
18 the laws of the state where adopted;

19 (d) Any person to whom the deceased for not less than ten years
20 prior to death stood in the acknowledged relation of a parent;

21 (e) Any lineal descendant of a person described in subdivision (d)
22 of this subsection;

23 (f) Any lineal descendant of a person described in subdivision (d)
24 of this subsection legally adopted as such in conformity with the laws of
25 the state where adopted; and

26 (g) The spouse or surviving spouse of any person described in
27 subdivisions (a) through (f) of this subsection.

28 (3) ~~(2)~~ Any interest in property, including any interest acquired in
29 the manner set forth in section 77-2002, which may be valued at a sum
30 less than or equal to the applicable exempt amount under subsection (1)
31 of this section shall not be subject to tax. In addition, the homestead

1 allowance, exempt property, and family maintenance allowance shall not be
2 subject to tax. Interests passing to the surviving spouse by will, in the
3 manner set forth in section 77-2002, or in any other manner shall not be
4 subject to tax. Any interest passing to a person described in subsection
5 (2) ~~(1)~~ of this section who is under twenty-two years of age shall not be
6 subject to tax.

7 **Sec. 14.** Section 77-3503, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-3503 Owner shall mean the owner of record or surviving spouse,
10 the vendee in possession under a land contract or surviving spouse, one
11 of the joint tenants or tenants in common or surviving spouse, or the
12 beneficiary of a trust of which the trustee is the record title owner and
13 the beneficiary-occupant (1) has a specific right to occupy the premises
14 as stated in the trust instrument, (2) has the right to amend or revoke
15 the trust to obtain such power of occupancy or of title, or (3) has the
16 power to withdraw the homestead premises from the trust and place the
17 record title in such occupant's name. Owner shall also mean a resident of
18 a dwelling complex, the record title owner of which is a not-for-profit
19 corporation, who has by purchase for fair market value secured a life
20 tenancy in a taxable unit of the complex. The deed, trust instrument, or
21 contract, or a certification of trust as described in sections 30-38,102
22 to 30-38,106, memorandum showing that the criteria of this section have
23 been met shall be on file on the appropriate public record as of January
24 1 of the year for which exemption is sought, except that if such
25 instrument is not on file as of January 1, a copy of such instrument
26 shall be attached to such application before the homestead exemption
27 shall be granted.

28 **Sec. 15.** Original sections 25-2701, 30-2301, 30-2302, 30-2322,
29 30-2323, 30-2325, 30-3803, 30-38,103, and 77-3503, Reissue Revised
30 Statutes of Nebraska, and sections 30-3801 and 77-2004, Revised Statutes
31 Cumulative Supplement, 2024, are repealed.