

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 25 – PROBATE CODE

[Amended 8/14/09, Resolution No. 290-WTC-2009.]

TABLE OF CONTENTS

25-133	General Provisions	1
25-134	Succession	6
25-135	Uniform Simultaneous Death Act	10
25-136	Probate Of Wills And Application For Letters	11
25-137	Contests Before Probate	18
25-138	Appointment Of Executors And Administrators With The Will Annexed.....	20
25-139	Appointment Of Administrators.....	23
25-140	Special Administrators.....	26
25-141	Letters Generally; Changes In Administration; Form Of Letters.....	29
25-142	Oaths And Bonds	33
25-143	Powers And Duties Of Executors And Administrators	37
25-144	Inventory And Appraisalment.....	45
25-145	Summary Administration Of Estates	48
25-146	Support Of The Family.....	50
25-147	Presentation And Payment Of Claims	55
25-148	Sales.....	61
25-149	Notes, Mortgages, Leases, Conveyances And Exchanges	71
25-150	Compensation And Accounting	77
25-151	Distribution And Discharge	90
25-152	Partition Before Discharge.....	96
25-153	Administration Of Trusts; Estates For Life And Years.....	100
25-154	Escheats	103
25-155	Notices, Orders, Procedure And Appeals	110
25-156	Administration Of Estates Of Missing Persons	116

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[Last Amended 9/1/09.]

25-133 GENERAL PROVISIONS

25-133-010 “Will” Includes “Codicil”

As used in this title, “will” shall be so construed as to include all codicils as well as wills.

25-133-020 Who May Make A Will

Every person of sound mind, over the age of eighteen (18) years, may, by last will, dispose of all his or her estate, real and personal, the same being chargeable with the payment of the testator’s debts.

25-133-030 Wills of Married Women: Disposition of Separate and Community Property

1. Any married woman may dispose of all her separate estate by will, absolutely, without the consent of her husband, either express or implied, and may alter or revoke the same in like manner as a person under no disability may do. Her will must be attested, witnessed and proved in like manner as all other wills.
2. A married woman may dispose of community property by will as provided by law.

25-133-040 Valid Wills: Requirement of Writing, Subscription, Witnesses and Attestation

No will executed in this Tribe except such nuncupative wills and such holographic wills as are mentioned in this chapter, shall be valid unless it be in writing and signed by the testator, or by some person in his presence, and by his express direction, and attest by at least two competent witnesses, subscribing their names to the will in the presence of the testator.

25-133-050 Attesting Witnesses May Make Self-Proving Affidavits to be Attached to Will

1. Any or all of the attesting witnesses to any will may, at the request of the testator, make and sign an affidavit before any officer authorized to administer oaths in or out of the state, stating such facts as they would be required to testify to in court to prove the will. The affidavit shall be written on the will, or, if that be impracticable, on some paper attached

be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the law of this Tribe.

2. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

25-133-090 Holographic Will

1. A holographic will is one that is entirely written, dated and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this Tribe and need not be witnessed.
2. Every person of sound mind, over the age of eighteen (18) years, including married women, may, by last holographic will dispose of all of his or her estate, real or personal, the same being chargeable with the payment of the testator's debts.
3. Such wills shall be valid and have full effect for the purpose for which they are intended.

25-133-100 Nuncupative Will

1. No nuncupative or verbal will shall be good unless:
 - a. The same is proved by two witnesses who were present at the making thereof; and
 - b. It is proved that the testator, at the time of pronouncing the same, did bid someone present to bear witness that such was his will, or words of like import; and
 - c. It was made at the time of the last sickness of the deceased.
2. No nuncupative or verbal will shall be good where the estate bequeathed exceeds the value of One Thousand Dollars (\$1,000).

25-133-110 Revocation of Wills

If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless provision has been made for the spouse by marriage contract, or unless the spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation shall be received.

25-133-115 Revocation of Provisions of Will in Favor of Former Spouse on Divorce, Annulment; Exceptions

Divorce or annulment of the marriage of the testator revokes every beneficial devise, legacy or interest given to the testator's former spouse in a will executed before the entry of the decree of divorce or annulment unless otherwise:

1. Provided in a property or separation agreement which is approved by the court in the court in the divorce or annulment proceedings and not merged in the decree; or
2. Ordered by the court in the divorce or annulment proceedings, and the will shall take effect in the same manner as if the former spouse had died before the testator.

25-133-120 Other Means of Revocation

1. No will in writing shall be revoked unless:
 - a. By burning, tearing, canceling or obliterating the same, with the intention of revoking it, by the testator, or by some person in his presence, or by his direction; or
 - b. By some other will or codicil in writing, executed as prescribed in this Title.
2. Nothing contained in this section shall prevent the revocation implied by law from subsequent changes in the condition or circumstances of the testator.

25-133-130 Effect of Revocation of Subsequent Will

If, after the making of any will, the testator shall duly make and execute a second will, the destruction, cancellation or revocation of the second will shall not revive the first will, unless it appears by the terms of such revocation that it was the intention to revive and give effect to the first will, or unless, after such destruction, cancellation or revocation, the first will shall be duly re-executed.

25-133-140 Property Passing by Will: Agreements of Testator

A bond, covenant or agreement made by a testator to convey any property devised or bequeathed in any will previously made shall not be deemed a revocation of such previous devise or bequest; but such property shall pass by the devise or bequest, subject to the same remedies on the bond, covenant or agreement, for the specific performance or otherwise, against the devisees or legatees, as might be had by law against the heirs of the testator, if the same had descended to them.

25-133-150 Property Passing by Will: Mortgages, Encumbrances by Testator

A charge or encumbrance upon any estate, for the purpose of securing the payment of money, or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate which has previously executed, but the devise and legacies therein contained shall pass, subject to such charge or encumbrance.

25-133-160 Rights of Children Born After Making of Parent's Will

When any child shall have been born after the making of its parent's will, and no provision shall be made for him or her therein, such child shall have the same share in the estate of the testator as if the testator had died intestate, unless it shall be apparent from the will that it was the intention of the testator that no provision should be made for the child.

25-133-170 Rights of Children and Grandchildren; Omission Presumed Intentional

When any testator shall omit to provide in his or her will for any of his or her children or for the issue of any deceased child, it shall be presumed that the omission was intentional. Should the court find that the omission was unintentional, such child, or the issue of any deceased child, shall have the same share in the estate of the testator as if he or she had died intestate.

25-133-180 Sources of Unmentioned Child's Share

When any share of the estate of a testator shall be assigned to a child born after the making of a will, or to a child or the issue of a child omitted in the will, as mentioned in 25-133-160 and 25-133-170, the same shall first be taken from the estate not disposed of by the will, if any. If that shall not be sufficient, so much as shall be necessary shall be taken from all the devisees or legatees, in proportion to the value they may respectively receive under the will unless the obvious intention of the testator in relation to some specific devise or bequest, or other provision in the will, would thereby be defeated. In such case, such specific devise, legacy or provision may be exempted from such apportionment, and a different apportionment, consistent with the intention of the testator, may be adopted.

25-133-190 Effect of Advancements

If such child or children, or their descendants, so unprovided for, shall have had an equal proportion of the testator's estate bestowed upon them in the testator's lifetime, by way of advancement, they shall take nothing by virtue of the provisions of 25-133-160, 133-170 and 133-180.

25-133-200 Death of Devisee

When any estate shall be devised or bequeathed to any child or other relation of the testator, and the devisee or legatee shall die before the testator, leaving lineal descendants, such descendants, in the absence of a provision in the will to the contrary, shall take the estate so given by the will in the same manner as the devisee or legatee would have done if he had survived the testator.

25-133-210 Devise of Land

Every devise of land in any will shall be construed to convey all the estate of the deviser therein which he could lawfully devise, unless it shall clearly appear by the will that he intended to convey a less estate.

25-133-220 Interest Acquired After Execution of Will

Any estate, right or interest in lands acquired by the testator after the making of his or her will shall pass thereby in like manner as if it had been acquired prior to the time of making the will, if such should manifestly appear by the will to have been the intention of the testator.

25-134 SUCCESSION

25-134-005 Inheritance of Husband and Wife from Each Other

With the exception of 15-134-005 and 134-010 the provisions of this Section, as to the inheritance of the husband and wife from each other, apply only to the separate property of the intestate.

25-134-007 Person Convicted of Murder

No person convicted of the murder of the decedent is entitled to succeed to any portion of the decedent's estate. The portion to which he would otherwise be entitled to succeed goes to the other persons entitled to it under the provisions of this Title.

25-134-010 Vesting of Community Property on Death of Husband or Wife

Upon the death of either the husband or the wife, community property shall vest as provided in 25-123-250.

25-134-030 Descent and Distribution of Separate Property

Except as provided in 25-134-103, when any person having title to any estate which is his or her separate property, not otherwise limited by contract, dies intestate as to such estate, it descends and must be distributed, subject to the payment of his debts in the manner provided in 25-134-040 to 25-134-120 inclusive.

25-134-040 Surviving Spouse and Issue

1. If the decedent leaves a surviving husband or wife and only one child, or the lawful issue of one child, the estate goes one-half to the surviving husband or wife and one-half to such child or issue of such child.
2. If the decedent leaves a surviving husband or wife, and more than one child living, or one child and the lawful issue of one or more deceased children, the estate goes one-third to the surviving husband or wife, and the remainder in equal shares to his or her children and the lawful issue of any deceased child by right of representation.
3. If there is no child of the intestate living at his or her death, the remainder shall go to all the lineal descendants, and if all the lineal descendants are

in the same degree of kindred to the intestate, they shall share equally; otherwise, they shall take according to the right or representation.

25-134-050 Surviving Spouse and No Issue

1. If the decedent shall leave no issue, the estate shall go one-half to the surviving husband or wife, one-fourth to the intestate's father, and one-fourth to the intestate's mother. If both are living; if not, one-half to either the father or the mother then living.
2. If the decedent shall leave no issue, or father, or mother, one-half of the separate property of the intestate shall go to the surviving husband or wife, and the other one-half thereof shall go in equal shares to the brothers and sisters of the intestate, and to the children of any deceased brother or sister by right of representation.
3. If the decedent shall leave no issue, or husband, or wife, the estate shall go one-half to the intestate's father and one-half to the intestate's mother, if both are living; if not, the whole estate shall go to either the father or mother then living.
4. If the decedent shall leave no issue, father, mother, brother, or sister, or children of any issue, all of the separate property of the intestate shall go to the surviving husband or wife.

25-134-060 No Surviving Spouse or Issue

If there be no issue, or husband, or wife, or father, or mother, then the estate goes in equal shares to the brothers and sisters of the intestate, and to the children of any deceased brother or sister by right of representation.

25-134-070 No Surviving Spouse, No Issue or Immediate Family

If the intestate shall leave no issue, or husband, or wife or father, or mother, and no brother or sister living at his or her death, the estate shall go to the next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree, but, claiming through different ancestors, those who claim through the nearest ancestors shall be preferred to those who claim through ancestors more remote; but if any person shall die leaving several children, or leaving one child and issue of one or more children, and any such surviving child shall die under age and not having been married, all of the estate that came to the deceased child by inheritance from the deceased parent shall descend in equal shares to the other children of the same parent, and to the issue of any other children who may have died, by right of representation.

25-134-080 Minor Unmarried Decedent

If at the death of a child, who shall die under age and not having been married, all the other children of the parent being also dead, and any of them shall have left issue, the estate that came to such child by inheritance from his or her parent

shall descend to all the issue of the other children of the same parent and if all the issue are in the same degree of kindred to the child they shall share the estate equally; otherwise, they shall take according to the right of representation.

25-134-090 No Surviving Spouse but Issue

If the decedent leaves no surviving husband or wife, but there shall be a child or children and the lawful issue of a child or children, the estate shall descend and be distributed to such child or children, and lawful issue of such child or children by right of representation, as follows: To such child or children each a child's part, and to the lawful issue of each deceased child, by right of representation, the same part and proportion that its parent would have received in case the parent had been living at the time of the intestate's death; that is, the lawful issue of any deceased child shall receive the part and proportion that its parent would have received had the parent been living at the time of the intestate's death.

25-134-110 No Surviving Spouse or Issue but Children of Issue

If the decedent leaves no surviving husband or wife, or child or children, but there is the lawful issue of a child or children, all of the estate shall descend and be distributed to the lawful issue of such child or children by right of representation, and this rule shall apply to the lawful issue of all such children, and to the lawful issue ad infinitum.

25-134-120 Escheat

If the intestate shall leave no husband, or wife, or kindred, the estate shall escheat to the tribe for educational purposes.

25-134-140 Right of Representation

Inheritance or succession "by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parents would have taken if living. Posthumous children are considered as living at the death of their parents.

25-134-150 Degree of Kindred

The degrees of kindred shall be computed according to the rules of the civil law.

25-134-160 Kindred of the Half Blood

Kindred of the half blood shall inherit equally with those of the whole blood in the same degree, unless the inheritance comes to the intestate by descent devise or gift from someone of his or her ancestors, in which case all those who are not of the blood of such ancestors shall be excluded from the inheritance.

25-134-190 **Adopted Child**

An adopted child and his adoptive parents or their relatives shall inherit as provided in 25-127-160.

25-134-200 **Vesting of Wife’s Estate when Husband Dies Intestate**

Whenever any husband dies intestate, leaving heirs, and if the wife dies intestate subsequently to her husband, without heirs, leaving property, her estate shall vest in the heirs of her husband, subject to expenses of administration and payment of legal debts against the estate.

25-134-210 **Vesting of Husband’s Estate when Wife Dies Intestate**

Whenever any wife dies intestate, leaving heirs, if the husband dies intestate subsequently to his wife, without heirs, leaving property, his estate vests in the heirs of the wife, subject to expenses of administration and payment of legal debts against the estate.

25-134-230 **Aliens Residing Abroad: Dependence of Rights Upon Receiving Property**

The rights of aliens not residing within the United States or its territories to take either real or personal property or the proceeds thereof in this state by descent or inheritance, either under the terms of wills or in cases of intestacy, is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real and personal property and the proceeds thereof in like manner within the countries of which the aliens are inhabitants or citizens and upon the rights of citizens of the United States to receive by payment to them within the United States or its territories moneys originating from the estates of persons dying within such foreign countries.

25-134-240 **Burden of Establishing that Rights are Reciprocal is on Alien**

In the cases described in 25-134-230, the burden of proof shall be upon the alien claimant to establish that the reciprocal right to take and the right to receive exist.

25-134-250 **Property to Escheat if Reciprocity does not Exist and No Other Heirs**

In the event no heirs other than the aliens are found eligible to take such property, the property shall escheat to the Washoe Tribe as provided by law in those cases where a person shall die intestate without heirs.

25-135 UNIFORM SIMULTANEOUS DEATH ACT

25-135-010 Short Title

This Section may be cited as the Uniform Simultaneous Death Act.

25-135-020 No Sufficient Evidence of Survivorship

Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this Section.

25-135-030 Beneficiaries of Another Person's Disposition of Property

Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

25-135-040 Joint Tenants or Tenants by the Entirety

Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one-half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

25-135-050 Insurance Policies

Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

25-135-060 Community Property

Where a husband and wife have died, leaving community property, and there is no sufficient evidence that they have died otherwise than simultaneously, one-half (1/2) of all the community property shall be distributed as if the wife had survived, except as provided in 25-135-050.

25-135-070 Section Not Retroactive

This Section shall not apply to the distribution of the property of a person who has died before March 9, 1949.

25-135-080 Section Does Not Apply if Decedent Provides Otherwise

This Section shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this Section.

25-135-090 Uniformity of Interpretation

This Section shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those tribes which enact it.

25-136 PROBATE OF WILLS AND APPLICATION FOR LETTERS

25-136-010 Jurisdiction of Proceedings

1. Wills may be proved and letters testamentary or letters of administration granted in Washoe Tribal Court where that Court has Probate jurisdiction pursuant to Title 1.
2. The estates of decedents, or any portion thereof, may be settled by the Washoe Tribal Court in accordance with that Court's Probate Jurisdiction pursuant to Title 1.

[Amended 8/14/09, Resolution No. 290-WTC-2009.]

25-136-020 Disqualified Judge

No judge shall admit any will to probate, or grant letters testamentary or letters of administration, in any case where:

1. He shall be interested as next of kin to the deceased.
2. He is a legatee or devisee under the will.
3. He is named as executor or trustee in the will.
4. He is a witness to the will.

25-136-030 Order of Transfer on Disqualification of Judge

1. When any judge, who would otherwise be authorized to act, shall be precluded from acting from the causes mentioned in 25-136-020, or when he shall in any manner be interested, he shall transfer all proceedings in the matter of the estate to another judge if there is one, who is not disqualified to act in the settlement of the estate, or he shall call a judge of another tribe to hold the court of his tribe.

2. The judge to whom the matter is transferred or such other judge shall hold court and be vested with all the powers of the court and judge so disqualified, and shall retain jurisdiction as to all subsequent proceedings in regard to the estate.

25-136-040 Transfer Back to Court of Original Application

If, before the administration of any estate transferred as provided in 25-136-030 is closed, another person becomes judge of the court wherein such proceeding was originally commenced who is not disqualified to act in the settlement of the estate, and the causes for which the proceeding was transferred no longer exist, any person interested in the estate may have the proceeding returned to the judge, by filing a petition setting forth these facts and moving the court therefore. If these facts are satisfactorily shown, the court must make an order transferring the proceeding back to the judge who is not disqualified.

25-136-050 Delivery of Will after Death; Liability for Non-Delivery

1. Any person having any will in his possession shall, within thirty (30) days after knowledge of the death of the person who executed the will, deliver it to the clerk of the tribal court which has jurisdiction of the case or to the person named in the will to execute it.
2. Any person named as executor or executrix in any will shall, within thirty (30) days after the death of a testator or testatrix, or within thirty (30) days after knowledge of such naming, present the will, if in possession of it, to Tribal Court.

25-136-060 Order to Produce Will; Penalty for Refusal

1. If it is alleged in any petition that any will of a deceased person is in the possession of a third person, and the court shall be satisfied that the allegation is correct, an order shall be issued and served upon the person having possession of the will, requiring that person to produce it at a time to be named in the order.
2. Any person having the possession of a will that neglects or refuses to produce it in obedience to such order may, by warrant from the court, be committed to the jail, and be kept in close confinement until such person produces the will. The judge may make all other necessary orders at chambers to enforce the production of the will.

25-136-070 Who May Petition for Probate

1. Any executor, devisee or legatee named in a will, or any other person interested in the estate, may at any time after the death of the testator, petition the court having jurisdiction to have the will proved, whether the same is in writing or nuncupative, in his possession or not, lost or destroyed, or beyond the jurisdiction of the Tribe.

2. Any person named in a will to execute it, though not in possession of the will, may present a petition to the court having jurisdiction, praying that the person in possession of the will be required to produce it, that it may be admitted to probate, and that letters testamentary be issued.

25-136-080 Nuncupative Will: Limitations Period

1. No proof shall be received of a nuncupative will unless it is offered within six months (6) after the testamentary words were spoken, nor unless the words, or the substance thereof, were reduced to writing within thirty (30) days after they were spoken, and such writing is filed with the petition for the probate thereof.
2. Notice of the petition shall be given, and subsequent proceedings in administration had, as in the case of a written will.

25-136-090 Allegations in Petition for Probate of Will: Defects

1. A petition for the probate of a will and issuance of letters must state:
 - (a) The jurisdictional facts
 - (b) Whether the person named as executor consents to act or renounces his right to letters testamentary.
 - (c) The names, ages and residences of the heirs, next of kin, devisees and legatees of the decedent, so far as known to the petitioner.
 - (d) The character and estimated value of the property of the estate.
 - (e) The name of the person for whom letters testamentary are prayed.
2. No defect of form or in the statement of jurisdictional facts actually existing shall make void the probate of a will.

25-136-100 Petition for Probate: Clerk to set for Hearing; Notice for Hearing

1. All petitions for the probate of a will and for the issuance of letters shall be signed by the party petitioning, or the attorney for the petitioner, and filed with the clerk of the court who shall set the petition for hearing.
2. Notice shall be given as provided in 25-155-020 to the heirs of the testator and the devisees and legatees named in the will and all persons named as executors who are not petitioning, and shall state the filing of the petition, the object, and the time for proving such will.

25-136-120 Issuance and Service of Citation when Petition Presented

If a petition for probate is presented by any person other than the one named in the will to execute it, or if it is presented by one of several of such persons named in the will, citation shall issue and be served upon such not joining in the petition, if resident within the county. The citation shall be served at least five (5) days before the hearing.

25-136-130 Attesting Witnesses to Will Subpoenaed; Unnecessary where Self-Proving Affidavits

1. The Clerk shall issue subpoenas to the subscribing witnesses to a will if they reside in the county.
2. No subpoenas to subscribing witnesses need be issued if the affidavits mentioned in 25-136-160 are filed with the clerk.

25-136-140 Proof of Notice; Witnesses to Testify Orally

1. At the time appointed, or at any other time to which the hearing may be continued, upon proof being made by affidavit or otherwise to the satisfaction of the court that the notice has been given as required by this Title, the court shall proceed to hear the testimony in proof of the will.
2. All witnesses who appear and are sworn shall testify orally.

25-136-150 Evidence of Subscribing Witnesses: Ex Parte Affidavits

1. If no person shall appear to contest the probate of a will the court may admit it to probate on the testimony of only one of the subscribing witnesses, if such testimony shall show that the will was executed in all particulars as required by law, and that the testator or testatrix was of sound mind at the time of its execution.
2. In all cases where the witness resides at a distance of more than twenty-five (25) miles from the place where the Court is held, the ex parte affidavit of the witness, showing that the will was executed in all particulars as required by law, and that the testator or testatrix was of sound mind at the time of its execution, shall be received in evidence and have the same force and effect as if the witness had been present and testified orally.

25-136-160 Proof of Will by Affidavits of Attesting Witnesses

1. Any or all of the attesting witnesses to any will may, after the decease of the testator and at the request of the executor or any person interested under the will, make and sign an affidavit before any officer authorized to administer oaths in or out of the state, stating such facts as they would be required to testify to in court to prove the will. The affidavit shall be written on the will, or, if that is impracticable, on some paper attached thereto. The sworn statement of any such witness so taken shall be accepted by the court of probate as if it had been taken before the court.

25-136-170 Proof of Will when Subscribing Witnesses in Armed Forces or Merchant Marine

1. When it appears to the court that a will cannot be proven or otherwise provided by law because one or more of all of the subscribing witnesses

to the will, at the time the will is offered for probate, are serving in or present with the Armed Forces of the United States or as merchant seamen, or are dead or mentally or physically incapable of testifying or otherwise unavailable, the court may admit the will to probate upon the testimony in person or by deposition of at least the two credible disinterested witnesses that the signature to the will is in the handwriting of the person whose will it purports to be, or upon other sufficient proof of such handwriting.

2. The provisions of subsection 1 shall not preclude the court, in its discretion, from requiring in addition, the testimony, in person or by deposition of any available subscribing witness, or proof of such other pertinent facts and circumstances as the court may deem necessary to admit the will to probate.

25-136-180 Proof of Will by Copy

1. If the will of a person, who at the time of his death was a resident of this tribe, is detained beyond the jurisdiction of the tribe, in a court of any other tribe, state, country or jurisdiction and cannot be produced for probate in this tribe, a copy of the will may be admitted to probate in this tribe in lieu thereof, and have the same force and effect as would be required if the original will were produced.
2. The court may authorize a photographic copy of the will to be presented to the subscribing witness upon his examination in court, or by affidavit, as provided in this Title, and he may be asked the same questions with respect to it and the handwriting of himself, the testator, and the other witness or witnesses, as would be pertinent and competent if the original will were present.

25-136-190 Proof of Holographic Will

A holographic will may be proved in the same manner as other private writings.

25-136-200 Attorney may be Appointed to Represent Minors, Non Residents; Retention of Other Counsel

1. Whenever a will is offered for probate and it appears there are other persons interested in the estate but who reside out of the county and are unrepresented, the court may, whether there is a contest or not, appoint an attorney for such minors or other persons.
2. When a person, for whom an attorney has been appointed, pursuant to subsection 1, retains counsel and notifies the court of such retention, the court shall thereupon enter an order relieving the court appointed attorney of further obligation to represent such person.

25-136-210 Translation and Recording of Foreign Language Will

If the will is in a foreign language the court shall certify a correct translation thereof into English and the certified translation shall be recorded in lieu of the original.

25-136-220 Certified Copy of Record of Will and Decree Admitting to Probate Admissible in Evidence

A copy of the record of the will and decree admitting it to probate, certified by the clerk in whose custody it may be, shall be received in evidence and be as effectual in all cases as the original would be if proved.

25-136-230 Jurisdiction of Court to take Proof of Execution and Validity of Lost or Destroyed Will

Whenever any will shall be lost by accident or destroyed by fraud without the knowledge of the testator, the court shall have the power to take proof of the execution and validity of the will and to establish the same, notice to all persons having first been given, as prescribed in cases of proof of wills in other cases.

25-136-240 Petition for Probate; Testimony of Witnesses; Order

1. The petition for the probate of a lost or destroyed will must state, or be accompanied by a written statement of, the testamentary words or the substance thereof. If the will is established the provisions thereof must be set for the in the order admitting the will to probate, and the order must be so entered at length in the minutes or a written order signed, filed and recorded.
2. The testimony of each witness must be reduced to writing; signed by him and filed, and shall be admissible in evidence in any contest of the will, if a witness has died or has permanently removed from the tribe.
3. No will shall be allowed to be proved as a lost or destroyed will unless the same shall be proved to have existence at the death of the person whose will it is claimed to be, or be shown to have been fraudulently destroyed in the lifetime of such person, nor unless its provisions shall be clearly and distinctly proved by at least two credible witnesses.

25-136-250 Restraint of Administration Pending Petition

If before or during the pendency of an application to prove a lost or destroyed will, letters of administration shall have been granted upon the estate of the deceased, or letters testamentary of any previous will of the deceased, the court shall have authority to restrain the administration in necessary to protect the interests of legatees or devisees claiming under the lost or destroyed will.

25-136-260 Probate of Foreign Wills: Procedure

1. A will duly proved, allowed and admitted to probate outside of this tribe may be admitted to probate and recorded in the court of the tribe in which the testator shall have left any estate.
2. When a copy of the will and the probate thereof, duly certified, shall be presented by the executor, his nominee, or by any other person interested in the will, with a petition for probate, the same must be filed and a time must be appointed for a hearing thereon and notice must be given as required by law on a petition for the original probate of a domestic will.
3. If, upon the hearing, it appears to the satisfaction of the court that the will has been duly proved and admitted to probate outside of this tribe, and that it was executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, or in conformity with the laws of this state, it must be admitted to probate, which probate shall have the same force and effect as the original probate of a domestic will.
4. When a duly certified copy of a will from any jurisdiction where probate is not required by the laws of that jurisdiction, with the certificate of the legal custodian of the original will that the same is a true copy, and that the will has become operative by the laws of that jurisdiction, and when a copy of a notarial will in possession of a notary in a foreign jurisdiction entitled to the custody thereof (the laws of which jurisdiction require that the will remain in the custody of the notary), duly certified by the notary, is presented by the executor, his nominee, or other persons interested to the proper court in this tribe, the court shall appoint a time and place of hearing and notice thereof shall be given as in case of an original will presented for probate.
5. If it appears to the court that the instrument ought to be admitted to probate in this tribe, as the last will and testament of the deceased, the copy shall be filed and recorded, and the will shall have the same effect as if originally proved and admitted to probate in the court.

25-136-270 Notice of Hearing of Petition for Probate of Foreign Will

When a copy of a will, as mentioned in 25-136-360, and the probate thereof, duly certified, shall be filed in the clerk's office, with a petition for letters, notice shall be given for the hearing thereof, and such proceedings shall be had as in case of an original will for probate, and with like force and effect.

25-137 CONTESTS BEFORE PROBATE

25-137-010 Proceedings Preliminary to Trial

1. Any person interested, including a devisee or legatee under a former will, may contest the will by filing written grounds of opposition to the probate thereof at any time before the hearing of the petition for probate, and thereupon a citation shall be issued directly to the heirs of the decedent and to all persons interested in the will, including minors and incompetents, wherever residing, directing them to plead to the contest within thirty(30) days after service of the citation which shall be made personally or by publication in the manner provided by Title 2 - Civil Procedures for the service of summons in civil actions.
2. Any person so served may interpose any defense or objection to the contest by any motion authorized by title 2 of this Law and Order Code. If the motion is granted, the court may allow the contestant ten (10) days within which to amend his contest. If the motion is denied, the petitioner and others interested, within ten (10) days after the receipt of written notice thereof, may jointly or separately answer the contest. The times herein mentioned may be extended by the court or judge.

25-137-020 Trial of Contest: Jury; Costs

1. On the trial, the contestant is plaintiff and the petitioner is defendant. The written grounds of opposition shall constitute a pleading and be subject to the same rules governing pleadings as in the case of complaint in an ordinary action.
2. Any issue of fact involving the competency of the decedent to make a last will and testament, the freedom of the decedent at the time of the execution of the will from duress, menace, fraud or undue influence, the due execution and attestation of the will, or any other question substantially affecting the validity of the will shall be tried by the court unless one of the parties demands a jury. The party demanding the jury shall advance the jury costs.
3. Upon the determination of the contest, costs shall be awarded in accordance with the provisions of Chapter 18 of NRS.

25-137-030 Admissibility of Declarations of Testator

On the trial, testimony as to the declaration of a testator shall be admissible if contemporaneous with the execution of the will insofar as the same may relate to the intention of the testator, his state of mind, his feelings, competency and the existence or nonexistence of duress and undue influence.

25-137-040 Evidence of Execution

If the will is contested, all the subscribing witnesses who are present in the tribe and who are of sound mind must be produced and examined; or the death, absence or insanity of any of them must be satisfactorily shown to the court. If none of the subscribing witnesses resides in the tribe, and the evidence of none of them can be produced, the court may admit the evidence of other witnesses to prove the due execution of the will; and, as evidence of the execution, it may admit proof of the handwriting of the testator and of any of the subscribing witnesses.

25-137-050 Verdict and Judgment

The jury must return a special verdict upon the issues submitted to them by the court; and upon the verdict, or upon the proof taken if a jury is waived, the court must render judgment, either admitting the will to probate or rejecting it.

25-137-060 Decree Admitting Will to Probate; Recording of Will and Decree

If the court shall be satisfied upon the proof taken when heard by the court, or by the verdict or a jury in case a jury is had, that the will was duly executed by a person at the time of sound and disposing mind and not under duress, menace, undue influence or fraudulent representation, the court, by decree in writing, shall admit the will to probate, whereupon the will and decree admitting it to probate shall be recorded together by the clerk in a book to be provided for that purpose.

25-137-070 Perpetuation of Testimony

The testimony of each subscribing witness who has testified must be reduced to writing, signed by him and filed, and shall be admissible in evidence in any subsequent contest of the will if the witness has died or has been permanently removed from the tribe.

25-137-080 Who May Contest after Probate: Filing Petition

When a will has been admitted to probate any interested person other than a party to a contest before probate and other than a person who had actual notice of such previous contest in time to have joined therein, may, at any time within three (3) months after admission of such will to probate, contest the same or the validity of the will. For that purpose he must file in the court in which the will was proved a petition in writing, duly verified, containing his allegations against the validity of the will or against the sufficiency of the proof, and praying that the probate be revoked.

25-137-090 Issue of Citation

Upon filing the petition, and within the time allowed for filing the petition, a citation must be issued, directed to the executor of the will, or the administrator with the will annexed, and to all the devisees and legatees mentioned in the will, and the heirs, so far as known to the petitioner, including minors and

incompetents, or the personal representative of any such person who is dead, directing them to plead to the contest within thirty (30) days after service of the citation.

25-137-100 Service of Citation; Trial; Revocation of Letters

The citation shall be served and proceedings had thereunder as in the case of a contest before probate. If the jury shall find or the court shall decide that the will is invalid or is not the last will of the testator, the court shall enter an order revoking the probate of the will and letters testamentary. Thereupon the powers of the executor or administrator with the will annexed cease; but he shall not be liable for any act done in good faith previous to the revocation.

25-137-110 Costs

If the probate is not revoked the costs of trial must be paid by the contestant. If the probate is revoked the cost must be paid by the party who resisted the revocation or out of the property of the decedent, as the court may direct.

25-137-120 Limitations Period

If no person contests the validity of a will or of the probate thereof, within the time specified in 25-137-080, the probate of the will is conclusive.

25-137-130 Probate of Other Will

Failure to contest a will does not preclude the subsequent probate of a will executed later in point of time than the one heretofore admitted to probate.

25-138 APPOINTMENT OF EXECUTORS AND ADMINISTRATORS WITH THE WILL ANNEXED

25-138-010 Powers of Executor before Issuance of Letters

1. If any will shall have been admitted to probate, the court shall direct letters thereon to issue to the person or persons named in the will to execute the same, who may be competent to discharge the trust, and who shall appear and qualify.
2. No person has any power as an executor until he qualifies, except that, before letters are issued, he may pay the funeral charges and take necessary measures for the preservation of the estate.

25-138-020 Who May Serve as Executor; Letters with Will Annexed

1. No person is competent to serve as an executor or executrix who, at the time the will is probated:
 - (a) Is under the age of majority;

- (b) Has been convicted of a felony;
- (c) Upon proof, is adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of integrity or understanding; or
- (d) Is a banking corporation whose principal place of business is not in the State of Nevada, unless it associates as co-executor a banking corporation whose principal place of is in this tribe. An out-of-tribe banking corporation is competent to appoint substitute executor or executrix, pursuant to 25-138-045, without forming such an association, but any natural person so appointed shall be a resident of this state.

2. If any such person be named as the sole executor or executrix in any will, or if all persons so named are incompetent, or shall renounce the trust, or fail to appear and qualify, letters of administration with the will annexed shall issue.

25-138-030 Married Woman May be Appointed as Executrix

A married woman may be appointed as executrix. The authority of an executrix who was unmarried when appointed is neither extinguished nor affected by her marriage.

25-138-040 Executor Not Specifically Named May be Appointed

When it appears by the terms of a will that it was the intention of the testator to commit the execution thereof and the administration of his estate to any person as executor, such person, although not named executor, is entitled to letters testamentary in like manner if he had been named executor.

25-138-045 Substitute Executor, Alternate Executor, Co-executor: Appointment

1. Any person who is named as executor under a will, either alone or with another or others, who is not incompetent by virtue of 25-138-020, may appoint a substitute if:
 - (a) The person so named is unwilling or unable too undertake or continue the execution of the will; and
 - (b) The testator has not designated an alternate to serve in place of the named executor, or that alternate is unwilling or unable to serve.

2. A person named as alternate executor who is not incompetent by virtue of 25-138-020 may appoint a substitute if:
 - (a) The named alternate is unwilling or unable to undertake or continue the execution of the will; and
 - (b) A named executor is incompetent or has not designated a substitute within thirty (30) days after being notified that the named alternate is unwilling or unable to serve.

3. Any person who alone is named as the executor under a will and is not incompetent may appoint a co-executor if:
 - (a) The person so named is unwilling or unable to undertake or continue the sole execution of the will; and
 - (b) The testator has not designated an alternate to serve in place of the named executor, or that alternate is unwilling or unable to serve.
4. The substitute or co-executor, unless otherwise disqualified under this title, is entitled to letters testamentary in like manner as if he had been named in the will.

25-138-050 Successor to Corporate Executor

When the executor named in the will is a corporate or national banking association that has sold its business and assets to, or has consolidated or merged with, or is in any manner provided by law succeeded by another corporation or national banking association authorized and qualified to act as executor, the court may issue letters thereon to the successor corporation or association.

25-138-060 Objections to Appointment

1. Any person interested in a will may file objections in writing to the granting of letters testamentary to the persons named as executors, or any of them, and such objections shall be heard and determined by the court.
2. A petition may also be filed for the issuance of letters of administration, with the will annexed, in all proper cases.

25-138-070 Executor of an Executor

1. No executor of the will of an executor shall, as such, be authorized to administer the estate of the first testator, but, on the death of the sole surviving executor or executrix or any last will, letters of administration with the will annexed of the estate of the first testator or testatrix left unadministered shall be issued. If no executor is named in the will, or if the sole executor or all the executors named therein are dead or incompetent, or neglect or fail to apply for letters, or to appear and qualify, or die after the issuance of letters and before the completion of the administration, letters of administration with the will annexed shall be granted.
2. The account of a deceased executor or administrator may be closed, his bondsmen released of liability subsequently incurred, upon the petition of either the attorney who represented him in the probate or administration proceedings or upon the petition of any of his bondsmen or sureties, and upon such notice as the court shall direct.

25-138-080 Failure to Appoint All Named Executors

When all the persons named as executors shall not be appointed by the court, such as shall be appointed shall have the same authority to perform every act and discharge every trust required by the will, and their acts shall be effectual for every purpose as if all had been appointed, and should act together.

25-138-090 Administrators with Will Annexed: Order of Appointment

1. Administrators with the will annexed shall have the same authority as the executor named in the will would have had if he should have qualified, and their acts shall be as effectual for every purpose, but if the power or authority conferred upon the executor is discretionary, and is not conferred by law, it shall not be deemed to be conferred upon an administrator with the will annexed.
2. Persons and their nominees and appointees are entitled to appointment as administrators with the will annexed in the same order of priority as in the appointment of administrators, except that, as to foreign letters, a person who is interested in the will has priority over one who is not.

25-139 APPOINTMENT OF ADMIMISTRATORS

25-139-010 Competency and Priority; Qualifications

No person shall be entitled to letters of administration:

1. Who shall be under the age of majority; or
2. Who shall have been convicted of a felony; or
3. Who, upon proof, shall be adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of integrity or understanding; or
4. Who is not a resident of the Washoe Tribe or which, in the case of a banking corporation, does not have its principal place of business in this Tribe or does not associate as coadministrator a banking corporation whose principal place of business is in this Tribe.

25-139-020 Married Woman as Administrator

A married woman may be appointed administratrix. When an unmarried woman appointed administratrix marries, her authority is not thereby extinguished.

25-139-030 Surviving Partner

The surviving partner of a decedent must not be appointed administrator of the estate if any person interested in the estate objects to his appointment.

25-139-040 Order of Priority of Right to Letters; Priority of Nominee

1. Administration of the estate of a person dying intestate shall be granted to someone or more of the persons hereinafter mentioned.
 - (a) The surviving husband or wife.
 - (b) The children.
 - (c) The father or the mother.
 - (d) The brother or the sister.
 - (e) The grandchildren.
 - (f) Any other of the kindred entitled to share in the distribution of the estate.
 - (g) Creditors who have become such during the lifetime of the deceased.
 - (h) The public administrator.
 - (i) Any of the kindred not above enumerated, within the fourth degree of consanguinity.
 - (j) Any person or persons legally competent.

2. A person in each of the foregoing classes is entitled:
 - (a) To appointment, if such person is a resident of the Tribe or is a banking corporation whose principal place of business is in this Tribe or which associates as coadministrator a banking corporation whose principal place of business is in this Tribe.
 - (b) To nominate a resident of the Washoe Tribe or a qualified banking corporation for appointment, whether or not the nominator is a resident of the Washoe Tribe or a qualified banking corporation. The nominee shall have the same priority as his nominator. Such priority is independent of the residence or corporate qualification of the nominator.

25-139-050 Nomination

Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in the court.

25-139-060 Relatives of Whole Blood Preferred to Those of Half Blood

When there shall be several persons claiming equally entitled to the administration, relatives of the whole blood are preferred to those of the half blood.

25-139-070 Discretion of The Court

When there are several persons equally entitled to the administration, the court may, in its discretion, grant letters to one or more of them.

25-139-080 Failure to Claim Letters

Letters of administration may be granted to any applicant, though it appear that there are other persons having better rights to the administration, when such fail to appear and claim the issuance of letters to themselves.

25-139-090 Application for Letters; Contents of Petition

1. A petition for letters of administration must be in writing, signed by the applicant or his counsel, and filed with the clerk of the court, and must state:
 - (a) The jurisdictional facts
 - (b) The names, ages and post office addresses of the heirs of the decedent, so far as known to the applicant.
 - (c) The character and estimated value of the property of the estate
2. No defect of form or in the statement jurisdictional facts actually existing shall make void an order appointing an administrator or any of the subsequent proceedings.

25-139-100 Clerk to Set Petition for Hearing; Notice of Hearing

The clerk shall set the petition for hearing, and notice shall be given to the heirs of the decedent named in the petition as provided in 25-155-020. The notice shall state the filing of the petition, the object, and the time for hearing.

25-139-110 Right of Contest: Filing of Counterpetition; Notice and Hearing

Any person interested may contest the application by filing a written opposition thereto on the ground of the incompetency of the applicant, or may assert his own right to the administration and pray that letters be issued to himself. In the latter case, he must file a petition and give the notice required for the original petition, and the court must hear the two petitions together.

25-139-120 Facts to be Proved

Before letters are granted the fact of death, which may be proved by affidavit when the death took place outside of the Tribe, and that the decedent died intestate, and that notice has been given as required in this Title, must be proved by the evidence of the applicant or others; and the court may also examine the applicant or any other person concerning the time, place and manner of death, the place of the decedent's residence at the time, the character and value of his property, and whether or not the decedent left any will, and may compel any person to attend as a witness for that purpose.

25-139-130 Minute Entry or Written Order Conclusive Evidence of Notice

An entry in the minutes or in the written order appointing the administrator, signed by the judge, that proof was made and that notice had been given according to law shall be conclusive evidence of the fact of such notice.

25-139-140 Revocation of Letters; Prior Claimants for Letters

When letters of administration have been granted to any other person than the surviving husband or wife, or his or her nominee, the child, the father, mother, brother, or sister of the intestate, anyone of them may obtain the revocation of the letters by presenting to the court a petition praying the revocation, and that letters of administration be issued to him or her.

25-139-150 Procedure

1. When such a petition is filed, the clerk shall give notice, as in the case of an original application, and shall issue a citation to the administrator to appear and answer the petition at the time appointed for the hearing.
2. At the time appointed, upon proof that the citation together with copy of petition, has been duly served and notice given as above required, the court shall take evidence upon the petition, and if the right of the applicant is established, and he is competent, letters of administration shall be granted to him and the letters of the former administrator revoked.

25-139-160 Assertion of Prior Right

The surviving spouse, or nominee of the surviving spouse, when letters of administration have been granted to a child, parent, brother or sister, or the intestate, or any of such relatives, when letters have been granted to any other of them, may assert his prior right, and obtain letters of administration, and have the letters before granted revoked in the manner prescribed in 25-139-150.

25-139-170 Discretion of Court

The court, in its discretion, may refuse to grant letters of administration as provided in this chapter to any person or to the nominee of any person who had actual notice of the first application and an opportunity to contest the same.

25-140 SPECIAL ADMINISTRATORS

25-140-010 Causes for Appointment

The judge shall appoint a special administrator to collect and take charge of the estate of the deceased, in whatever county or counties the same may be found, and to exercise such other powers as may be necessary to preserve the estate:

1. When there shall be a delay in granting letters testamentary or letters of administration, from any cause.
2. When letters are granted irregularly.
3. When no sufficient bond is filed as required by law.
4. When no petition is filed for letters.
5. When an executor or administrator dies or is suspended or removed, and the circumstances of the estate require the immediate appointment of a personal representative.
6. In any other proper case.

25-140-020 Notice and Order of Appointment: Order Not Appealable

1. The appointment of a special administrator may be made at chambers, and without notice or upon such notice to such of the persons interested in the estate as the court or judge may deem reasonable, and shall be made by entry upon the minutes of the court or by written order signed and filed, which shall specify the powers to be exercised by the special administrator.
2. Upon the order being entered, and after the person appointed has given bond as fixed by the judge, the clerk shall issue special letters of administration, with a certified copy of the order attached, to the person appointed.
3. In making the appointment of a special administrator, the judge shall give preference to the person or persons entitled to letters testamentary or letters of administration, but no appeal shall be allowed from the appointment.

25-140-030 Bond, Oath and Issuance of Letters

Before letters issue to a special administrator he must:

1. Give bond in such sum as the court or judge may direct, with sureties to the satisfaction of the court or judge conditioned for the faithful performance of his duties; and
2. Take the usual oath and have the same endorsed on his letters. Thereupon the clerk shall issue special letters of administration to him.

25-140-040 Powers and Duties

1. The special administrator shall:

- (a) Collect and preserve for the executor or administrator when appointed all the goods, chattles and debts of the deceased, and all incomes, rents, issues, profits, claims and demands of the estate.
 - (b) Take charge and management of, enter upon and preserve from damage, waste and injury, the real property.
2. The special administrator may:
- (a) For any and all necessary purposes, commence, maintain or defend suits and other legal proceedings as an administrator.
 - (b) Sell such perishable estate as the court may order to be sold.
 - (c) Exercise such other powers as may have been conferred upon him by the appointment.
 - (d) Obtain leave to borrow money or to lease or mortgage or execute a deed of trust upon real property in, the same manner as a general administrator.
3. In no case shall the special administrator be liable to an action by any creditor, on any claim against the estate, nor pay any claim against the deceased, except for claims involving wrongful death, personal injury or property damage where the estate contains no assets other than a policy of liability insurance.

25-140-050 Payment of Lien Charges on Property

- 1. If any property in charge of a special administrator is subject to a mortgage, lien or deed of trust, to secure the payment of money, and there is danger that the holder of the security may enforce or foreclose the same, and the property exceeds in value the amount of the obligation thereon, then, upon petition of the special administrator or of anyone interested in the estate and upon such notice as the court or judge shall deem proper, the court or judge may authorize or direct the special administrator to pay the interest due or all or any part of the amount so secured.
- 2. The order may also direct the interest not yet accrued be paid as it becomes due and the order shall remain in effect and cover such future interest unless and until for good cause set aside or modified by the court upon petition and notice, in the same manner as a general administrator.

25-140-060 Powers, Duties and Obligations of A General Administrator

- 1. When a special administrator is appointed pending determination of a contest of a will instituted prior to the probate thereof, or pending an appeal from an order appointing, suspending or removing an executor or administrator, the special administrator shall have the same powers, duties and obligations as a general administrator, and the letters of administration issued to him shall recite that the special administrator is appointed with the powers of a general administrator.

2. If a special administrator has been appointed, and thereafter a proceeding to contest a will prior to shall make an order providing that the special administrator shall thereafter have the additional powers, duties and obligations of a general administrator and requiring that he give such additional bond as the court deems proper. The order is not appealable, and from the time of the approving and filing of any additional bonds as may be required, the special administrator shall have the powers, duties and obligations of a general administrator.

25-140-070 Effect of Grant of Letters of Testamentary, Letters of Administration

When letters testamentary or letters of administration shall be granted on the estate of the deceased, the powers of the special administrator shall cease, and he shall forthwith deliver to the executor or administrator all the property and effects of the deceased in his hands, and the executor or administrator may prosecute to final judgment any suit commenced by the special administrator.

25-140-080 Account of Special Administrator

The special administrator shall also render an account, under oath, of his proceedings in like manner as other administrators are required to do; but if a person serving as special administrator is appointed the succeeding general administrator or the executor, the accounting otherwise due from him as special administrator may be included in his first accounting as general administrator or executor.

25-141 LETTERS GENERALLY; CHANGES IN ADMINISTRATION; FORM OF LETTERS

25-141-010 Signing and Sealing

Letters testamentary, letters of administration with the will annexed, and letters of administration shall be signed by the clerk and shall be under the seal of the court.

25-141-020 Form of Letters Testamentary

Letters testamentary may be in substantially the following form (after properly entitling court and cause): "The last will of _____, deceased, having been duly admitted to probate in our court, _____, who is named therein, was by our court on the _____ day of _____, _____ duly appointed executor, who, having qualified as such, is hereby authorized to act by virtue thereof. In testimony whereof, I have officially signed these letters, and affixed hereto the seal of the court, this _____ day of _____, _____.

25-141-030 Form of Letters of Administration With The Will Annexed

Letters of administration with the will annexed may be substantially in the following form (after properly entitling court and cause): "The last will of - _____, deceased, having been duly admitted to probate in our court, and there being no executor named in the will (or as the case may be), _____ was by our court, on the _____ day of _____, _____ duly appointed as administrator with the will annexed, and who, having duly qualified as such, is hereby authorized to act by virtue thereof. In testimony whereof, I have officially signed these letters and affixed hereto the seal of the court, this _____ day of _____, " _____."

25-141-040 Form of Letters of General or Special Administration

Letters of administration may be in the following form (after proper entitling court and cause): "This is to certify that, by order of the above-named court and entered on the _____ day of _____, _____, was appointed administrat____ (or special administrat____) of the estate of _____, deceased, by virtue of which these letters are issued this _____ day of _____, _____, he having duly qualified. Witness my official signature, with the seal of the court affixed.

Disability and Substitution

25-141-050 Effect of Subsequent Probate: New Executor or Administrator C.T.A.

If, after granting letters of administration on the ground of intestacy, a will of the deceased shall be duly proved and allowed by the court, the letters of administration shall be revoked and the power of the administrator shall cease, and he shall render an account of his administration within such time as the court shall direct. In such case, the executor of the will, or the administrator with the will annexed, shall be entitled to demand, sue for and collect all the goods, chattels and effects of the deceased, remaining unadministered, and may prosecute to final judgment any suit commenced by or against the administrator before the revocation of his letters.

25-141-060 Incapacity of Joint Executors, Administrators

In case any one of several executors or administrators of the same estate to whom letters shall have been granted shall die, become lunatic, be convicted of a felony, or otherwise become incapable of executing the trust, or, in case the letters testamentary or letters of administration shall be revoked or annulled according to law with respect to any one executor or administrator, the remaining executor or administrator shall proceed and complete the execution of the will or administration.

25-141-070 Incapacity of All Executors, Administrators

If all the executors or administrators die or from any cause become incapable of executing the trust, or the authority of all of them is revoked or annulled according to law, the court shall direct letters of administration with the will

annexed, or otherwise, to be issued to the surviving husband or wife, next of kin or others, in the same manner as directed in relation to original letters of administration. The administrator so appointed shall give bond in like penalty, with like sureties and conditions as required of administrators, and shall have the same authority.

Resignation, Suspension and Removal

25-141-080 Resignation: Procedure

An executor or administrator may resign his appointment at any time, by a writing filed in the court, to take effect upon the settlement of his accounts. If, however, by reason of any delay in such settlement or for any other cause, the circumstances of the estate or the rights of those interested therein require it, the court, at any time after the tendering of the resignation, may revoke the letters of such executor or administrator and appoint in his stead an administrator, either special or general, or with the will annexed, in the same manner as is directed in relation to original letters of administration. The liability of the outgoing executor or administrator or of the sureties on his bond shall not in any manner be discharged, released or affected by such resignation or appointment, but shall continue until the executor or administrator has delivered up all the estate to the person whom the court shall appoint to receive the same.

25-141-090 Suspension Causes

Whenever a judge has reason to believe, from his own knowledge or from credible information, that any executor or administrator:

1. Has wasted, converted to his own use, or mismanaged, or is about to waste or convert to his own use, the property of the estate committed to his charge; or
2. Has committed or is, about to commit any wrong or fraud upon the estate; or
3. Has become incompetent to act; or
4. Has wrongfully neglected the estate; or
5. Has unreasonably delayed the performance of necessary acts in any particular as executor or administrator;

he shall, by an order entered upon the minutes of the court, suspend the powers of the executor or administrator until the matter can be investigated.

25-141-100 Special Administrator may be Appointed During Suspension of Executor, Administrator

During the suspension of the powers of an executor or an administrator, as provided in 15-141-090, the court or judge, if the condition of the estate requires

it, may appoint a special administrator to take charge of the effects of the estate, who shall give bond and account as other special administrators are required to do.

25-141-110 Executor, Administrator Cited to Show Cause After Suspension Order; Service of Citation

1. When the suspension has been made, the clerk shall issue a citation, reciting the order of suspension, to the executor or administrator to appear before the court at a time therein to be stated, as fixed by the court or judge, to show cause why his letters should not be revoked.
2. The citation shall be served by the tribal police or other person, as provided in Title 2 for service of process.
3. If the executor or administrator has absconded or concealed himself or has removed or absented himself from the state, the citation may be served by leaving a copy with his attorney of record, if he is available, or in such manner as the court may direct, and the court shall have jurisdiction to proceed as if the citation had been personally served.

25-141-120 Interested Person May File Charges for Removal

Any person interested may appear at the hearing and file allegations in writing, showing that the executor or administrator should be removed. The allegations shall be heard and determined by the court.

25-141-130 Proceedings At Hearing

1. If the executor or administrator fails to appear in obedience to the citation, or if he appears and the court is satisfied that good grounds exist for his removal, his letters shall be revoked, and letters of administration granted anew, as the case may require.
2. In proceeding for the removal of an executor or administrator, the court may compel his attendance by attachment or other proper process, and may require him to answer questions, on oath, touching his administration, and upon his refusal to do so, may commit him to jail until he obeys or may revoke his letters, or both.

25-141-140 Acts of Executor, Administrator Prior to Revocation

All acts of an executor or administrator, as such, before the revocation of his letters testamentary or letters of administration, shall be as valid, to all intents and purposes, as if he had continued lawfully to execute the duties of his trust.

25-141-150 Appointment of Successor Executor, Administrator: Death and Residence of Deceased need not be Proven Again

When an executor or administrator resigns or is removed, a successor may be appointed, if a necessity therefore exists, without again proving the death and residence of the deceased.

25-142 OATHS AND BONDS

25-142-010 Oaths of Individuals and Corporate Executors, Administrators

1. Before letters testamentary or letters of administration may be issued to the executor or administrator he shall take and subscribe an oath or affirmation, before an officer authorized to administer oaths, that he will perform according to law the duties of executor or administrator. The oath shall be filed and recorded by the Clerk.
2. The oath of a corporation appointed as executor or administrator may be taken and subscribed by its president or vice president, trust officer, or secretary or treasurer, upon its behalf, and the oath of a banking corporation may be taken and subscribed by any of the above-named officers, or by its cashier, trust officer, assistant trust officer, manager, branch manager or other duly authorized officer.

25-142-020 Bond; Additional Bond on Real Property Sale; Reduction of Bond When Assets Deposited With Bank, Trust Company; Bond Not Required of Bank, Trust Company Acting As Executor, Administrator

1. Subject to the provisions of subsection 6, every person to whom letters testamentary (unless the will otherwise provides) or letters of administration shall have been directed to issue shall, before receiving the letters, execute a bond to the Washoe Tribe, with two or more sureties to be approved by the clerk. In form, the bond shall be joint and several, and the penalties shall not be less than the value of the personal property, including rents and profits belonging to the estate, which value shall be ascertained by the court by the examination on oath of the party applying, and of any other persons the judge may think proper to examine.
2. The judge shall require an additional bond whenever the sale of any real estate belonging to an estate is ordered by him to be sold, in an amount necessary to make the total penalty the amount provided in subsection 1, treating the expected proceeds of the sale as personal property.
3. The bond shall be conditioned that the executor or administrator will faithfully execute the duties of the trust according to law, and shall be recorded by the clerk.
4. Nothing contained in this Title affects the right of any court or judge to accept as sole surety upon any bond or undertaking a surety company

duly qualified to act as sole surety upon bonds or undertakings within this tribe.

5. Personal assets of an estate may be deposited with a domestic banking or trust corporation upon such terms as may be prescribed by order of the court having jurisdiction of the estate. The deposit shall be subject to the further order of the court. The bond of the executor or administrator may be reduced accordingly.
6. If a banking corporation, or trust company, doing business in this Tribe is appointed executor or administrator of the estate of a deceased, no bond shall be required of such executor or administrator, unless otherwise specifically required by the court.

25-142-030 Nature of Surety's Liability: Extent of Bond

The bond shall not be void upon the first recovery, but may be sued upon from time to time by any person aggrieved in his or her own name until the whole penalty is exhausted.

25-142-040 Sureties; Entry of Bond In Register

1. In all cases when bonds are required by this Title, the sureties must justify on oath before the judge or clerk of a court having a seal, or before a notary public or a judge, to the effect that they are householders, or freeholders, within this Tribe, and worth the amount for which they become surety, over and above all just debts and liabilities, exclusive of property exempt from execution, and such justification must be signed by the sureties and certified by the officer taking the same, and endorsed on or attached to and filed with the bond.
2. Upon filing, the clerk shall enter in the register of actions the date and amount of the bond and the name or names of the surety or sureties thereon. In the event of the loss of the bond, the entry so made shall be prima facie evidence of the due execution of the bond as required by law.
3. When the whole penal sum of the bond exceeds \$2,000 sureties may go thereon for any sum not less than \$500, so that the whole be equal to two sufficient sureties for the whole penal sum.

25-142-050 Justification of Sureties; Additional Security

1. Before the judge approves any bond required by this Title he may, of his own motion, or at any time after the approval of a bond upon motion of any person interested in the estate, supported by affidavit that any one or all of the sureties is or are not worth as much as justified to, order a citation to issue, requiring the surety or sureties to appear before him at a particular time and place to testify touching his or their property and its value. The judge shall, at the time the citation is issued, cause a notice or

subpoena to issue to the executor or administrator requiring his appearance at the return of the citation.

2. Upon the return of the citation the judge must swear the surety and such witnesses as may be produced touching the property and its value of the sureties. If, upon such investigation, the judge is satisfied that the bond is insufficient, he may require sufficient additional security within such time as may be reasonable.

If sufficient security is not given within the time fixed by the judge's order, or such further time as the judge may give, the right of the executor or administrator to the administration shall cease and the person next entitled to the administration of the estate, who will execute a sufficient bond, shall be appointed to the administration.

25-142-070 Bond may be Required Despite Provisions of Will

When it is expressly provided in the will of a decedent that no bond shall be required of the executor or executrix, letters testamentary may issue without any bond having been given; but an executor or executrix, to whom letters have been issued without bond, may, at any time afterward, whenever it shall be shown for any cause to be necessary or proper be required to provide and file a bond as in other cases

25-142-080 Interested Person May Petition Court for Further Security; Judge May Require Additional Security

1. Whenever a person interested in an estate shall discover that the sureties of any executor or administrator have become or are becoming insolvent, or that they or any one have or has removed from, or are or is about to remove from the state, or that from any other cause the bond is insufficient, such person may apply by petition to the judge praying that further security be given.
2. If it comes to the knowledge of the judge that the bond is for any cause insufficient he may, of his own motion, without any application, require further security.

25-142-090 Hearing on Sufficiency; Issuance and Service of Citation; Order

1. If the court or judge is satisfied from the petition that the matter requires investigation, a citation must be issued to the executor or administrator requiring him to appear before the judge at a designated time and place, to show cause why he should not give further security. The citation must be served on the executor or administrator personally, at least 5 days before the return day. If he has absconded or cannot be found, it may be served by leaving a copy of it at his residence, or by such publication as the court or judge may order.

2. On the return of the citation or at such other time as the judge may appoint, he shall proceed to hear the matter and if it satisfactorily appears that the security, from any cause, is insufficient, he shall make an order requiring the executor or administrator to give further 'security or to file a new bond in the usual form, within a reasonable time, not less than 5 nor more than 30 days.

25-142-100 Appoint of Person Next In Order

If sufficient security or additional security is not given within the time fixed by the judge's order the right of the executor or administrator to the administration shall cease, and the person next entitled to administer the estate, who will execute a sufficient bond, must be appointed. If letters have already been issued to the executor or administrator, the same shall be revoked and his authority shall thereupon cease. The person next entitled to administer the estate, who shall execute a proper bond, shall be appointed, upon giving the same notice required of other executors and administrators as the case may be.

25-142-110 Suspension of Powers Pending Hearing

When a petition is presented praying that an executor or administrator be required to give further security, and when it also shall be alleged on oath or affirmation that the executor or administrator is wasting the property of the estate, the judge may, by order, suspend his powers until the matter can be heard and determined.

25-142-120 Judge May Cite Executor, Administrator to Show Cause for Further Security

When it shall come to his knowledge that the bond of any executor or administrator is from any cause insufficient the judge shall, without any application, cause the executor or administrator to be cited to appear and show cause why he should not give further security and to proceed thereon as upon the petition of any person interested.

25-142-130 Surety's Application for Discharge: Issuance of Citation; Service

When a surety of an executor or administrator desires to be released from responsibility on account of future acts, he may make application to the court, or a judge thereof, for relief. The court or judge shall cite the executor or administrator to appear at a designated time and place and give other security. If the executor or administrator has absconded, left or removed from the state, or if he cannot be found after due diligence and inquiry, the citation may be served by leaving a copy of it at his residence or by such publication as the court or judge may order, all in accordance with the provisions of 25-143-190.

25-142-140 Revocation for Failure to Give New Sureties

If the executor or administrator neglects or refuses to give new sureties, to the satisfaction of the judge, on the return of the citation, the court or judge being satisfied the citation has been served, or within such reasonable time as the judge

shall allow, not exceeding 5 days, unless the surety or sureties petitioning shall consent to a longer extension of time, the court or judge shall revoke the letters granted.

25-142-150 Discharge of Sureties

If new sureties be given to the satisfaction of the judge, he shall thereupon make an order that the surety or sureties who applied for relief shall not be liable for any subsequent act, default, or misconduct of the executor or administrator.

25-143 POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS

25-143-010 Absent Executors: Authority of Those Remaining

When there are two executors or administrators the acts of one along shall be valid if the other is absent from the state, or for any cause is laboring under any legal disability, and when there are more than two, the acts of a majority shall be sufficient.

25-143-020 Right to Possession of Decedent's Property

The executor or administrator shall have a right to the possession of all the real, as well as personal property of the deceased and may receive the rents and profits of the real property until the estate shall be settled, or until delivered over by order of the court to the heirs or devisees, and shall keep in good tenantable repair all houses, buildings and fences thereon which are under his control.

25-143-030 Executor, Administrator to Take Possession of Estate and Collect Debts

1. The executor or administrator shall take into his possession all the estate of the deceased, real and personal, except that exempted as provided in this Title, and shall collect all debts due the deceased or to the estate.
2. For the purpose of bringing suits to quiet title or for partition of the estate, the possession of the heirs or devisees. The possession of heirs or devisees shall be subject, however, to the possession of the executor or administrator for all other purposes.

25-143-035 Executor, Administrator to Use Reasonable Diligence; Report Required If Estate Not Closed Within Certain Times; Hearing and Determinations By Court

1. The executor or administrator shall use reasonable diligence in performing his duties and in pursuing the administration of the estate.
2. Every executor or administrator in charge of an estate that has not been closed shall:

- (a) Within 6 months after his appointment, where no federal estate tax return is required to be filed for the estate; or
 - (b) Within 18 months after his appointment, where a federal estate tax return is required to be filed for the estate, file with the court a report explaining why the estate has not been closed.
3. Upon receiving the report, the court clerk shall set a time and place for a hearing of the report, not later than 30 days nor sooner than 15 days after receiving it. At least 10 days before the hearing, the executor or administrator shall send a copy of the report and shall give notice of the hearing, by registered or certified mail, to each person whose interest is affected as an heir, devisee or legatee.
 4. At the hearing, the court shall determine whether or not the executor or administrator has used reasonable diligence in his administration and if he has not, the court may:
 - (a) Prescribe the time within which the estate shall be closed.
 - (b) Allow the executor or administrator additional time for closing and order a subsequent report; or
 - (c) Suspend or revoke the letters of the executor or administrator.

25-143-040 Rights of Surviving Partner

1. When there was a partnership existing between the testator or intestate, at the time of his death, and any other person, the surviving partner shall have the right to continue in possession of the effects of the partnership and to settle its business, but the interests of the deceased shall be included in the Inventory and appraised as other property.
2. The surviving partner shall proceed to settle the affairs of the partnership without delay, and shall account to the executor or administrator, and pay over such balance as may be, from time to time, payable to him as the representative of his testator or intestate.
3. Upon the application of the executor or administrator the court or judge may, whenever it may appear necessary, order the surviving partner to render an account, and in case of neglect or refusal may, after notice, compel it by attachment; and the executor or administrator may maintain against him any action which the deceased could have maintained.
4. Upon any sale of a partnership interest the surviving partner may be a bidder.

25-143-050 Continuing Business of Decedent

After notice given as provided in 25-155-010 or in such other manner as may be directed by the court or judge thereof, the court may authorize the executor or administrator to continue the operation of the decedent's business to such an

extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and those interested therein.

25-143-060 Extent of Power to Sue and be Sued

Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates; and all judgments quieting title to real property, entered prior to February 7, 1921, in actions instituted and maintained by executors or administrators, shall have the same force and effect after the lapse of 10 years from the entry thereof, unless sooner set aside, as judgments entered in like actions instituted and maintained by the heirs or devisees of their respective testators or intestates.

25-143-070 Actions By Executor, Administrator for Conversion, Trespass

1. Executors or administrators may maintain actions against any person or persons who shall have wasted, destroyed, taken, carried away or converted to his or their own use, the goods of the testator or intestate in his lifetime.

2. They may also maintain actions for trespass committed on the real property of the deceased while living.

25-143-080 Actions Against Executor, Administrator for Conversion, Trespass of Decedent

Any person or his personal representatives shall have a right of action against the executor or administrator of any testator or intestate who, in his lifetime, shall have wasted, destroyed, taken, carried away or converted to his own use the goods or chattels of any such person, or committed any trespass on the real property of such person.

25-143-090 Actions on Bond of Former Executor, Administrator

Any executor or administrator may, in his own name, for the use and benefit of all parties interested in the estate maintained actions on the bond of any former executor or administrator of the same estate.

25-143-100 Action for Conversion Before Letters Granted

If any person, before the granting of letters testamentary or letters of administration, shall convert to this own use, take or alienate any of the moneys, goods, chattels or effects of any deceased person, he shall stand chargeable and be liable to an action by the executor or administrator of the estate for double the value of the property so converted, taken or alienated to be recovered for the benefit of the estate.

25-143-110 Procedure When Conversion Alleged: Citation; Examination; Allowance of Necessary Expenses

1. If any executory or administrator, heir, devisee, legatee, creditor or other person interested in the estate of any deceased person shall complain, on oath, to the judge that any person is, or is suspected to have, concealed, converted to his own use, conveyed away or otherwise disposed of any moneys, goods, chattels or effect of the deceased, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts or other writings which contain evidence of, or tend to disclose the right, title or interest of the deceased in or to any real or personal property, or any claim or demand, or any last will of the deceased, the judge may cause such person to be cited to appear before the court to answer, upon oath, upon the matter of the complaint.
2. If the person be not in the county where letters have been granted, he may be cited and examined either before the court of the county where he may be found, or before the court issuing the citation. If such person appears, and shall be found innocent, his necessary expenses shall be allowed out of the estate.

25-143-120 Commitment for Refusal to Appear for Examination; Order Requiring Delivery of Property to Executor, Administrator

1. If the person so cited should refuse to appear and submit to examination or to testify touching the matter of the complaint, the court may commit the person to the county jail, there to remain confined until he shall obey the order of the court or be discharged according to law.
2. If, upon examination, it shall appear that the person has concealed, converted to his own use, smuggled, conveyed away, or in any manner disposed of any moneys, goods or chattels of the deceased, or that he has in his possession or under his control any deeds, conveyances, bonds, contracts, or other writings, which contain evidence of, or tend to disclose the right, title, interest or claim of the deceased to any real or personal property, claim or demand, or any last will of the deceased, the court may make an order requiring the person to deliver any such property or effects to the executor or administrator at such time as the court may fix. Should the person fail to comply with the order the court may commit him to the county jail until the order shall be complied with or the person discharged, according to law.
3. The order of the court for the delivery of such property shall be prima facie evidence of the right of the executor or administrator to the property in any action that may be brought for the recovery thereof, and any judgment recovered therein shall be for double the value of the property, and damages in addition thereto equal to the value of such property.
4. In addition to the examination of the party, witnesses may be produced and examined on either side.

25-143-130 Accounting By Person Holding Estate Assets for Executor, Administrator, Penalty for Refusal to Comply With Order

The judge, upon the complaint on oath of any executor or administrator may cause any person who shall have been entrusted by the executor or administrator with any part of the estate of the decedent to appear before the court and render on oath a full account of any money, goods, chattels, bonds, accounts, or other papers or effects belonging to the estate which shall have come into his possession in trust for the executor or administrator. If the person so cited shall fail or refuse to appear and render the account, he may be proceeded against, as provided in 25-143-120.

25-143-140 Discharging Debtor of Estate, Compromising Claims, and Renewing Obligations: Procedure

1. If a debtor of the decedent is unable to pay all his debts, the executor or administrator, with the approval of the court, may give him a discharge upon such terms as may appear to the court to be for the best interest of the estate.
2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.
3. The court may also authorize the executor or administrator, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or his estate.
4. To obtain approval or authorization the executor or administrator shall file a verified petition with the clerk showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and notice thereof shall be given for the period and in the manner required by 25-155-010.

25-143-150 Actions to Recover Fraudulently Conveyed Property

1. If the deceased, in his lifetime, conveyed any real property or any rights or interests therein, with intent to defraud his creditors or to avoid any obligation, debt or duty owed another, or so conveyed such property that by law the deeds of conveyance are void as against creditors, or made a gift of property in view of death, and there is a deficiency of assets in the hands of the executor or administrator, the latter, on application of any creditor, shall commence and prosecution to final judgment any proper action for the recovery of the same for the benefit of the creditors.
2. The executor or administrator may also, for the benefit of the creditors, sue for and recover all goods, chattels, rights or credits, or their value, which may have been so fraudulently conveyed by the deceased in his lifetime, whatever may have been the manner of fraudulent conveyance.

25-143-160 Costs; Disposal of Property Recovered; Proceeds

1. An executor or administrator shall not be bound to sue for the estate, as mentioned in 25-143-150, for the benefit of the creditors, unless a creditor or creditors of the deceased:
 - (a) Make application therefore; and
 - (b) Pay the costs and expense of the litigation or give such security therefore as the court or judge shall direct.

1. All real property so recovered shall be sold for the payment of debts in the same manner as prescribed in this Title for sales of real property by executors or administrators.

5)

1. The proceeds of all goods, chattels, rights or credits so received shall be applied in payment of debts in the same manner as other personal property in the hands of the executor or administrator.

25-143-170 Purchase By Executor of Property of Estate Prohibited

No executor or administrator shall directly or indirectly purchase any property of the estate he represents.

2-143-175 Executors, Administrators Authorized to Make Certain Deposits, Investments of Estate Funds Without Court Approval

Executors and administrators may, without court approval, deposit or invest funds of the estate in

1. United States Treasury notes, bills or bonds;
2. Negotiable commercial paper, not exceeding 180 days maturity, of prime quality as defined by a nationally recognized organization which rates such securities;
3. Bankers' acceptances;
4. Savings accounts or certificates of deposit in national banks, banks chartered by the State of Nevada, federal savings and loan associations or savings and loan associations chartered by the State of Nevada; or
5. Any other investment in which the executor or administrator is authorized by law or by a will to invest moneys or funds under his control.

25-143-180 Executors, Administrators Authorized to Make Loans, Advances of Credit Insured By Federal Housing Administrator

1. Subject to such regulations as may be prescribed by the Federal Housing Administrator, executors and administrators are authorized:
 - (a) To make such loans and advances of credit, and purchases of obligations representing the loans and advances of credit, as are eligible for insurance by the Federal Housing Administrator, and to obtain such insurance.
 - (b) To make such loans secured by mortgage on real property as are eligible for insurance by the Federal Housing Administrator, and to obtain such insurance.
 - (c) To purchase, invest in, and dispose of notes or bonds secured by mortgages insured by the Federal Housing Administrator, securities of national mortgage associations, and debentures issued by the Federal Housing Administrator.
2. No law of this state prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon, loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made and insured pursuant to the terms of the National Housing Act are hereby validated and confirmed.
3. All above-described loans, advances of credit, and purchases of obligations heretofore made and insured pursuant to the terms of the National Housing Act are hereby validated and confirmed.

25-143-185 Executors, Administrators Authorized to Invest In Farm Loan Bond, Other Obligations Issued By Federal Land Banks and Banks for Cooperatives

Executors and administrators may purchase, invest in, and dispose of farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, 12 U.S.C. Sections 636 to 1012, inclusive, and Sections 1021 to 1129, inclusive, as now or hereafter amended, and the Farm Credit Act of 1971, 12 U.S.C. Sections 2001 to 2259, inclusive, as now or hereafter amended, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, 12 U.S.C. Sections 1131 to 1138e, inclusive, as now or hereafter amended, and the Farm Credit Act of 1971, 12 U.S.C. Section 2001 to 2259, inclusive, as now or hereafter amended.

25-143-187 Executors, Administrators Authorized to Hold Stock In Name of Nominee; Conditions; Personal Liability of Executor, Administrator

9. An executor or administrator holding certificates of stock in such capacity may hold such stock in the name of a nominee without mention thereof in the stock certificate or registration books, if:
 - (a) The executor's or administrator's records and all reports and accounts he renders clearly show such holding and the facts regarding such holding; and
 - (b) The nominee deposits with the executor or administrator a signed statement of the true interest of the executor or administrator.
2. An executor or administrator is personally liable for any loss to the estate resulting from any act of the nominee in connection with stock so held.

25-143-190 Cumulative Method of Service of Process on Executor, Administrator; Written Statement Containing Permanent Address of Executor, Administrator to be Filed with Clerk

1. Before letters testamentary, or letters of administration, or letters of administration with the will annexed, are delivered to any executor or administrator, he shall file with the clerk of the County in which the administration of the estate is pending a written statement containing his name and his permanent address, which permanent address may, from time to time, be changed by him by filing with the county clerk a written statement giving his changed address. His permanent address shall be deemed to be that contained in the last statement so filed by him.
2. The taking of his oath of office by an executor or by an administrator, or by an administrator with the will annexed, shall be deemed to be and shall be the equivalent of an appointment by him of the county clerk of the county in which the administration of the estate is pending to be his true and lawful attorney, upon whom all legal process in any action or proceeding against the executor or administrator may be served, With the same legal force and effect as if served upon him personally within the State of Nevada.
3. Service of process shall be made by leaving a copy of the process (and if such process be a summons, there shall be attached thereto a copy of the complaint certified by the clerk or the plaintiff's attorney, and such summons and certified copy of the complaint shall be included in the words, "copy of the process"), with a fee of \$2, in the hands of the clerk. Such service shall be sufficient personal service and shall be the equivalent of personal service upon the executor or administrator within this state, provided that notice of such service and a copy of the process are forthwith sent by the clerk, by registered or certified mail, to the executor or administrator, addressed to him at his last permanent address shown by his statement filed with the clerk as provided in subsection 1,

with postage fully prepaid thereon, and an affidavit or affidavits showing compliance herewith is or are appended to the original process and returned and filed in the action in which it was issued.

4. The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.
5. The foregoing method of service is cumulative, and shall not prevent the personal service of process upon the defendant within the Washoe Tribe.

**25-143-200 Actions Not to Abate on Death, Removal of Executor or Administrator;
Substitution of Successor**

No action to which an executor or administrator or administrator with the will annexed is a party shall abate by reason of the death, disqualification, resignation or removal of such executor or administrator, but the person who is appointed, qualifies and is acting as his successor shall, upon motion, be substituted as a party to the action.

25-143-210 Necessary Parties to Action

In actions brought by or against executors it shall not be necessary to join those as parties who have not qualified.

25-144 INVENTORY AND APPRAISEMENT

25-144-010 Inventory and Appraisal or Record of Value to be Made and Returned

Every executor or administrator shall make and return to the court, within 60 days after his appointment, unless the court shall extend the time, a true inventory and appraisal of record of value of all the estate of the deceased which has come to his possession or knowledge.

**25-144-020 Appraisers: When, Appointment Authorized; Compensation; Record of Value
In Lieu of Appraisal**

1. The executor or administrator may engage a qualified and disinterested appraiser to ascertain the fair market value, as of the decedent's death, of any asset the value of which is subject to reasonable doubt. Different persons may be engaged to appraise different kinds of assets included in the estate.
2. Any such appraiser is entitled to a reasonable compensation for his appraisal and may be paid the compensation by the executor or administrator out of the estate at any time after completion of the appraisal.

3. Where there is no reasonable doubt as to the value of assets, such as money, deposits in banks, bonds, policies of life insurance or securities for money or evidence of indebtedness, when the same is equal in value to money, the executor or administrator shall file a verified record of value in lieu of the appraisement.

25-144-030 Appraiser's Oath; form of Appraisement; Purchase By Appraiser Without Disclosure Prohibited; Penalties

1. Before proceeding to the execution of his duty, each appraiser shall take and subscribe an oath, before any officer authorized to administer oaths, that he will truly, honestly and impartially appraise the property which is exhibited to him or called to his attention according to the best of his knowledge and ability. The oath shall be attached to the inventory.
2. He shall then proceed to appraise the property of the estate. Each article or parcel shall be set down separately with the value thereof in dollars and cents in figures opposite to each article or parcel, respectively.
3. Any appraiser who directly or indirectly purchases any property of an estate which he has appraised, without full disclosure to and approval by the court, is guilty of a misdemeanor. A Sale made in violation of the provisions of this subsection is void.

25-144-040 Inventory: Contents

1. The inventory shall include all the estate of the deceased, wherever situated.
2. The inventory shall contain:
 - (a) All the estate of the deceased, real and personal.
 - (b) A statement of all debts, partnerships, and other interests, bonds, mortgages, notes, and other securities for the payment of money, belonging to the deceased, specifying the name of the debtor in each security, the date, the sum originally payable, the endorsements thereon, if any, with their dates, and the sum which, in the judgment of the appraiser, may be collectible on each debt, interest or security.
3. The inventory shall also show:
 - (a) So far as can be ascertained, what portion of the estate is community property and what portion is the separate property of the deceased.
 - (b) An account of all moneys belonging to the deceased which has come to the hands of the executor or administrator.

25-144-050 Claims Against Executor

The naming of any person as executor in a will shall not operate as a discharge of any just debt or demand which the testator had against such person, but the debt or demand shall be included in the inventory and the person named as executor shall be liable for the same as for so much money in his hands when the debtor demand becomes due, unless it be proved that he had not, either at that time or at any time thereafter, any means wherewith to pay such debt or demand, or such part thereof as may remain unpaid, and that such inability did not arise from any fraud committed by him, but any commissions allowed shall be applied toward payment of the debts or demands.

25-144-060 Status of Bequest of Claim Against Executor

The discharge of bequest in a will of any debt or demand of the testator against any person named as executor in his will, or against any other person, shall not be valid against the creditors of the deceased, but shall be construed as a specific bequest only of such debt or demand. The amount thereof shall be included in the inventory and shall, if necessary, be applied in payment of his debts. If not necessary for that purpose, it shall be disposed of in the same manner as other specific legacies or bequests.

25-144-070 Inventory Signed By Appraiser; Oath of Executor, Administrator Endorsed on Inventory

The inventory shall be signed by the appraiser or appraisers, and the executor or administrator shall take and subscribe an oath, before any officer authorized to administer oaths that the inventory contains a true statement of all the estate of the deceased which has come to his possession or of which he has knowledge, and particularly of all moneys belonging to the deceased, and of all just claims of the deceased against the executor or administrator. The oath shall be endorsed upon or annexed to the inventory.

25-144-080 Failure to File Inventory: Revocation of Letters and Liability on Bond

If an executor or administrator shall neglect or refuse to return the inventory within the time prescribed or such further time as the court or judge, for good cause, allow, the court may, upon such notice as it may prescribe, revoke the letters testamentary or letters of administration, and the executor or administrator shall be liable on his bond for any injuries sustained by the estate through his neglect.

25-144-090 Inventory and Appraisal of Newly Discovered Property: Supplemental Inventory

Whenever any property, not mentioned in any inventory that has been made, comes to the possession or knowledge of the executor or administrator, he shall return a supplemental inventory of such property within 20 days after the discovery thereof, in the same manner as an original inventory.

The court may enforce the making of a supplementary inventory as an original.

25-145 SUMMARY ADMINISTRATION OF ESTATES

25-145-010 Application of Chapter

The provisions of this charter shall apply only to estates of which summary administration shall be ordered.

25-145-020 Contents of Petition Seeking Summary Administration

All proceedings taken under this chapter, whether or not the decedent left a will, shall be originated by a petition for letters testamentary or letters of administration containing:

1. A specific description of all of the decedent's property.
2. A list of all the liens and encumbrances of record at the date of his death.
3. An estimate of the value of the property.

25-145-030 Notice of Hearing of Petition

Notice of hearing of the petition shall be given to the decedent's heirs, devisees and legatees as provided in 25-155-010.

25-145-040 When Summary Administration may be Ordered

When it is made to appear to the court or judge, by affidavit or otherwise, that the gross value of the estate does not exceed \$60,000, the court or judge may, if deemed advisable considering the nature and character of the estate and the obligations thereof, make an order for a summary administration of the estate.

25-145-050 Regular Proceedings and Notices Dispensed With: Exceptions; Notice to Creditors

1. The order for a summary administration of the estate shall:
 - (a) Dispense with all regular proceedings and further notices, except for the notice to creditors of the appointment of the executor or administrator and notice of application for attorney's fees.
 - (b) Provide that an inventory and appraisal or record of value be made and returned to the court.
2. The notice to creditors of the appointment of the executor or administrator shall be given by publication if the cost does not exceed \$25, in a newspaper printed in the county where the proceedings are pending, if there is such a newspaper; if not, then in one having general

circulation in the county. If the cost of publication will exceed \$25, the notice shall be given in such manner as the court may require.

1. If a notice to creditors of the appointment of the executor or administrator is published in a weekly newspaper, the notice must appear therein on a total of three dates of publication; and if in a newspaper published more often than once a week, the notice shall be so published that there will be at least 10 days from the first to the last dates of publication (both first and last days being included) and at least three issues during this period.
2. The notice to creditors shall be substantially in the following form:

Notice to Creditors

Notice is hereby given that the undersigned has been duly appointed and qualified by the (giving the title of the court and the date of appointment), as executor or administrator (as the case may be) of the estate of _____, deceased. All creditors having claims against the estate are required to file the same, with proper vouchers attached, with the clerk of the court, within 60 days after the first publication of this notice.

Date: _____

25-145-060 Creditor's Claims: Filing, Approval and Payment

1. Creditors of the estate must file their claims, due or to become due, with the clerk, within 60 days after the first publication of the notice to creditors of the appointment of the executor or administrator, and within 10 days thereafter the executor or administrator must act on the claims filed and present them in 3 days thereafter to the judge for his action.
2. Any claim which is not filed within the 60 days shall be barred forever.
3. Every claim which is filed as provided in this section, allowed by the executor or administrator, and approved by the judge, shall then, and not until then, be ranked as an acknowledged debt of the estate and be paid in due course of administration except that advance payment of small debts may be made pursuant to subsection 2 of 25-150-230.

25-145-070 Sales of Real Property: Notice and Procedure

All sales of real property, where summary administration is ordered, shall be made upon notice given and in the manner required by this Title for sales of real property.

25-145-080 Distribution and Discharge

1. The administration of the estate may be closed and distribution made at any time after the expiration of the time for the judge to act on the claims, when it shall appear to the court that all the debts of the estate, expenses

and charges of administration and allowances to the family, if any, have been paid, and the estate is in condition to be finally settled.

2. The court or judge must be satisfied that proper notice of appointment and, where applicable, for sales, as provided in 25-145-070, have been, given before decreeing distribution of the estate and discharging the executor or administrator.

25-145-100 Estates Not Exceeding \$10,000 may be Set Aside Without Administration

Estates not exceeding \$10,000, may be assigned and set apart without administration as provided in 25-146-070.

25-146 SUPPORT OF THE FAMILY

25-146-010 Surviving Spouse, Minor Children Entitled to Homestead, Provisions

When any person dies leaving a surviving spouse or a minor child or children, the surviving spouse, child or children are entitled to remain in possession of the homestead and of all the wearing apparel and provisions on hand of the family, and all of the household furniture, and are also entitled to a reasonable provision for their support, to be allowed by the court.

25-146-020 After Inventory Return, Judge May Set Apart Homestead and Exempt Personal Property

Upon the return of the inventory or at any time thereafter during the administration, the court or judge, of his own motion, or on application, shall set apart for the use of the family of the deceased all of the personal property which is exempt by law from execution, and shall set apart the homestead, as designated by the general home-stead law, or not, and the property thus set apart shall not be subject to administration.

25-146-030 Family Allowance From Estate If Property Set Apart Is Insufficient; Where Persons Have Other Support

1. If the whole property exempt by law is set apart and is not sufficient for the support of the surviving spouse, child or children, the court shall make such reasonable allowance out of the estate as is necessary for the maintenance of the family according to their circumstances during the progress of the settlement of the estate, which, in case of an insolvent estate, shall not be longer than 1 year after granting letters of administration.
2. If the surviving spouse or any minor child has a reasonable maintenance derived from other property, and there are other persons entitled to a family allowance, the allowance shall be granted only to those who have not such maintenance, or such allowance may be apportioned in such manner as may be just.

25-146-040 Preference of Family Allowance

Any allowance made by the court or judge in accordance with the provisions of this chapter shall be paid by the executor or administrator in preference to all other charges, except funeral charges, expenses of last illness and expenses of administration. This may, in the discretion of the court or judge granting it, take effect from the death of the decedent.

25-146-050 Vesting of Homestead: Debts of Spouse

1. If the homestead was selected by the husband and wife, or either of them, during their coverture, and recorded while both were living, as provided in chapter 115 of the Nevada Revised Statutes, it vests, on the death of either spouse, absolutely in the survivor, unless vesting is otherwise required pursuant to subsection 4 of Nevada Revised Statutes 115.020.
2. If no homestead was selected, but a homestead is set apart by the court for a limited period to the family of the decedent, as provided in this chapter, it vests, subject to this setting apart:
 - (a) If set apart from his separate property, in the heirs or devisees of the decedent.
 - (b) If set apart from community property, one-half in the surviving spouse, and one-half in the devisees of the decedent, or if no testamentary disposition is made then in the surviving spouse.
3. If the homestead is set apart by the court for a limited period of time, such period must be designated in the order and shall not extend beyond the lifetime of the surviving spouse or the minority of any child or children, of the decedent, whichever is longer.
4. In either case referred to in subsection 1 or 2, the homestead is not subject to the payment of any debt or liability existing against the spouses, or either of them, at the time of death of either, except it be secured by lawful liens thereon.

Setting Aside Estates Without Administration

25-146-070 Estates Not Exceeding \$10,000 May Be Set Aside Without Administration: Petition; Notice, Court and Clerk's Fees; Distribution of Minor's Interest to Parent, Guardian

1. When a person dies leaving an estate, the gross value of which does not exceed \$10,000, and there is a surviving spouse or child or children of the deceased, the estate must not be administered upon, but the whole thereof, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or children, or for the support of the child or children, if there is no surviving spouse. Even though there is a surviving spouse, the

court may, after directing such payments, set aside the whole of the estate to the child or children according to the subserviency of their best interests.

2. When a person dies leaving no surviving spouse or child, and an estate, the gross value of which does not exceed \$10,000, upon good cause shown therefore, the judge may order that the estate must not be administered upon but the whole thereof must be assigned and set apart:

First: To the payment of funeral expenses, expenses of last illness, and creditors, if there are any; and

Second: Any balance remaining to the claimant or claimants entitled thereto.

3. All proceedings taken under this section, whether or not the decedent left a will, must be originated by a verified petition containing:
 - (a) A specific description of all of the decedent's property.
 - (b) A list of all the liens, encumbrances record at the date of his death.
 - (c) An estimate of the value of the property.
 - (d) A statement of the debts of the decedent so far as known to the petitioner.
 - (e) The names, ages and residences of the decedent's heirs, devisees and legatees.

The petition may include a prayer that if the court finds the gross value of the estate does not exceed \$10,000, the estate be set aside as provided in this section.

4. The petitioner shall give notice of the petition and hearing in the manner provided in 25-155-010 to the decedent's heirs, devisees and legatees. If such is the fact, the notice must include a statement that a prayer for setting aside the estate to the spouse, or child or children, as the case may be, is included in the petition.
5. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$1,000 in value.
6. If the court finds that the gross value of the estate does not exceed the sum of \$10,000, the court may direct that the estate be distributed to the father or mother of any minor heir or legatee, with or without the filing of any bond, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond as in the discretion of the court seems to the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.

Transfer of Personal Property Not Exceeding \$5,000 In Value

25-146-080 Estates Not Exceeding \$5,000: Transfer of Assets Without Issuance of Letters or Probate of Will; Affidavit Showing Right to Assets

1. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the gross value of the decedent's property in this state, over and above any amounts due to the decedent for services in the Armed Forces of the United States, does not exceed \$5,000, the surviving spouse, the children, lawful issue of deceased children, the parent, the brother or sister of the decedent, or the guardian of the estate of any minor or insane or incompetent person bearing that relationship to the decedent, or the guardian of the estate of any minor or insane or incompetent person bearing that relationship to the decedent, if that person has a right to succeed to the property of the decedent or is the sole beneficiary under the last will and testament of the decedent, may, 40 days after the death of decedent, without procuring letters of administration or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, . indebtedness or right transferred to him upon furnishing the person, representative, corporation, officer or body owing the money, having custody of the property or acting as registrar or transfer agent of the evidences of interest, indebtedness or right, with an affidavit showing the right of the affiant or affiants to receive the money or property or to have the evidences transferred.
2. An affidavit made pursuant to this section must state:
 - (a) The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;
 - (b) That the decedent was a resident of the Tribe at the time of his death;
 - (c) That the gross value of the decedent's property in this state, except amounts due to the decedent for services in the Armed Forces of the United States, does not, exceed \$5,000, and that the property does not include any real property nor interest therein nor lien thereon;
 - (d) That at least 40 days have elapsed since the death of the decedent;
 - (e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;
 - (f) That all debts of the decedent, including funeral and burial expenses, have been paid or provided for;
 - (g) A description of the personal property and the portion claimed;
 - (h) That the affiant has given written notice, by personal service or , by certified mail, identifying his claim and describing the property claimed, to every person whose right to succeed to the decedent's property is equal or superior to that of the affiant and that at least 10 days have elapsed since the notice was served or mailed; and

- (i) That the affiant is personally entitled to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property.
- 3. If the affiant:
 - (a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property he receives is subject to all debts of the decedent.
 - (b) Fails to give notice to other successors as required by subsection 2, and money or property he receives is held by him in trust for all other successors who have an interest in the property.
- 4. A person who receives an affidavit containing the information required by subsection 2 is entitled to rely upon such information, and if he relies in good faith, he is immune from civil liability for actions based on that reliance.
- 5. Upon receiving proof of the death of the decedent and an affidavit containing the information required by this section:
 - (a) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to succeed to ownership of that security.
 - (b) A governmental agency required to issue certificates of ownership or registration to personal property shall issue a new certificate of ownership or registration to the person claiming to succeed to ownership of the property.
- 6. If any property of the estate not exceeding \$5,000 is located in a state which requires an order of a court for the transfer of the property, or if it consists of stocks or bonds which must be transferred by an agent outside this state any person qualified under the provisions of subsection 1 to have the stocks or bonds or other property transferred to him may do so by obtaining a court order directing the transfer. The person desiring the transfer must file a verified petition in a court of competent jurisdiction containing:
 - (a) A specific description of all of the property of the decedent.
 - (b) A list of all the liens and encumbrances of record at the date of the decedent's death.
 - (c) An estimate of the value of the property of the decedent.
 - (d) The names, ages and residences of the decedent's heirs and legatees.
 - (e) A prayer requesting the court to issue an order directing the transfer of the stocks or bonds or other property if the court finds the gross value of the estate does not exceed \$5,000.

If the court finds that the gross value of the estate does not exceed \$5,000 and the person requesting the transfer is entitled to it, the court may issue an order directing the transfer.

25-147 PRESENTATION AND PAYMENT OF CLAIMS

Presentation

25-147-010 Notice to Creditors; Publication; form

1. Immediately after his appointment, every executor or administrator shall publish notice to creditors in the manner provided in paragraph (b) of subsection 1 of 25-155-020.
2. If any executor or administrator fails to give the notice within 15 days after his appointment, as prescribed in subsection 1, the court may revoke his letters.
3. The notice shall be substantially in the following form:

Notice to Creditors

Notice is hereby given that the undersigned has been duly appointed and qualified by the (giving the title of the court and the date of appointment), as executor or administrator (as the case may be) of the estate of _____, deceased. All creditors having claims against the estate are required to file the same, with proper vouchers attached, with the clerk of the court within 90 days after the first publication of this notice.

Dated: _____

25-147-020 Death, Resignation, Removal of Executor, Administrator After Expiration of Time for Publication of Notice: Further Notice Necessary

In case an executor or administrator dies, resigns or is removed after the time for the publication of notice to creditors as provided in 25-147-010, and 25-145-050, his successor need give no further notice to creditors.

25-147-030 Affidavit of Publication and Posting

After the notice shall have been given as required by 25-147-010, a copy thereof, with the affidavit of publication and posting, shall be filed.

25-147-040 Filing of Claims: Must Be Filed Within 90 Days

1. All persons having claims against the deceased must, within 90 days after the first publication of the notice specified in 25-147-010, file the same,

with the necessary vouchers, with the clerk of the court, who shall file and register each claim.

2. If a claim is not filed with the clerk within 90 days after the first publication of the notice, the claim shall be forever barred; but when it is made to appear, by the affidavit of the claimant or by other proof to the satisfaction of the court or judge, that the claimant had no notice as provided in this chapter, the claim may be filed at any time before the filing of the final account.

25-147-050 Claims of Executor, Administrator

1. If the executor or administrator is a creditor of the decedent he shall file his claim with the clerk who must present it for allowance or rejection to the judge. Its allowance by the judge is sufficient evidence of its correctness, and it must be paid as other claims in due course of administration.
2. If the judge rejects the claim, action thereon may be had against the executor or administrator as such by the claimant, and summons must be served upon the judge, who shall appoint an attorney, at the expense of the estate, to defend the action. If the claimant fails to recover he must pay all costs, including defendant's reasonable attorney's fees, to be fixed by the court.

25-147-060 Claims of A Judge

1. If a judge of the court files or presents a claim against any state of a deceased person, the administration of which is pending before him, such judge must designate, in writing, some other judge of the court of the Tribe, who, upon presentation of the claim to him, shall be vested with power to approve or reject it.
2. In case of its rejection by, the executor or administrator or by such designated judge, the claimant has the same right to sue for its recovery as other persons whose claims are rejected.

25-147-070 Claims for \$250 or More to Be Supported by Affidavit; Correction, Amendment of Defective Claim or Affidavit

1. Every claim for an amount of \$250 or more filed with the clerk must be supported by the affidavit of the claimant that:
 - (a) The amount is justly due (or if the claim is not yet due, that the amount is a just demand and will be due on the _____ day of _____).
 - (b) No payments have been made thereon which are not edited.
 - (c) There are no offsets to the amount demanded to the knowledge of the claimant or other affiant.

2. Every claim filed with the clerk must contain the mailing address of the claimant. Any written notice mailed by an executor or administrator to the claimant at the address furnished is proper notice.
3. When the affidavit is made by any other person than the claimant, the reasons why it is not made by the claimant must be set forth in the affidavit.
4. The oath may be taken before any officer authorized to administer oaths.
5. The amount of interest must be computed and included in the statement of the claim and the rate of interest determined.
6. The court may, in its discretion, for good cause shown, allow a defective claim or affidavit to be corrected or amended on application made at any time before the filing of the final account.

25-147-080 Claim Founded on Written Instrument or Secured By Lien

If the claim be founded upon a bond, bill, note or other instrument, the original instrument need not be filed, but a copy, with all endorsements, may be attached to the statement of the claim and filed therewith.

If the claim be secured by mortgage, deed of trust, or other evidence of lien, it, or a certified copy from a record, shall be attached to the claim and filed therewith.

25-147-090 Effect of Statute of Limitations

No claim which is barred by the statute of limitations shall be allowed or approved by the executor or administrator, or by the judge. When a claim is presented to a judge for his allowance or approval, he may, in his discretion, examine the claimant and others on oath and hear any legal evidence touching the validity of the claim. No claim, which has been allowed, is affected by the statute of limitations, pending the administration of the estate.

25-147-100 Pending Actions

If an action be pending against the deceased at the time of his or her death, the plaintiff, in like manner, shall file his claim with the clerk, and no recovery shall be held in the action unless proof be made of such filing.

25-147-110 Examination of Claims By Executor, Administrator; Allowance or Rejection; Effect of Failure to Act on Claims

1. Within 5 days after the time for filing claims has expired, as provided in this chapter, the executor or administrator shall examine all claims filed and shall either endorse on each claim his allowance or rejection, with the day and the year thereof, or shall file a notice of allowance or rejection with the date and the year thereof, and such notice of allowance or rejection shall be attached to the claim allowed or rejected.

2. Within 5 days after the 15 days specified in subsection 1, the executor or administrator shall present all claims allowed by him to the judge for his approval or rejection.
3. If an executor or administrator shall refuse or neglect to endorse on a claim his allowance or rejection within 15 days, as specified in this section, or shall not file a notice of allowance or rejection, the claim shall be deemed rejected, but the executor or administrator may, nevertheless, allow the claim at any time before the filing of the final account.

25-147-120 Status of Allowed Claims

All claims, when approved by the judge, shall be ranked among the acknowledged debts of the estate, to be paid in due course of administration.

25-147-130 Rejection of Claim; Notice of Rejection; Time to File Suit; Service of Summons; Removal of Executor, Administrator for Default

1. When a claim is rejected by the executor or administrator or by the judge, in whole or in part, the holder shall be immediately notified by the executor or administrator, and the holder must bring suit in the proper court against the executor or administrator within 60 days after such notice, whether the claim is due or not; otherwise the claim shall be forever barred. If the holder of a claim resides out of the county, he may be informed of the rejection of his claim by written notice forwarded to his post office address by registered or certified man.
2. In any suit upon a claim rejected in whole or in part by the executor or administrator, if the executor or administrator resides out of the state, or has departed from the state, or conceals himself to avoid the service of summons, the summons, together with a certified copy of the complaint, may be served upon the county clerk of the county within which the administration of the estate is pending, in the manner prescribed in 25-143-190, and such service is hereby made the equivalent of personal service upon the executor or administrator, but the defendant shall have 30 days from the date of such service within which to answer.
3. In the event that the defendant defaults after such service, the default shall be sufficient grounds for his removal as executor or administrator by the court, and without notice; whereupon, upon petition and notice, in the manner provided for an application for letters of administration, an administrator, or an administrator with the will annexed, as the case may be, shall be appointed by the court and, upon his qualification as such, letters of administration, or letters of administration with the will annexed, shall be issued.

25-147-140 Vacancy In The Administration

The time during which there shall be a vacancy in the administration shall not be included in any limitations prescribed in this Title.

25-147-150 Claims Must Be Filed: Mortgage or Lien

No holder of a claim against an estate shall maintain an action thereon unless the claim is first filed with the clerk, except in the following case: An action may be brought by the holder of a mortgage or lien to enforce the same against the property of the estate subject thereto where all recourse against any other property of the estate is expressly waived in the complaint.

25-147-160 Partial Allowance of Claim

1. Whenever the executor or administrator or the judge shall act upon any claim that may be filed, he shall endorse on the claim the amount he is willing to allow.
2. Should the creditor refuse to accept the amount allowed in satisfaction of his claim, he shall recover no costs in any action which he may bring on the claim against the executor or administrator unless he shall recover a greater amount than that offered to be allowed.

25-147-170 Reference of Controversy

1. If the executor or administrator doubts the correctness of any claim filed or presented he may enter into an agreement in writing with the claimant to refer the matter in controversy to some disinterested person, to be approved by the court or a judge thereof, which agreement and approval shall be filed with the clerk, who shall thereupon enter an order referring the matter in controversy to the person so selected; or, if the parties consent, a reference may be made to the court.
2. The master must hear and determine the matter and make his report thereon to the court.
3. The same proceedings shall be had in all respects and the master shall have the same powers, be entitled to the same compensation and subject to the same control as in other cases of reference.
4. The court may remove the master, appoint another in his place, set aside or confirm his report, and adjudge costs, as in actions against executors or administrators, and the judgment of the court thereon shall be as valid and effectual, in all respects, as if the same had been rendered in a suit commenced by ordinary process; but the report of the master, if confirmed, merely established or rejects the claim, the same as if it had been allowed or rejected by the executor or administrator or judge.

25-147-180 Compromise of Claim or Suit, Against Estate: Petition; Notice of Hearing; Execution of Conveyance

1. After the time for the presentation of claims has expired, the executor or administrator, with the approval of the court, may compromise any claim against the estate or any suit brought against the executor or administrator as such by the transfer of specific assets of the estate or otherwise.
2. To obtain such approval, the executor or administrator shall file a verified petition with the clerk showing the advantage of the compromise.
3. The clerk shall set the petition for hearing by the court, and notice thereof shall be given for the period and in the manner required by 25-155-010.
4. If, under this section, the court authorizes the transfer of real property of the estate, conveyances shall be executed by the executor or administrator in the same manner as provided in 25-148-280, and such conveyances shall have the same force and effect as conveyances executed pursuant to that section.
5. A certified copy of the order authorizing the transfer must be recorded in the office of the recorder of the county in which the real property, or any portion thereof, lies.

25-147-190 Reimbursement for Costs

When a judgment has been recovered with costs against any executor or administrator, the executor or administrator shall be personally liable for the costs, but they shall be allowed him in his administration accounts, unless it shall appear that the suit or proceeding in which the costs were taxed shall have been prosecuted or resisted without cause.

Rules As to Payment of Claims

25-147-200 Status of Judgment Against Estate

1. The effect of any judgment rendered against any executor or administrator upon any claim for money against the estate of his testator or intestate shall only be to establish the claim in the same manner as if it had been allowed by the executor or administrator and the judge, and the judgment shall be that the executor or administrator pay, in due course of administration, the amount ascertained to be due.
2. A certified copy of the judgment shall be filed in the estate proceedings.
3. No execution shall issue upon the judgment, nor shall it create any lien upon the property of the estate, nor give the judgment creditor any priority of payment.

4. This section does not apply to a judgment foreclosure of a lien.

25-147-210 Death After Entry of Judgment: Execution

When any judgment has been rendered against the deceased in his or her lifetime no execution shall issue thereon after his or her death; but a certified copy of the judgment shall be attached to the statement of claim filed with the clerk and shall be acted on as any other claim.

If an execution has been actually levied upon any property of the deceased in his lifetime the same may be sold for the satisfaction thereof, and the officer making the sale shall account to the executor or administrator for any surplus in his hands

25-147-220 Interest on Claims

All claims paid bear interest from date of filing at the rate of 12 percent per annum unless a different rate is applicable by contract or otherwise.

25-147-230 Executor, Administrator Not Chargeable With Estate Debts Except on A Writing

No executor or administrator shall be chargeable upon any special promise to answer damages or to pay the debts of the deceased out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by such executor or administrator, or by some other person by him thereunto specially authorized.

25-148 SALES

Sales In General

25-148-010 Order of Resort to Estate. Assets for Payment of Debts, Expenses

If the testator make provision by his will, or designates the estate to be appropriated, for the payment of his debts, the expenses of administration, or family allowance, they must be paid according to such provision or out of the estate thus appropriated, so far as the same is sufficient. If insufficient, that portion of the estate not disposed of by the will, if any, must be appropriated for that purpose; and if that is not sufficient, the property given to residuary legatees and devisees, and thereafter all other property devised and bequeathed is liable for the same, in proportion to the value or amount of the several devises and legacies, but specific devises and legacies are exempt from such liability if it appears to the court necessary to carry into effect the intention of the testator, and there is other sufficient estate.

25-148-020 Order of Resort for Payment of Legacies

The property of a testator, except as otherwise provided in this Title, must be resorted to for the payment of legacies in the following order:

1. The property which is expressly appropriated by the will therefore.
2. Property not disposed by the will.
3. Property which is devised or bequeathed to a residuary legatee.

25-148-030 Order of Abatement of Legacies

Unless a different intention is expressed in the will, abatement takes place in any class only as between legacies of that class, and legacies to a spouse or to kindred are chargeable only after legacies to persons not related to the testator.

25-148-040 Contributions Between Devisees and Legatees

When property given by will to persons other than the residuary devisees and legatees is sold for the payment of debts or expenses or family allowance, all the devisees and legatees must contribute according to their respective interests to the devisee or legatee whose devise or legacy has been sold, and the court, when distribution is made, must settle the amount of the several liabilities and decree the amount each person shall contribute, and reserve the same from its distributive share for the purpose of such contribution.

25-148-050 Sale of Estate Property

In selling property to pay debts, legacies, family allowance or expense, there shall be no priority between personal and real property. When a sale of property of the estate is necessary for any such purpose, or when it is for the advantage, benefit and best interests of the estate and those interested therein that any property of the estate be sold, the executor or administrator may sell the same, either at public auction or private sale, using his discretion as to which property to sell first, except as provided by 25-148-010 and 25-148-020.

25-148-060 Order of Confirmation of Sale: Notice

1. Except as provided by 25-148-170 and 25-148-180, all sales of property must be reported to the court and confirmed by the court before the title to the property passes. The report must be verified. The petition for confirmation of the sale must be made within 30 days after each sale.
2. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by 25-155-010, or for such a period and in such manner as may be ordered by the court.

25-148-070 Written Objection: Hearing; Proof of Notice

Any person interested in the estate may file written objections to the confirmation of the sale and may be heard thereon, and may produce witnesses in support of his objections. Before an order is made confirming a sale it must be proved to the satisfaction of the court that notice of the sale was given as prescribed by this Title, and the order of confirmation must show that such proof was made.

25-148-080 Sales Under Direction of Will

When property is directed by the will to be sold, or authority is given in the will to sell the property, the executor may sell the same either at public auction or private sale, and with or without notice, as, he may determine, but he must make a return of sales and obtain confirmation thereof as in other cases. In either case no title passes unless the sale is confirmed by the court; but the necessity of the sale, or its advantage or benefit to the estate or those interested therein need not be shown. If directions are given in the will as to the mode of selling, or the particular property to be sold, such directions must be observed.

25-148-090 Petition for Order Requiring Sale

If the executor or administrator neglects or refuses to sell any property of the estate when it is necessary or when it is for the advantage, benefit and best interests of the estate and those interested therein, or when the executor is directed by the will to sell the same, any person interested may petition the court for an order requiring the executor or administrator to sell. The clerk shall set the petition for hearing by the court, and notice thereof must be given to the executor or administrator by citation served at least 5 days before the hearing.

25-148-100 Neglect or Misconduct of Executor, Administrator

If there is any neglect or misconduct in the proceedings of the executor or administrator in relation to any sale by which any person interested in the estate suffers damage, the person aggrieved may recover the same in an action upon the bond of the executor or administrator or otherwise.

25-148-110 Contracts to Find Purchaser: Limitation on Commission

1. The executor or administrator may enter into a written contract with any bona fide agent, broker or multiple group of agents or brokers to secure a purchaser for any real or personal property of the estate, which contract may grant an exclusive right to sell and shall provide for the payment to the agent, broker or multiple group of agents or brokers, out of the proceeds of a sale to any purchaser secured pursuant to such contract, of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale; and when the sale is confirmed to the purchaser the contract shall be binding and valid as against the estate for the amount so allowed by the court.

2. By the execution of any such contract no personal liability shall attach to the executor or administrator, and no liability of any kind shall be incurred by the estate unless an actual sale is made and confirmed by the court.
3. The commission in no case shall exceed:
 - (a) Ten percent for unimproved real property.
 - (b) Seven percent for all other property.

25-148-120 Division of Commission Where Higher Price Secured

In case of sale on an increased bid made at a the time of confirmation to a purchaser not procured by the agent, broker or multiple group of agents or brokers holding the contract, the court shall allow a commission on the full amount for which the sale is confirmed, one-half of the commission on the original bid to be paid to the agent, broker or multiple group of agents or brokers whose bid was returned to the court for confirmation and the balance of the commission on the purchase price to the agent, broker or multiple group of agents or brokers, if any, who procured the purchaser to whom the sale is confirmed.

25-148-130 Sale of Real or Personal Property Subject to Lien

1. When real or personal property is sold, which is subject to a mortgage, deed of trust, or other lien which is a valid claim against the estate, the purchase money must be applied after paying the necessary expenses of the sale, first, to the payment and satisfaction of the mortgage, deed of trust, or other lien, and the residue, if any, in due course of administration.
2. The application of the purchase money to the satisfaction of the mortgage, deed of trust, or other lien must be made without delay, and the property is subject to such mortgage, deed of trust, or other lien until the purchase money has been actually so applied.

25-148-140 Disposition of Proceeds of Sale

The purchase money, or so much thereof as may be sufficient to pay such mortgage, deed of trust, or other lien, with interest, and any lawful costs and charges thereon, may be paid to the clerk of the court, whereupon the mortgage, deed of trust, or other lien upon the property shall cease, and the purchase money must be paid over by the clerk of the court without delay, in payment of the expenses of sale, and in satisfaction of the obligations to secure which the mortgage, deed of trust, or other lien, was taken, and the surplus, if any, at once returned to the executor or administrator, unless, for good cause shown, after notice to the executor or administrator, the court otherwise directs.

25-148-150 Right of Holder of Lien on Property to Purchase it; Receipt As Payment Pro Tanto

At any sale of real or personal property upon which there is a mortgage, deed of trust, or lien, the holder thereof may become the purchaser, and his receipt for the amount due him from the proceeds of the sale is a payment pro tanto.

25-148-160 Equity of Estate In Property May Be Sold: Property

1. It shall be lawful for an executor or administrator to sell the equity of the estate in any property which is subject to any encumbrance, and to sell the same subject to the encumbrance and to the debt thereby secured, upon such proceedings as are herein prescribed for the sale of like property.
2. In the event that a claim has been filed upon the debt no such sale shall be confirmed unless the holder of the claim shall, by a signed and acknowledged instrument, filed in the matter of the estate, release the estate from all liability upon the claim.

Sale of Personal Property

25-148-170 Perishable and Depreciating Property

Perishable property and other personal property which will depreciate in value if not disposed of promptly, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to provide the family allowance pending the receipt of other sufficient funds, may be sold without notice, and title shall pass without confirmation; but the executor, administrator or special administrator is responsible for the actual value of the property unless, after making a sworn return, and on a proper showing, the court shall approve the sale.

25-148-180 Sale of Stocks and Bonds: Necessity for Confirmation; Petition, Hearing and Order

1. Stocks and bonds may be sold and title thereto passed without the necessity of confirmation, upon obtaining an order of the court.
2. A petition for such an order shall be filed, with the clerk who shall set the same for hearing by the court and shall give notice thereof for the period and in the manner required by 25-155-010, but the court or judge may order the notice to be given for a shorter period or dispensed with.
3. The order shall fix the terms and conditions of sale and may dispense with notice of sale when the minimum selling price is fixed, or when the securities are to be sold upon an established stock or bond exchange.

25-148-190 Sale of Other Personal Property

1. Except as provided by 25-148-080, 25-148-170 and 25-148-180 and in summary administration under chapter 25-145 of this code, the executor or administrator may sell personal property of the estate only after he has cause notice to be published at least 10 days before the sale in one or more issues of a newspaper published in the county where the proceedings are pending, if there is such a newspaper; if not, then in one having general circulation in the county. The notice shall include the time and place of sale, and a brief description of the property to be sold.
2. Public sales must be made at the courthouse door, at some other public place, at the residence of the decedent or at a place designated by the executor or administrator; but no sale may be made of any personal property which is not present at the time of sale, unless the court shall otherwise order.

25-148-200 Terms of Sale: Cash or Credit

1. Personal property may be sold for cash, or upon a credit.
2. If a sale is made upon a credit, not less than 25 percent of the purchase price shall be paid in cash at the time of sale. The executor or administrator shall take the note of the purchaser for the balance of the purchase money, with a pledge or chattel mortgage of the personal property sold, to secure the payment of the balance, or shall enter into a conditional sale contract under which title is retained until such balance is paid, the terms of the note and pledge or chattel mortgage or contract to be approved by the court at the time of confirmation of Sale.

25-148-210 Partnership Interests

Partnership interests or interests belonging to an estate by virtue of any partnership formerly existing, an interest in personal property pledged, and chooses in action, may be sold in the same manner as other personal property.

Sale of Real Property

25-148-220 Notice of Sale: Publication; Posting; Description of Property

1. Notice of the time and place of sale of real property must be published in a newspaper published in the county in which the land or some portion thereof lies, if there is one so published (if none, then in such paper as the court or judge may direct) for 2 weeks, being 2 publications, 1 week apart, before the day of sale, or, in the case of a private sale, before the day on or after which the sale is to be made.
2. When, however, it appears from the inventory and appraisement that the value of the property to be sold does not exceed \$500, the executor or administrator may, in his discretion, dispense with the publication, and

in lieu thereof post a notice of the time and place of sale in 3 of the most public places in the county, in which the land or some portion thereof lies, for 2 weeks before the day of the sale, or , in the case of a private sale, before the day on or after which the sale is to be made.

3. The property proposed to be sold must be described with common certainty in the notice.

25-148-230 Public Auction; Postponement of Sale

1. Sales at public auction must be made in the county in which the land lies, and if it lies in two or more counties, it may be sold in either. The sale must be made between the hours of 9 a.m. and the setting of the sun on the same day, and must be made on the day named in the notice of sale, unless the same is postponed.
2. If, at the time appointed for the sale, the executor or administrator deems it for the interest of all persons concerned therein that the same be postponed, he may postpone it from time to time, not exceeding in all 3 months. In case of a postponement, notice thereof must be given by a public declaration at the time and place first appointed for the sale.

25-148-240 Private Sale

In the case of a private sale, the notice must state a place where bids or offers will be received, and a day on or after which the sale will be made, which day must be at least 15 days from the first publication or posting of the notice, and the sale must not be made before that day, but must be made within 1 year thereafter; but if it is shown that it will be for the best interests of the estate; the court or judge may, by an order, decrease the number of publications and shorten the time of notice, which shall not, however, be less than 1 week, and may provide that the sale may be made on or after a day less than 15 but not less than 8 days from the first publication or posting of the notice, in which case the notice of the sale and the sale may be made to correspond with such order.

The bids or offers must be in writing, and may be left at the place designated in the notice or delivered to the executor or administrator personally, or may be filed in the office of the clerk of the court where the proceedings are pending, at any time after the first publication or posting of the notice and before the making of the sale.

25-148-260 Confirmation of Sale: New Appraisal

No sale of real property at private sale shall be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold, nor unless such real property has been appraised within 1 year of the time of such sale. If it has not been appraised, a new appraisal must be had, as in the case of an original appraisal of an estate. This may be done at any time before the sale or confirmation thereof.

25-148-270 Showing on Hearing; Higher offer

1. Upon the hearing the court must examine into the necessity for the sale, or the advantage, benefit and interest of the estate in having the sale made, and must examine the return and witnesses in relation to the sale.
2. If it appears to the court that good reason existed for the sale, that the sale was legally made and fairly conducted, and complied with the requirements of 25-148-260, that the sum bid is not disproportionate to the value, and it does not appear that a sum exceeding the bid by at least 5 percent if the bid is not more than \$100,000, or by at least \$5,000 if the bid is \$100,000 or more, may be obtained, the court shall make an order confirming the sale and directing conveyances to be executed; otherwise it shall vacate the sale and direct another to be had, of which notice must be given and the sale in all respects conducted as if no previous sale had taken place.
3. But if a written offer of 5 percent or \$5,000 more in amount than that named in the return is made to the court by a responsible person, as provided in subsection 2, and the bid complies with all provisions of the law, the court may accept the offer and confirm the sale to that person, order a new sale or conduct a public auction in open court.

25-148-280 Conveyances After Confirmation of Sale

1. Conveyances must thereupon be executed to the purchaser by the executor or administrator, and they must refer to the order confirming sale and directing conveyances to be executed, a certified copy of which order must be recorded in the office of the recorder of the county in which the land or any portion thereof lies.
2. Conveyances so made convey all the right, title, interest and estate of the decedent in the premises at the time of his death; and if prior to the sale, by operation of law or otherwise, the estate has acquired any right, title or interest in the premises, other than or in addition to that of the decedent at the time of his death, such right, title or interest also passes by such conveyances.

25-148-290 Sale on A Credit

1. If a sale is made upon a credit, the executor or administrator must take the note or notes of the purchaser for the unpaid portion of the purchase money, with a mortgage or deed of trust on the property to secure their payment.
2. The mortgage or deed of trust may contain a provision for release of parts of the property if the court approves the provision.

25-148-300 Failure of Purchase to Complete Sale

If, after the confirmation, the purchaser neglects or refuses to comply with the terms of the sale, the court, on motion of the executor or administrator, and after notice to the purchaser, may vacate the order of confirmation and order a resale of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, such purchaser is liable to the estate for the deficiency.

25-148-310 Fraudulent Sale: Penalty

An executor or administrator who fraudulently sells any real property of a decedent contrary to or otherwise than under the provisions of this Title is liable in double the value of the land sold, as liquidated damages, to be recovered in an action by the person having an estate of inheritance therein.

25-148-320 Limitations Period

The periods of limitation prescribed in Nevada Revised Statutes Section 11.270 shall apply to all actions for the recovery of any property sold by an executor or administrator in accordance with the provisions of this Title, and to all actions to set aside such a sale.

Sale of Contract to Purchase

25-148-330 Method of Sale

If a decedent, at the time of his death, was possessed of a contract for the purchase of real property, his interest in such property and under such contract may be sold by his executor or administrator, in the same manner as if he had died seised of such property, and the same proceedings may be had for that purpose, as are prescribed in this chapter for the sale of property of which he died seised, except as hereinafter provided.

25-148-340 Sale Subject to Claims; Bond of Purchaser

1. The sale must be made subject to all payments which are due at the time of sale or which may thereafter become due on the contract, and if there are any, the sale must not be confirmed by the court until the purchaser executes a bond to the executor or administrator for the benefit and indemnity of himself and of the persons entitled to the interest of the decedent in the lands so contracted for, in double the whole amount of payments then due and thereafter to become due on the contract, with such sureties as the court or judge shall approve.
2. The bond must be conditioned that the purchaser will make all payments for the property which are then due or which become due after the date of the sale, and will fully indemnify the executor or administrator and the persons so entitled against all demands, cost, charges and expenses by reason of any covenant or agreement contained in the contract.

3. A bond need not be given when no claim has been made against the estate upon the contract and time for filing or presenting claims has expired, nor when the holder of the claim shall, by a signed and acknowledged instrument filed in the matter of the estate, release the estate from all liability upon the claim.

25-148-350 Assignment After Confirmation

Upon the confirmation of the sale, the executor or administrator must execute to the purchaser an assignment of the contract, which vests in the purchaser, his heirs and assigns, all the right, title and interest of the estate, or of the persons entitled to the interest of the decedent, in the property sold at the time of the sale, and the purchaser has the same rights and remedies against the vendor of the land as the decedent would have had if he were living.

Sale of Mining Property

25-148-360 Petition for Sale: Notice

1. To enter into an agreement to sell or to give an option to purchase a mining claim or claims, or real property worked as a mine, belonging to the estate of a decedent, the executor or administrator, or any person interested in the estate, shall file a verified petition describing the property in question, stating the terms and general conditions of the proposed agreement or option, showing the advantage or advantages that may accrue to the estate from entering into it, and praying for an order authorizing or directing its execution.
2. The clerk shall set the petition for hearing by the court, and notice thereof shall be given for, the period and in the manner provided in 25-155-010.

25-148-370 Hearing; Order Authorizing Sale

1. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objection thereto that may have been filed or presented; and if, after a full hearing, the court is satisfied that it will be to the advantage of the estate to enter into the proposed agreement, it shall make an order authorizing and directing the executor or administrator to enter into such agreement of sale or to give such option to purchase.
2. The order may prescribe the terms and conditions of the agreement or option.
3. A certified copy of the order shall be recorded in the office of the county recorder of every county in which the land affected by the agreement or option, or any portion thereof, lies.

25-148-380 Additional Bond of Executor, Administrator; Option to Purchase

1. At the time of making the order, the court shall fix the amount of such additional bond as it determines should be given by the executor or administrator, who shall not be entitled to receive any of the proceeds from the agreement or option until the bond is given and approved.
2. When the order is made, the executor or administrator shall execute, acknowledge and deliver an agreement or option to purchase containing the conditions specified in the order and setting forth therein that it is made by authority of the order, and giving the date of the order.

25-148-390 Failure to Comply With Option

If the purchaser or option holder neglect or refuses to comply with the terms of the agreement or option, the court, on motion of the executor or administrator, after notice to the purchaser or option holder, shall make an order cancelling the agreement or option; but such cancellation shall not affect any liability therefore created.

25-148-400 Procedure After Compliance With Option

When the terms of such agreement to sell or option to purchase have been complied with by the purchaser or option holder, and all payments have been made according to the terms thereof, the executor or administrator must make a return of his proceedings to the court and petition for a confirmation thereof, and thereupon notice shall be given, a hearing had, an order made by the court confirming or refusing to confirm the proceedings and conveyances executed, in the same manner and with like effect as in the case of the sale of any real property.

25-149 NOTES, MORTGAGES, LEASES, CONVEYANCES AND EXCHANGES

Borrowing Money and Mortgaging Property

25-149-010 Authorization to Borrow; Purposes Warranting Borrowing; Joint Borrowing

1. Whenever it shall appear to be to the advantage of the estate to borrow money upon a note or notes, either unsecured or to be secured by a security agreement or other lien upon the personal property of the decedent, or any part thereof, or to be secured by a mortgage or deed of trust upon the real property of the decedent, or any part thereof, or to mortgage or give a deed of trust upon, or to create a security interest or other lien upon, such property or any part thereof, in order to pay the debts of the decedent, or legacies, or expenses or charges of administration, or to pay, reduce, extend or renew some security interest or agreement or lien or mortgage or deed of trust already subsisting upon property of the estate, and as often as occasion therefore shall arise in the administration of the estate, the court may authorize, empower and direct the executor or administrator to borrow the money and to execute such note or notes, and in a proper case, to execute such mortgage, or deed of

trust, or to give other, security by way of security interest or other lien, or may authorize, in a proper case, the execution of an extension agreement.

2. When property of the estate consists of an undivided fractional interest in real or personal property, and it shall appear to be the advantage of the estate to borrow money in order to improve, utilize, operate or preserve such property jointly with the other coowner or coowners, or in order to pay, reduce, extend or renew some security interest or agreement, lien, mortgage or deed of trust already subsisting upon all such property, including the other undivided interest or interests therein, the court may authorize, empower and direct the executor or administrator to borrow the money required for such purposes and to join with the owner or owners of the other undivided interest or interests in the property, or their duly authorized representatives or agents, in the execution of such joint and several note or notes as may be necessary, and to join with the owner or owners of the other undivided interest or interests in the property, or their duly authorized representatives or agents, in the execution of such security agreement, lien, mortgage or deed of trust as may be required to secure the payment of such note or notes.
3. To obtain such orders, the proceedings to be taken and the effect thereof shall be as provided in 25-149-020, 25-149-030, 25-149-040 and 25-149-050.

25-149-020 Petition

1. The executor or administrator, or any person interested in the estate, shall file a verified petition showing:
 - (a) The particular purpose or purposes for which the order is sought.
 - (b) The necessity for or advantage to accrue from the order.
 - (c) The amount of money proposed to be raised, if any.
 - (d) The rate of interest to be paid.
 - (e) The length of time the note or notes are run.
 - (f) A general description of the property proposed to be mortgaged or subjected to such deed of trust, security agreement or other lien.
2. The clerk shall set the petition for hearing by the court. Notice of the hearing shall be given in the manner required by 25-155-010 or as the court by order may require.

25-149-030 Hearing and Order

1. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objection there to that may have been filed or presented; and if, after a full hearing, the court is satisfied that it will be to the advantage of the estate, it shall make an order authorizing and directing the executor or administrator to borrow the money and to execute such note or notes, and, in a proper case, to execute such mortgage or deed of trust, or to give other security by way of security interest or other lien.

2. The court may direct that a lesser amount than that named in the petition be borrowed, and may prescribe the maximum rate of interest and the period of the loan, and may direct in what coin or currency it shall be paid, and require that the interest an whole or any part of the principal be paid, from time to time, out of the whole estate or any part thereof, and that the personal property to be subject to the security agreement or other lien or any buildings on the premises to be mortgaged or subject to the deed of trust, shall be insured for the further security of the lender, and the premiums paid from the assets of the estate.
3. A certified copy of the order shall be recorded in the office of the county recorder of every county in which, the land affected by the order, or any portion thereof, lies.

25-149-040 Execution of Instruments

The executor or administrator shall execute, acknowledge and deliver the mortgage, or deed of trust, or other security, as directed, setting forth therein that it is made by authority of the order, giving the date of the order. The note or notes and mortgage, or deed of trust, or other security, shall be signed by the executor or administrator as such, and shall create no personal liability against the person so signing.

25-149-050 Effect of Proceedings Under 25-149-010 to 25-149-050, Inclusive

1. Every mortgage, security agreement or deed of trust so made shall be effectual to mortgage or subject to the security agreement or to the deed of trust all right, title, interest and estate which the decedent had in the property described therein at the time of his death or, prior thereto and any right, title or interest in the property acquired by the estate of such decedent, by operation of law or -otherwise, since the time of his death.
2. Jurisdiction of the court to administer the estate of such decedent shall be effectual to vest the court with jurisdiction to make the order for the note or notes, and mortgage, security agreement or deed of trust, and such jurisdiction shall conclusively inure to the benefit of the mortgage named in the mortgage, the secured party named in the security, agreement or the trustee and beneficiary named in the deed of trust, his or their heirs, successors and assigns.
3. No omission, error or irregularity, in the proceedings shall impair or invalidate the same or the note or notes, mortgage, security agreement or deed of trust given in pursuance thereof, and the mortgagee, secured party or the trustee and beneficiary, their heirs, successors and assigns, shall have and possess the same rights and remedies on the note or notes, and mortgage, security agreement or deed of trust as if it had been made by the decedent prior to his death, except that upon any foreclosure or sale under the mortgage, security agreement or deed of trust, if the proceeds of the sale of the encumbered property are insufficient to pay the note or notes, the mortgage, security agreement or deed of trust, and

the costs or expenses of sale, no judgment shall be had or allowed, except in cases where the not or notes, mortgage, security agreement or deed of trust were given to pay, reduce, extend or renew a lien or mortgage, security agreement or deed of trust subsisting at the time of the death of the decedent and the indebtedness secured thereby was an allowed and approved claim against the estate, in which case the part of the indebtedness remaining unsatisfied must be classed and paid with other allowed claims against the estate.

LEASING

25-149-060 Authorization to Lease

Whenever it shall appear to be to the advantage of the estate to lease any real property of the decedent, and as often as occasion thereof shall arise in the administration of the estate, the court may authorize and direct the executor or administrator to execute such lease.

25-149-070 Petition

1. To obtain such an order the executor or administrator, or any person interested in the estate, shall file a verified petition, showing the advantage to accrue from giving the lease, a general description of the property proposed to be leased, and the term, rental and general conditions of the proposed lease.
2. The clerk shall set the petition for hearing by the court. Notice of the hearing shall be given in the manner required by 25-155-010 or as the court by order may require.

25-149-080 Hearing on Petition; Order Authorizing Lease; Terms of Lease; Recordation of Copy of Order

1. At the time appointed, the court shall hear the petition and any objection thereto that may have been presented; and if the court is satisfied that it will be to the advantage of the estate, it shall make an order authorizing and directing the executor or administrator to make such lease.
2. The order shall set forth the minimum rental or royalty and the period of the lease, which shall be for such time as the court may authorize, except as otherwise herein provided with respect to a lease for the purpose of production of minerals, oil, gas or other hydrocarbon substances or natural steam.
3. The order may authorize other terms and conditions, including, with respect to a lease for the purpose of production of minerals, oil, gas, or other hydrocarbon substances or natural steam, a provision for the payment of rental and royalty to a depository, and for the appointment of a common agent to represent the interest of all the lessors, and, if the lease is for the purpose of production of oil, gas or other hydrocarbon substances or natural steam, including a provision for the payment of

compensatory royalty in lieu of rental and in lieu of drilling and producing operations on the land covered by the lease, and including a provision empowering the lessee to enter into any agreement with lessees, operators or owners of other lands for the purpose of bringing about the cooperative development and operation of all or parts of the field of which the leased land is a part, or for the development and operation of all or parts of the field as a unit.

4. If the lease covers additional property owned by other persons or an undivided interest of the decedent, or other interest of the decedent less than the entire ownership in the property, it may provide for division of rental and royalty in the proportion that the land or interest of each owner bears to the total area of the land or total interests covered by such lease.
5. A lease for the purpose of production of minerals, oil, gas or other hydrocarbon substances or natural steam may be for a fixed period, and so long thereafter as minerals, oil, gas or other hydrocarbon substances or natural steam are produced in paying quantities from the property leased or mining or drilling operations are conducted thereon, and, if the lease provides for the payment of a compensatory royalty, so long as such compensatory royalty is paid, and, if the land covered by the lease is included in an agreement with lessees, operators or owners of other lands for cooperative development or unit operation of a larger area including the leased lands, so long as oil, gas or other hydrocarbon substances or natural steam are produced in paying quantities from any of the lands included in any such agreement or drilling operations are conducted thereon.
6. A certified copy of the order shall be recorded in the office of the recorder of every county in which the leased land, or any portion thereof, lies.

25-149-090 Execution of Lease; Effect of Proceedings

1. The executor or administrator shall execute, acknowledge and deliver the lease as directed, setting fourth therein that it is made by authority of the order, giving the date of the order.
2. Every lease so made shall be effectual to demise and let the premises described, at the rent, for the term and upon the conditions therein prescribed.
3. Jurisdiction of the court to administer the estate of the decedent shall be effectual to vest the court with jurisdiction to make the order for the lease, and such jurisdiction shall conclusively inure to the benefit of the lessee, his heirs, successors and assigns.
4. No omissions, error or irregularity in the proceedings shall impair or invalidate the same or the lease made in pursuance thereof.

25-149-100 Lease Without Court Order

The executor or administrator may lease real property without, an order of court when the tenancy is from month to month, or for a term not to exceed 1 year.

Conveyance to Complete Contract

25-149-110 Authorization of Conveyance

If a person, who is bound by contract in writing to convey any real property or to transfer any personal property, dies before making conveyance or transfer, and the decedent, if living, might have been compelled to make such conveyance or transfer, the court, in which proceedings are pending for the administration of the estate of the decedent, may make a decree authorizing and directing the executor or administrator to convey or transfer the property to the persons entitled thereto.

25-149-120 Petition and Notice

1. The executor or administrator, or any person claiming to be entitled to such conveyance or transfer, may file with the clerk of the court a verified petition setting forth the facts upon which the claim is predicated:
2. Thereupon. the clerk shall set the petition for hearing by the court, and notice thereof shall be given as provided in 25-155-010.

25-149-130 Hearing and Order

1. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objection thereto that may have been filed or presented.
2. If the court is satisfied that the conveyance or transfer should be made it shall make an order authorizing and directing the executor or administrator to execute the same to the person entitled thereto.
3. If the transaction relates to real property, a certified copy of the order must be recorded with the deed in the office of the county recorder of the county in which the land, or any portion thereof, lies.

25-149-140 Effect of Decree; Execution of Conveyance

1. The order shall be prima facie evidence of the correctness of the proceedings and of the authority of the executor or, administrator to make the conveyance or transfer; and after its entry, the person entitled to the conveyance or transfer has a right to the possession of the property contracted for, and to hold the same according to the terms of the intended conveyance or transfer, in like manner as if the same had been conveyed or transferred in pursuance of the order.
2. Nevertheless, the executor or administrator must execute the conveyance or transfer according to the directions of the order, and the court may

enforce its execution by process. The conveyance or transfer shall pass title to the property contracted for, as fully as if the contracting party had executed it while living.

Exchange of Property

25-149-150 Authorization to Exchange: Petition; Notice

Whenever it shall appear to the advantage of the estate to exchange any property of the decedent for other property, the court may authorize such exchange, upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by 25-155-010.

25-150 COMPENSATION AND ACCOUNTING

Commissions

25-150-010 Expenses and Compensation of Executor, Administrator

The executor or administrator shall be allowed all necessary expenses in the care and management, as well as settlement, of the estate, and for his services such fees as provided by law; but when the deceased shall, by his will, make some other provision for the compensation of his executor, this shall be deemed a full compensation for such services, unless the executor files a renunciation, in writing of all claim for the compensation provided by the will

25-150-020 Commissions; Additional Allowances

1. When no compensation shall have been provided by the will, or the executor shall renounce all claims thereto, he shall be allowed commissions upon the whole amount of the personal estate accounted for by him as follows:
 - (a) For the first \$1,000, at the rate of 6 percent.
 - (b) For the next \$4,000, at the rate of 4 percent.
 - (c) For all above \$5,000 at the rate of 2 percent.
2. The same commissions shall be allowed to administrators.
3. If there are two or more executors or administrators, the compensation shall be apportioned among them by the court according to the services actually rendered by each.
4. In all cases additional allowance may be made by the court for services in regard to the real property when it shall be made to appear that the same is just and reasonable.

25-150-030 Commissions for Extraordinary Services

Such further allowances may be made as the court may deem just and reasonable for any extraordinary services, such as:

1. Management, sales or mortgages of real or personal property.
2. Contested or litigated claims against the estate.
3. The adjustment and payments of extensive or complicated estate taxes.
4. Litigation in regard to the property of .the estate.
5. The carrying on of the decedent's business pursuant to an order of the court.
6. Such other litigation or special services as may be necessary for the executor or administrator to prosecute, defend or perform.

25-150-040 Contracts for Higher Compensation Void

All contracts between an executor or administrator and an heir, devisee or legatee for a higher compensation than that allowed by 25-150-020 and 25-150-030 shall be void.

25-150-050 Allowance on Commissions

1. Any executor, administrator or special administrator at any time after the issuance of letters testamentary or of administration, and upon such notice to the persons interested in the estate as the court or a judge thereof shall require, may apply to the court for an allowance upon his commissions.
2. On the hearing, the court shall make an order allowing him such portion of his commission for services rendered up to that time as the court deems proper, and the portion so allowed may be thereupon.

Attorney's Fees

25-150-060 Attorneys for Executors, Administrators, Minors and Absent Heirs

1. Attorneys for executors, administrators and special administrators are entitled to reasonable compensation for their services, to be paid out of the decedent's estate. The amount must be fixed by agreement between the executor, administrator and the attorney, subject to approval by the court, after application, notice and hearing, as provided in subsection 2. If the executor, administrator or special administrator and the attorney fail to reach agreement, or if the attorney is also the executor, administrator or special administrator the amount must be determined and allowed by the court. The application must contain specific and detailed information supporting the entitlement to compensation, including:

- (a) Reference to time and hours;
 - (b) Nature and extent of services rendered;
 - (c) Claimed ordinary and extraordinary services;
 - (d) Complexity of the work required; and
 - (e) Other information considered to be relevant to a determination of entitlement.
2. The applicant shall give notice of his application and the hearing thereof to the executor, administrator or special administrator if he is not the applicant and to all known heirs, devisees and legatees. The notice must be sent by registered or certified mail at least 10 days before the hearing. The notice must include a statement of the amount of the fee which the court will be requested to approve or allow.
 3. On similar application, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings.
 4. Any heir, devisee or legatee may file objections to an application made pursuant to this section, and the objections must be considered at the hearing.
 5. Attorneys for minors, absent or nonresidential heirs are entitled to compensation primarily out of the estate of the distributee so represented by him in those cases and to such extent as may be determined by the court, but if the court finds that all or any part of the services performed by the attorney for the minors, absent or nonresident heirs were of value to the decedent's entire estate as such and not of value only to the minors, absent or nonresident heirs, then the court shall order that all or part of the attorney's fees be paid to the attorney out of the funds of the decedent's entire estate as a general administration expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Rendering of Exhibits and Accounts

25-150-070 Liability of Executor or Administrator

1. Every executor and administrator shall be chargeable in his own account with the whole, of the estate of the deceased which should come to his possession at the value of the appraisal contained in the inventory, except as provided in this Title, and with all the interest, profit and income of the estate.
2. No executor or administrator shall be accountable for any debts due the deceased that remain uncollected without his fault.
3. He shall not make profit by the increase nor suffer loss by the decrease or destruction of any part of the estate without his fault. He shall account for the excess when he shall sell any part of the estate for more than the

appraisement, and, if any be sold for less than the appraisement, he shall not be responsible for the loss if the sale has been made according to law.

25-150-080 Accounting: When Required By Court

1. Whenever required by the court or a judge thereof, either upon its or his own motion,, or upon the application of any person interested in the estate, the executor or administrator must render and file with the clerk a verified account, showing:
 - (a) The amount of money received and expended by him.
 - (b) The claims filed or presented against the estate, giving the name of each claimant, the nature of his claim, when it became due or will become due, whether it was allowed or rejected by him or not yet acted upon.
 - (c) All other matters necessary to show the condition of the estate.
2. If he neglects or refuses to appear and render such account after having been duly cited, an attachment may be issued against him and such accounting compelled, or his letters may be revoked, or both, in the discretion of the court or judge.

25-150-090 First Account: Filing and Contents

1. Within 30 days after the judge has acted upon the claims filed against the estate, the executor or administrator shall file his first account, under oath, of his administration.
2. The account shall be itemized showing:
 - (a) The amount of money received and expended by him.
 - (b) The amount of all claims filed-against the estate.
 - (c) The names of all claimants.
 - (d) The claims, if any, rejected.
 - (e) All other matters necessary to show the condition of the affairs of the estate.

25-150-100 Penalties for Failure to File First Account

1. If the executor or administrator fails to render and file his first account within the time specified in 25-150-090, the court or judge shall order a citation to issue requiring him to file the account by a time to be stated in the citation, as fixed by the court or judge, or appear and show cause why he should not be compelled to file the account.
2. If he fails to file the account by the time stated, or show cause why he should not, the court, by attachment or other proper process, may compel him to file such an account or may revoke his letters, in the discretion of the court, or both, and like action may be had in reference to any subsequent account he may be ordered to file.

25-150-110 Final Account: Filing; Penalties for Failure to File

1. Whenever all the property of an estate shall have been sold or there shall be sufficient funds in his hands for the payment of all debts due by the estate, and the estate be in a proper condition to be closed, the executor or administrator shall render and file his final account and pray for a settlement of his administration.
2. If he neglects to render and file his final account the same proceedings may be had as prescribed in this chapter in regard to the first account to be filed by him, and all the provisions relative to the first account, and the notice and settlement thereof shall apply to his account for final settlement.

25-150-120 Accounting When Authority of Executor, Administrator Ceases

Whenever the authority of an executor or administrator shall cease or shall be revoked for any reason, he may be cited by the court to account, at the instance of the person succeeding to the administration of the same estate, in like manner as he might have been by any person interested in the estate during the time he was executor or administrator.

25-150-130 Accounts of Deceased or Incompetent Executor, Administrator: Accounting By Personal Representative, Guardian, Attorney

1. If the executor or administrator dies or becomes incompetent, his accounts may be presented by his personal representative or guardian to, and settled by, the court in which the estate of which he was executor or administrator is being administered, and, upon petition of the successor of the deceased or incompetent executor or administrator, the court shall compel the personal representative or guardian of the deceased or incompetent executor or administrator to render an account of the administration of his testator or intestate, and must settle such account as in other cases.
2. In the absence of a personal representative or guardian of the deceased or incompetent executor or administrator, the court may compel the attorney for the deceased or incompetent executor or administrator to render an account of the administration of the deceased or incompetent executor or administrator to the extent that the attorney has information on records available to him for the purpose. The account of the attorney need not be verified. A fee shall be allowed the attorney by the court for this extraordinary service.

25-150-140 Revocation of Letters When Executor, Administrator Absconds and Fails to Account

If the executor or administrator absconds or conceals himself, or if, after reasonable diligence, he cannot be found so that a citation cannot be personally served, and shall neglect to file an account within 20 days after the time fixed for that purpose, his letters shall be revoked.

25-150-150 Vouchers for Payments; Lost Vouchers; When Vouchers Necessary

1. Except as provided in subsection 6, in rendering his account, the executor or administrator shall produce vouchers for all payments he may have made, which vouchers shall be filed and remain in court, and he may be examined on oath touching such payments, and also touching any property and effects of the deceased, and the disposition thereof.
2. When any voucher shall be required for other purposes, it may be withdrawn on leaving a certified copy on file.
3. Where the account is accompanied by a report of an accountant, or an accountant, upon the hearing of any account, testifies that all expenditures of \$20 or more made by the executor or administrator during the accounting period are supported by vouchers, it shall not be necessary to reproduce or file the vouchers in court. The provisions of this subsection are applicable only when the accountant has been appointed or is approved by the court for such purpose.
4. If any vouchers be lost, or for other good reason cannot be produced on settlement of an account, the payment may be proved by the oath of one competent witness. If it is proven that vouchers for any disbursements have been lost or destroyed, that it is impossible to obtain duplicates and that the items were paid in good faith and were legal charges against the estate, the executor or administrator shall be allowed such items.
5. He may be allowed any item of expenditure not exceeding \$20 for which no voucher is produced, if it is supported by his uncontradicted oath positive to the fact of payment, Specifying when, where and to whom it was made; but the total amount of such allowances in all his accounts must not exceed \$500.
6. A corporate executor or administrator is not required to file vouchers with the court to substantiate payments made in the administration of the estate, but shall retain possession of such vouchers and permit examination thereof by any party interested in the estate or the court.

25-150-160 Notice of Rendering Account

1. Except as otherwise provided in subsection 2, when an account is rendered and set for settlement by the court, notice thereof shall be given in the manner required by 25-155-010.
2. If the account is for a final settlement and a petition for the settlement must so state, and on the settlement of the account, distribution of the estate to those entitled thereto may be had immediately, but notice of the hearing of the petition for distribution must also be given as provided in 25-155-020.

25-150-170 Hearing

1. Any person interested in the estate may appear and file written exceptions to the account and contest the same.
2. Upon the hearing, the executor or administrator may be examined on oath touching the account and the property and effects of the decedent and the disposition thereof.
3. All matters, including allowed claims, not passed upon on the settlement of any former account and not reduced to judgment, may be contested for cause shown.

25-150-180 Appointment of Attorney to Represent Minors and Absent Heirs; Contest of Accounts; Fees

1. If there be a minor interested in the estate who has no legally appointed guardian, the court may appoint some disinterested attorney to represent him who, on behalf of the minor, may contest the account as any other person having an interest might contest it.
2. The court may also appoint an attorney to represent absent heirs and devisees and legatees.
3. All matters, including allowed claims not passed upon on the settlement of any former account, or on making a decree of sale, may be contested by interested parties for cause shown.
4. Any attorney so appointed shall be paid a reasonable compensation out of the estate, which payment shall be an expense of administration of the estate. The amount of such fee shall be determined by the court.

25-150-190 Proof of Notice Necessary Before Allowance of Account

No account shall be allowed by the court until it be first proved that the notice required by this chapter has been given, and the order or decree shall show that such proof was made to the satisfaction of the court and shall be conclusive evidence of the fact.

25-150-200 Allowance and Confirmation of Account

At the time any account comes before the court for allowance, if there are no exceptions filed by any person interested in the estate, and the account is made to appear to the court to be correct and according to law, the court may allow and confirm the account.

25-150-210 Effect of Order Settling Account

The order settling and allowing the account, when it becomes final, is conclusive against all persons interested in the estate, saving, however, to persons under legal disability, the right to move for cause to reopen and examine the account,

or to proceed by action against the executor or administrator or his sureties at any time before final distribution; and in any such action such order is prima facie evidence of the correctness of the account.

Payment of Debts, Expenses and Charges

25-150-220 Debts and Charges: Order of Payment

The debts and charges of the estate shall be paid in the following order:

1. Funeral expenses.
2. The expenses of the last sickness.
3. Family allowance.
4. Debts having preference by laws of the United States.
5. Wages to the extent of \$600, of each employee of the decedent, for work done or personal services rendered within 3 months prior to the death of the employer. If there is not sufficient money with which to pay all such labor claims in full, the money available must be distributed among the claimants in accordance with the amounts of their respective claims.
6. Judgments rendered against the deceased in his lifetime, and mortgages in order of their date. The preference given to a mortgage shall only extend to the proceeds of the property mortgaged. If the proceeds of such property be insufficient to pay the mortgage, the part remaining unsatisfied shall be classed with other demands against the estate.

25-150-230 Payment of Debts, Charges, Funeral Expenses and Expenses of Last Sickness

1. The executor or administrator shall, as soon as he has sufficient funds in his hands, upon receipt of a sworn statement of the amount due and without any formal processing of creditors' claims, pay the funeral expenses, the expenses of the last sickness, the allowance made to the family of the deceased, and wage claims to the extent of \$600 of each employee of decedent for work done, or personal services rendered within 3 months prior to the death of the employer; but he may retain in his hands the necessary expenses of administration.
2. He is not obliged to pay any other debt or any legacy until the payment is ordered by the court.
3. He may, prior to court approval or order, pay any of the decedent's debts amounting to \$100 or less if:
 - (a) Claims for payment thereof are properly filed in the proceedings;
 - (b) Such debts are justly due; and
 - (c) The estate is solvent.

4. In settling the account of the estate, the court shall allow any such payment if the conditions of paragraphs (a), (b) and (c) have been met; otherwise, the executor or administrator is personally liable to any person sustaining loss or damage as a result of such payment.
5. Funeral expenses and expenses of a last sickness shall be deemed debts payable out of the estate of the deceased spouse and shall not be charged to the community share of a surviving spouse, whether or not the surviving spouse is financially able to pay such expenses and whether or not the surviving spouse or any other person is also liable therefor.

25-150-235 Payment of Debts, Expenses and Charges From Income From Property Which Will Comprise Trust Estate After Distribution

Where any trust, life estate or estate for years is created by or under a will to continue after distribution, the income received by the executor or administrator from the securities or other property which, upon distribution, will comprise the trust estate, or in which such life estate or estate for years is created, shall, during the administration of the estate and until the property is distributed to the trustee or other person entitled thereto, belong to the estate and may be applied to payment of the debts, expense and charges of the estate unless the will otherwise directs.

25-150-240 Order of Payment

1. Upon the settlement of any account of the executor or administrator, after the time to file or present claims has expired, the court shall order the payment of the debts as the circumstances of the estate permit. If there are not sufficient funds to pay all of the debts, the order shall specify the sum to be paid to each creditor.
2. No creditor of any one class shall receive any payment until all those of a preferred class are fully paid; and if the estate is insufficient to pay all debts of any one class; each creditor of that class must be paid a dividend in proportion to his claim.
3. If the property of the estate is exhausted by the payment ordered, such account shall constitute a final account, and the executor or administrator shall be entitled to his discharge on producing and filling the necessary vouchers and proof showing that he has complied with the order.

25-150-250 Contingent, Disputed Claims; Claims Not Yet Due

1. If there is any claim not due, or any contingent or disputed claims against the estate, the amount thereof, or such part of the same as the holder would be entitled to if the claim were due, established or absolute, must be paid into court, and there remain, to be paid over to the holder when he becomes entitled thereto; or, if he fails to establish his claim, to be paid over or distributed as the circumstances of the estate require.

2. If a creditor whose claim has been allowed but is not yet due appears and assents to a deduction therefrom of the legal interest for the time the claim, has yet to run, he is entitled to be paid accordingly.
3. The payments provided for in this section are not to be made when the estate is insolvent unless a pro rata distribution is ordered.

25-150-260 Liability of Executor, Administrator

1. Whenever an order shall be made by the court for the payment of creditors, the executor or administrator shall be personally liable to each creditor for the amount of his claim, or the dividends thereon, and execution may be issued upon such order as upon a judgment in any other action, in favor of each creditor, and the same proceedings may be had under the execution as if it had been issued upon a judgment.
2. The executor or administrator shall also be liable on his bond to each creditor.

25-150-270 When Claim Not Included In Order of Payment

When the accounts of the executor or administrator have been settled and an order made for the payment of debts and distribution of the estate, no creditor whose claim was not included in the order for payment has any right to call upon the creditors who have been paid, nor upon the heirs, devisees or legatees, to contribute to the payment of his claim; but if the executor or administrator has failed to give the notice to creditors, as prescribed by law, such creditor may recover on the bond of the executor or administrator the amount for which his claim would properly have been allowed.

25-150-280 Closing Administration

1. When the whole of the debts and liabilities of an estate have been paid, and the estate is in a condition to be closed, the court shall proceed to direct the payment of legacies and the distribution of the estate among those entitled as provided in chapter 25-151 or this title.
2. If the estate is not in a condition to be closed, the court shall proceed to direct the payment of legacies and the distribution of the estate among those entitled at such time as it thereafter may be in a condition to be closed.

Federal Estate Tax Apportionment Law

25-150-290 Short Title

25-150-290 to 25-150-390, inclusive shall be known and may be cited as the Federal Estate Tax Apportionment Law.

25-150-300 Definitions

Except where the context otherwise requires, as used in 25-150-290 to 25-150-390, inclusive:

1. "Estate tax" means federal estate tax, including any interest and penalty thereon.
2. "Gross estate" or "estate" means all property included for federal estate tax purposes in determining the federal estate tax pursuant to the federal estate tax law.
3. "Person interested in the estate" means any person who receives or is the beneficiary of any property transferred pursuant to a transfer which is subject to a tax imposed by any federal estate tax law, now existing or hereafter enacted.

25-150-310 Proration of Tax Among Persons Interested In Estate; Exceptions

Whenever it appears upon any accounting, or in any appropriate action or proceeding, that an executor, administrator, trustee or other fiduciary has paid or may be required to pay an estate tax to the Federal Government under the provisions of any federal estate tax law, now existing or hereafter enacted, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law the amount of the tax shall be equitably pro rated among the persons interested in the estate, whether residents or non-residents of this state, to whom such property was, is or may be transferred or to whom any benefit accrues, except:

1. Where a testator otherwise directs in his will.
2. Where by written instrument executed inter vivos direction is given for apportionment among the beneficiaries of taxes assessed upon the specific fund dealt with in such inter vivos instrument.

25-150-320 Direction for Apportionment of Estate Tax: Precedence; Limitation

1. A testator, settlor, or possessor of any appropriate power of appointment may direct how the estate tax shall be apportioned or allocated or grant a discretionary power to another so to direct. Any such direction shall take precedence insofar as the direction provides for the payment of the estate tax or any part thereof from property the disposition of which can be controlled by the instrument containing the direction or delegating the power to another.
2. Any direction as to apportionment or nonapportionment of the tax, whether contained in a will or in a nontestamentary instrument, shall be limited in its operation to the property passing thereunder unless such will or instrument otherwise directs.

25-150-330 Jurisdiction of Court; Methods of Proration

1. The proration shall be made by the court having jurisdiction in probate of any property in the estate in the proportion, as near as may be, that the value of the property, interest or benefit of each such person bears to the total value of the property, interest and benefits received by all, such persons interested in the estate.
2. In making a proration, allowances shall be made for any exemptions granted by the act imposing the tax and for any deductions allowed by such act for the purpose of arriving at the value of the net estate.
3. Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the charitable purposes of the gift shall inure to the benefit of the person bearing such relationship or receiving such charitable gift; except that when an interest is subject to a prior present interest which is not allowable as a deduction, the estate tax apportionable against the present interest shall be paid from principal.
4. Any deduction for property previously taxed and any credit for gift taxes or taxes of a foreign country paid by the decedent or his estate shall inure to the proportionate benefit of all persons liable to apportionment.
5. Any credit for inheritance, succession or estate taxes or taxes in the nature thereof in respect to property or interests includible in the gross estate shall inure to the benefit of the persons or interests chargeable with the payment of such taxes to the extent or in proportion that the tax paid or payable reduces the estate tax.
6. To the extent that property passing to or in trust for a surviving spouse does not constitute an allowable deduction solely by reason of an inheritance tax or other death tax imposed upon and deductible from such property, it shall not be included in the computation provided in subsection 1 and to that extent no apportionment shall be made against such property.
7. The values used for federal estate tax purposes shall be the values used as the basis for apportionment.
8. Whenever the court finds that it is inequitable to apportion interest and penalties in the same manner as the principal of the estate tax by reason of special circumstances it may direct apportionment of interest and penalties in a manner different from principal.

25-150-340 Present and Future Estates: Charge of Tax Against Corpus Without Apportionment

1. In cases where a trust is created, or other provision made whereby any person is given any interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the tax on both such

temporary interest and on the remainder thereafter shall be charged against and paid out of the corpus of such property or fund without apportionment between remainders and temporary estates.

2. The provisions of subsection 1 shall apply notwithstanding that the holder of a temporary interest is given rights to the corpus, but shall not apply to a common law annuity.

25-150-350 Property Not Possessed By Representative: Recovery By Executor, Administrator From Person Interested or In Possession; Power of Court to Direct Payment

1. In all cases in which any property required to be included in the gross estate does not come into possession of the executor or administrator, he shall be entitled, and it shall be his duty, to recover from whoever is in possession, or from the persons interested in the estate, the proportionate amount of the tax payable by the persons interested in the estate with which such persons interested in the estate are chargeable. The probate court may direct the payment of such amount of tax by such persons to the executor or administrator.
2. The provisions of subsection 1 shall also be applicable to persons in possession of or interested in real or personal property located in or subject to administration in another state and required to be included in the gross estate of a resident of this state, unless such other state refuses to enforce such apportionment, in which case apportionment may be made in accordance with the law which would be applied by such other state.
3. Any person interested in the estate from whom apportionment shall be required under subsections 1 and 2 shall also be charged with the amount of reasonable expenses, including executor's, administrator's and attorney's fees, in connection with the determination of the tax and the apportionment thereof. Such expenses shall be determined and collected in like manner as the tax.

25-150-360 Court Order Directing Amounts of Tax to Be Charged Against or Paid By Takers of Estate

1. The probate court, upon making a determination as provided in 25-150-290 to 25-150-390, inclusive, shall make a decree or order directing the executor, administrator or other fiduciary to charge the determined amounts against the persons against whom the tax has been prorated insofar as he is in possession of property or interests of such persons against whom the charge may be made, and summarily directing all other persons against whom the tax has been prorated or who are in possession of property or interests of such persons to make payment of such determined amounts to such executor, administrator or other fiduciary.

2. Such decrees or orders may be preliminary, intermediate or final
3. If the executor, administrator or other fiduciary holds property of a person liable to apportionment which is insufficient to satisfy the determined amount, the court may direct that the balance shall be paid by the person liable.
4. If it appears that the executor, administrator or other fiduciary cannot recover the amount apportioned .against any person, any amount not recovered shall be charged in such manner as the court may determine.
5. If an overpayment is made the court may direct appropriate reimbursement.

25-150-370 Retention of Jurisdiction By Court

The court shall retain jurisdiction until the purposes of 25-150-290 to 25-150-390, inclusive have been accomplished.

25-150-380 Apportionment of Tax, Expenses Imposed and Incurred on Property Located, Administered. In State In Estate of Nonresident

Tax imposed and expenses incurred by reason of inclusion for tax purposes of property located or administered in this state, in the estate of a non-resident of this state, shall be apportioned in accordance with the law of the decedent's domicile, applicable to property located therein.

25-150-390 Applicability of 25-15-290 to 25-150-390

The provisions of 25-150-290 to 25-150-390, inclusive, shall not apply to estates of persons who died prior to March 25, 1957.

25-151 DISTRIBUTION AND DISCHARGE

Partial Distribution

25-151-010 Petition for Partial Distribution; Bond

1. At any time after the lapse of 3 months from the issuing of letters testamentary or letters of administration, the executor or administrator, or any heir, devisee or legatee, or the assignee, grantee or successor in interest of any heir, devisee or legatee, may petition the court to distribute a legacy, devise or share of the estate, or any portion thereof, to any person entitled thereto, upon such person giving a bond, with approved security, for the payment of such person's proportion of the debts of the estate.
2. The court may dispense with a bond if it be made to appear that the same is unnecessary.

25-151-020 Notice of Hearing

When the petitioner is not, the executor or administrator, notice of the application shall be given to the executor or administrator personally, and to all persons interested in the estate, in the same manner that notice is required to be given by 25-155-010, or as the court may direct.

25-151-030 Contest of Petition

The executor or administrator, not petitioning, or any person interested in the estate, may appear and resist the application, or any other heir, devisee or legatee may make a similar application for himself or herself.

25-151-040 Order for Distribution: Prerequisites to Order; Bond

1. Subject to the provisions of subsections 3 and 4, if on the hearing, it appears that the estate is but little indebted and that the share or shares of the party or parties petitioning may be allowed, without injury to the creditors of the estate, the court shall make a decree in conformity to the prayer of the applicant or applicants.
2. The decree may direct the executor or administrator to deliver to the petitioner or petitioners the whole portion of the estate to which he, she or they may be entitled, or a part only thereof.
3. Each of the petitioners shall first execute and deliver to the executor or administrator a bond in such sum as shall be designated by the court or judge, and with sureties to be approved by the judge. The bond shall be made payable to the executor or administrator and conditioned for the payment by the heir, devisee or legatee, whenever required, of his or her proportion of the debts of the estate.
4. The court may dispense with a bond if it be made to appear that the same is unnecessary.

25-151-050 Order of Repayment: Action on Bond or Against Distributee When No Bond Given

1. Whenever any bond has been executed and delivered as prescribed in 25-151-040, and the executor or administrator shall ascertain that it is necessary for the settlement of the estate to require the payment of any party of the money thereby secured, he shall petition the court for an order requiring the payment and cause a citation to be issued and served upon the party bound, requiring him or her, at a time and place, not more than 10 days after the date of the citation, to be stated therein, to appear and show cause why the order shall not be made.

2. At the hearing, the court, if satisfied of the necessity for such payment to be made, shall make an order accordingly, designating the amount and giving the time in which it shall be paid.
3. If the money be not paid within the time allowed, an action may be maintained by the executor or administrator on the bond.
4. Similar proceedings may be had against a distributee when no bond is given.

25-151-060 Partition When Partial Distribution Ordered

If, in the execution of the decree, any partition be necessary between two or more of the parties, it shall be made in the manner prescribed in chapter 25-152 of this Title.

25-151-070 Costs

The costs of proceedings for a partial distribution shall be paid by the applicant, or, if there are more than one, shall be apportioned equally among them.

Final Distribution

25-151-080 Petition for Final Distribution

1. When an executor or administrator files his final account, with a petition praying for the allowance and confirmation thereof, he may also include in the petition a prayer for the distribution of the estate. Upon the settlement and allowance of the final account, the court may also decree a distribution of the residue of the estate, if any, among the persons who are by law entitled.
2. If a final account be settled and allowed without a decree of distribution, the executor or administrator or any heir, devisee or legatee, or assignee or grantee of any heir, .devisee or legatee, at any time thereafter, may petition the court for a decree distributing the estate.

25-151-090 Notice of Hearing of Petition

1. When a petition for final distribution is filed, the petitioner shall give notice of the hearing of the petition to all persons interested in the estate as provided in 25-155-010.
2. The court may order such further notice as it may deem proper.

25-150-100 Accounting Upon Final Distribution

A statement of the receipts and disbursements of the executor or administrator since the rendition of his final account shall be reported and filed before or at the time of making such distribution, unless distribution of real property only be

made, A settlement thereof, together with an estimate of the expense of closing the estate, shall be made by the court, and shall be included in the decree, or the court or judge may order notice of the settlement of such supplementary account.

25-151-110 Decree and Distribution; Recording of Copy of Decree With County Recorder

1. Where the accounts of an executor or administrator have been settled and a decree for the distribution of the estate made by the court, the executor or administrator shall, without any unnecessary delay, distribute the estate remaining in his hands and directed by the decree.
2. In the decree, the court shall name the persons and the proportion or parts to which each shall be entitled, and such person shall have the right to demand and recover his or her respective share from the executor or administrator, or any other person having the same in possession.
3. The executor or administrator shall, within 10 days after the entry of a decree of distribution conveying any real property, record with the county recorder of the county in which the decree was entered a certified copy of the decree.

25-151-120 When Gift Before Death Not Deemed Advancement

No gift or grant shall be deemed to have been made as an advancement unless:

1. So expressed in the gift or grant; or
2. Charged in writing by the deceased as an advancement; or
3. Acknowledged in writing by the donee to be such.

25-151-130 Where Advancements Made: Computations of Heirs' Shares

1. Any property, real or personal, that may have been given by the deceased in his or her lifetime as an advancement to any donee, shall be considered as part of the estate of the intestate, for the sole purpose of computing the respective shares of the distributees and shall be taken by such donee toward his or her share of the estate of the deceased.
2. If the amount of the advancement shall exceed the share of the heir so advanced, the heir shall be excluded from any further portion in the distribution and division of the estate, but he or she shall not be required to refund any part of the advancement. If the amount so received shall be less than his or her share, he or she shall be entitled to as much more as will give the heir his or her full share of the estate of the deceased.

25-151-140 Value of Property Advanced

If the value of the advancement shall be expressed in the conveyance, or in the charge thereof made by the deceased, or in the acknowledgement of the party receiving it, it shall be considered of that value in the distribution and division of the estate; otherwise it shall be estimated according to its value when given, as nearly as the same can be ascertained.

25-151-150 Predeceased Heir

If any child, or other lineal descendant so advanced, shall die before the person making the advancement, leaving issue, the advancement shall be taken into consideration in the distribution and division of the estate as if the advancement had been made directly to such issue.

25-151-160 Determination of Questions As to Advancements

All questions as to advancements made, or alleged to have been made, by the deceased to any heirs may be heard and determined by the court, and shall be specified in the decree distributing the estate, and in the warrant to the commissioners, provided for in 25-152-050, and the final decree of the court shall be binding on all parties interested in the estate, with right, however, of any party to appeal from a final decree of the court to the appellate court.

Discharge

25-151-170 Payments to County Treasurer for Person Who Cannot Be Found, Minor or Incompetent Without A Guardian, An Others

When property is assigned or distributed to a person who cannot be found or who refuses to accept the same or to give a proper voucher therefor, or to a minor or incompetent person who has no legal guardian to receive the same, or person authorized to receipt therefor, and the same or any part thereof consists of money, the executor or administrator may deposit the money, in the name of the assignee or distributee, with the county treasurer of the county in which the proceedings are pending, who shall give a receipt for the same, and be liable upon his official bond therefor. The receipt shall be deemed and received by the court, or judge thereof, as a voucher in favor of the executor or administrator with the same force and effect as if executed by such assignee or distributee.

25-151-180 Distribution to Guardian of Nonresidential Minors and Incompetents

If the assignee or distributee is a nonresident minor or insane or incompetent person, who has a guardian of his estate legally appointed under the laws of any foreign jurisdiction, the distribution of such assignee's or distributee's share may be made to such legally appointed guardian whose receipt therefore together with a certificate of his appointment issued under the seal of the court by the clerk of the court appointing him, when filed by the clerk of the court in which such assignment or distribution was ordered, shall be deemed and received by

the court, or a judge thereof, as a complete receipt and voucher in favor of the executor or administrator.

25-151-190 Sale of Unclaimed Personal Property; Disposition of Proceeds

1. When personal property remains in the hands of the executor or administrator unclaimed for 1 year, or when the distributee refuses to accept or give a proper receipt for the property, or is a minor or incompetent person and has no legally qualified guardian of his estate, and it appears to the court that it is for the benefit of those interested, or if the executor or administrator desires his discharge and it appears or if the executor or administrator desires his discharge and it appears to the court that no injury will result to those interested, the court shall order the property to be sold.
2. The proceeds, after deducting such expenses of sale as may be allowed by the court, must be paid into the county treasury. The depositor must take from the treasurer duplicate receipts, one of which he must file in the office of the auditor, and the other with the court.

25-151-200 Annual Account: Contents

Until the property is delivered or thus disposed of, the executor or administrator must render to the court, annually, an account showing what income he has received, what property he has sold and at what price, and the character and value of the property remaining in his hands.

25-151-210 Claim for Money Paid Into Treasury: Certification of Court; Drawing of Warrant

1. When any person appears and claims the money paid into the treasury, the court making the distribution must inquire into such claim, and, if satisfied of his right thereto, must grant him a certificate to that effect, under its seal.
2. Upon presentation of the certificate, the auditor must draw his warrant on the treasurer for the amount.

25-151-220 Specific Legacy for Life Only

Where a specific legacy is for life only, the life tenant must sign and deliver to the remainderman, or, if there be none, to the personal representative, an inventory of the property, expressing that the same is in his custody for life only, and that, on his decease, it is to be delivered to the remainderman.

25-151-230 Decree of Discharge

1. When the estate has been fully administered, and it is shown by the executor or administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, on

the order of the court, the property of the estate to the persons entitled, and has performed all acts lawfully required of him, the court shall make a decree discharging him and his sureties from all liability thereafter to be incurred.

2. The provisions of this section do not harm a successful appellant from a decree for the distribution of an estate from the recovery of any property distributed to an heir, devisee or legatee pursuant to the decree.

25-151-240 Subsequent Administration

The final settlement of an estate shall not prevent a subsequent issuance of letters testamentary or letters of administration should other property of the estate be discovered, or should it become necessary or proper, from any cause, that letters should again be issued.

25-152 PARTITION BEFORE DISCHARGE

25-152-010 Petition for Partition

When two or more heirs, devisees or legatees are entitled to the distribution of undivided interests in any real or personal property of the decedent, and they have not agreed among themselves, before distribution, to a partition, allotment or other division thereof, any one or more of them or the executor or administrator, at the request of any one or more of them, may petition the court to make such partition, allotment or division of the property as will be equitable and will avoid the distribution of undivided interests.

25-152-020 Partition Authorized Even Though Interests Conveyed or Assigned

Partition may be made as provided in this chapter, although some of the original devisees or legatees may have assigned or conveyed their share to other persons, and such shares shall be partitioned to the person holding the same in the same manner as they would have been to the heirs, devisees or legatees had they not transferred their shares.

25-152-030 Contents of Petition; Contents and Service of Citation

1. To secure such partition, any person may file a petition stating the necessary facts, particularly describing the property to be partitioned and the person or persons interested in the property.
2. Upon filing the petition, a citation shall issue to all persons interested who shall reside in this state, or their guardians, and to agents, attorneys or guardians, if there be any in this state, or such as reside out of this state, to appear and show cause why a decree of partition should not be made as prayed for.
3. The citation shall specify:

- (a) The estate and the party petitioning for partition.
 - (b) The time and place for hearing the petition, not more than 20 days from its date.
4. The citation must be served 5 days before the hearing, at the time specified in the citation, or at such further time as the court may continue the hearing.
5. Upon proof, to the satisfaction of the court, that the citation has been properly served as above required, the court shall proceed to hear the petition and the allegations and proofs of the respective parties, and decree accordingly.

25-152-040 Appointment of Guardians and Attorneys Before Partition

Before any partition shall be made, as provided in this chapter, guardians shall be appointed for all minor and insane persons interested in the estate to be divided, and an attorney shall be appointed for all nonresident or absent heirs or other persons interested.

25-152-050 Commissioners for Partition: Appointment; Warrant; Oath; Qualifications

1. When the property to be partitioned is entirely personal property, the court or judge shall appoint three competent, disinterested persons as commissioners for that purpose, who shall be duly sworn by any officer authorized to administer oaths to faithfully and impartially discharge their duties.
2. A certified copy of the order appointing them, attached to a certified copy of the decree fixing the shares to which the respective parties are entitled shall be given to them as their warrant, and their oath must be endorsed thereon.
3. When the property to be divided is real property, or partly real and partly personal one of the three commissioners shall be a practical surveyor.
4. Upon consent of the parties, and when the court shall deem it proper and just, the court may appoint one commissioner only, who shall have the same authority and be governed by the same rules as if three were appointed.

25-152-060 Commissioners May Be Appointed for Each County If Real Property In Different Counties

If the real property to be partitioned shall be in different counties, the court or judge, if deemed proper, may appoint commissioners for each county, and, in such case, the property in each county shall be divided separately, as if there were no other estate to be partitioned; but the commissioners first appointed

shall, unless otherwise directed by the court, make division of the real property wherever situated in this state.

25-152-070 Notice of Time for Partition

The commissioners shall notify all persons interested in the partition, their guardians, agents or attorneys, of the time when they will proceed to make partition, which time shall be as reasonable after their appointment as circumstances will admit, or the court, in the order of appointment, may fix the time.

25-152-080 Commissioners May Take Testimony

The commissioners may take testimony, for which purpose any one of them may administer an oath, and they may take all necessary steps to enable them to form a correct judgment upon the matters before them.

25-152-090 Shares Set Out In Proportion to Rights; Common or Undivided Shares.

The several shares in the real and personal property shall be set out to each individual in proportion to his or her right, and the real property by metes, bounds or such description that the same can be easily distinguished. If two or more of the parties request to have their shares set out so as to be held in common and undivided, such shares may be so partitioned.

25-152-100 Procedure When Value of Property to Be Divided Greater Than Either Party's Share

When any tract of land or tenement shall be of greater value than either party's shares in the estate to be divided, and cannot be divided without injury to the same, it may be set off by the commissioners to any one of the parties, who will accept it and pay, or secure to be paid, to one or more of the others interested, such sum or sums, as the commissioners shall award to make the partition equal, and the commissioners shall make their award accordingly; but such partition shall not be established by the court until the sums so awarded shall be paid to the parties entitled to the same, or secured to their satisfaction.

25-152-110 Sale of Property When it Cannot Be Divided Fairly: Rules of Sale

1. When it cannot otherwise be fairly divided, the whole or any part of the property, real or personal, may be recommended by the commissioners to be sold, and if the report be confirmed, the court may order a sale by the executor or administrator or by a commissioner appointed for the purpose, and distribute the proceeds.
2. The sale shall be conducted, reported upon and confirmed in the same manner and under the same rules as in ordinary cases of sales of land by an executor or administrator under this title.

25-152-120 Severance of Common and Undivided Real Property Held By Heirs and Another Person: Procedure

1. When partition of real property among heirs, devisees or legatees shall be required, and such real property shall be in common and undivided with the real property of any other person, the commissioners shall first divide and sever the property of the deceased from the property in which it lies in common, and such division, so made and established by the court, shall be binding upon all the persons interested.
2. The court may authorize the executor or administrator to bring suit for such partition when deemed necessary.

25-152-130 Commissioners May Set off Quality, Quantity to Make Shares of Equal Value

In making partition the commissioners shall always have regard to quantity and quality, and may set off quantity against quality, or quality against quantity, so that when the partition is made all the shares partitioned shall be of equal value as near as possible.

25-152-140 Commissioners Report; Exceptions May Be Filed; Hearing on Report and Exceptions; Decree of Confirmation

1. The commissioners, within a reasonable time after they have finished their work, shall make a report of their proceedings and of the partition made by them, and file the same with the clerk of the court.
2. Within 15 days after the report is filed any person interested may file exceptions to the report, particularly specifying the grounds of objection. A copy of the exceptions shall be served upon the commissioners and all parties interested in the partition, their guardians, agents or attorneys in the county, with a notice to such persons that the excepting party will, at a certain time to be mentioned, not later than 20 days after the filing of the exceptions, move the court to set aside the report, and for a new partition.
3. At the time specified, or at such other time as the court may sit, the court shall proceed to hear the report and exceptions, and may hear proof by any party, and, for sufficient reasons, the court may set aside the report and recommit the partition to the same commissioners or appoint others or may modify or confirm the report.
4. If no exceptions shall be filed to the report within the time above specified, the court on the expiration of the 15 days or at any time thereafter, if the report appears to be just and correct and all the proceedings regular, shall confirm the report, and when the report shall be finally confirmed the decree of confirmation and the report shall, be recorded by the clerk, and the court shall order proper conveyance to be made by the respective parties to one another, or may, if for any reason necessary, appoint a commissioner to make such conveyance or

conveyances which, when acknowledged and recorded, shall effectually pass the title.

25-152-150 Procedure When Real Property Cannot Be Partitioned; Special Commissioners or Appraisers

When any real property cannot be divided without prejudice or inconvenience to the owners, the court may assign the whole to one or more of the parties entitled to shares therein, who will accept and pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction, or, in case of the minority of such party or parties, to the satisfaction of guardian of such minor or minors. The true value of the property shall be ascertained and reported by the commissioners or appraisers appointed specially for that purpose.

25-152-160 Apportionment of Expenses; Attorney's Fees

The expenses of partition shall be equitably apportioned by the court among the parties, but each party must pay his own attorney's fees.

25-152-170 Effect of Allotment by Court: When Appealable

The allotment made by the court shall control upon proceedings for distribution, unless modified for good cause upon reasonable notice, and the proceedings leading to such allotment may be reviewed upon appeal from the decree of distribution.

25-153 ADMINISTRATION OF TRUSTS; ESTATES FOR LIFE AND YEARS

25-153-010 Provisions of 25-153-020 to 25-153-040, Inclusive, to Govern Fiduciaries Acting Under Trusts, Wills and Court Orders

The provisions of 25-153-020 to 25-153-040, inclusive, shall govern fiduciaries acting under trusts, wills and court orders in estate proceedings whether the same have been distributed, are now pending, or may hereafter be filed.

25-153-020 Jurisdiction of Court After Final Distribution; Accounting By Trustee

1. Where any trust, life estate, or estate for years has been created by or under any will to continue after distribution, the court shall not lose jurisdiction of the estate by final distribution but, except as provided in this subsection, shall retain jurisdiction of it for the purpose of the settlement of accounts under the trusts, life tenancies, or estates for years and for the distribution of the residue to those entitled to it the distribution may be upon petition of the trustee, his successor in interest, or of any person entitled to share in the distribution.
2. Any trustee of any trust created by any will, or appointed to execute any trust created by any will, may, from time to time, pending the execution

of his trust, petition for the settlement of his accounts as trustee before the court in which the will was probated in the manner provided for the settlement of the accounts of executors and administrators.

3. The trustee shall, for that purpose, present to the court a verified petition setting forth the accounts in detail, with a report showing the condition of the trust estate and a verified statement of the trustee giving names and post office address, if known, of the beneficiaries. Upon the filing thereof, the clerk shall fix a day for the hearing and give notice of not less than 10 days by causing notice of the hearing to be posted at the courthouse of the county where the proceedings are pending, setting forth the name of the trust estate, the trustee, and the day appointed for the settlement of the account. The court, or a judge thereof, may order such further notice to be given as may be proper.
4. Any trustee of any trust created by any will or appointed to execute any trust created by any will shall, at its termination, petition for the settlement of his accounts as trustee in the manner provided in Chapter 165 of Nevada Revised Statutes.

25-153-030 Application for Accounting: Procedure

1. The trustee may, in the discretion of the court, upon application of any beneficiary of the trust or the guardian of any beneficiary, be ordered to appear and render his account, after being cited by service of citation, in the manner provided for service of summons in civil cases by Title 2 of this code. The application shall not be denied where no account has been rendered to the court within 6 months prior to the application.
2. Upon the filing of the account so ordered, the same proceedings for the hearing and settlement thereof shall be had as provided in this Title in the case of settlement of accounts of executors and administrators.

25-153-040 Petition for Instructions As to Administration of Trust; Notice of Hearing

1. The trustee or other fiduciary may petition the court, from time to time, for instructions as to the administration of the trust.
2. Upon the filing thereof, together with a verified statement of the trustee giving the names and post office addresses, if known, of the beneficiaries and any other persons interested in the granting of the petition, the clerk shall set the hearing by the court, and shall give notice thereof for the period and in the manner required by 25-155-010.
3. The trustee shall cause notice of the hearing to be mailed to the beneficiaries at their last known addresses, and to all other persons interested in the granting of the petition, if any, as provided if 25-155-010, whether they have requested special notice or given notice of appearance or not.

4. If there be any beneficiaries or other persons interested in the granting of the petition whose past office addresses are unknown, the notice of the hearing on the petition shall be published in a daily newspaper on at least 2 different days before the hearing and at least 5 days must elapse between the last publication and the time set for hearing the petition.

25-153-050 Accountings By Life Tenants, Tenants for Years

1. Wherever by law, or by the terms of any instrument creating a life estate, or an estate for years, the tenant is required to account for his use of the property of which he is tenant, then the provisions of this chapter concerning accounting by a trustee shall apply to the life tenant and tenant for years, and, after his death, to his executor and administrator.
2. Where no obligation to account during his tenancy is imposed upon the tenant, nevertheless such of the provisions of this chapter as apply to accounting by the executors and administrators of a trustee shall apply to the executors and administrators of the tenant, to the extent of determining the residue of the estate.

25-153-060 Petition for Distribution of Residue of Trustee Estate: Notice

Whenever a distribution of the residue of the trust estate, estate for life, or estate for years to those entitled thereto shall be petitioned for, notice of the hearing of the petition shall be given for the time and in the manner provided in 25-151-090 upon petitions for distribution.

25-153-070 Expenses and Compensation of Trustees

On the settlement of each account of a trustee the court shall allow the trustee his proper expenses add such compensation for services as the court may deem just and reasonable. Where there are several trustees it shall apportion the compensation among them according to the respective services rendered. It may, in its discretion, fix a yearly compensation for the trustee or trustees, to continue as long as the court may deem proper.

25-153-080 Conclusiveness of Decree

A decree rendered under the provisions of this chapter, when it becomes final, shall be conclusive upon all persons in interest; whether or not they are in being.

25-153-090 Declination of Person Designated Trustee: Procedure

1. Any person named or designated as a trustee in a will may, at any time before distribution of any of the estate to him, decline to act as trustee, and an order of court shall thereupon be made, accepting the resignation; but the declination of any person who has qualified as trustee shall not be accepted by the court unless the same shall be in writing and filed in the matter of the estate in the court in which the administration is

pending, and notice shall be given thereof, as required upon a petition for letters of administration.

2. In accepting a declination the court may make and enforce any order which may be necessary for the preservation of the estate.

25-153-100 Appointment to Fill Vacancy

1. The court in which the administration is pending shall have power, at any time before final distribution, to appoint, some fit and proper person to fill any vacancy in the office of trustee under the will, whether resulting from declination, removal or otherwise, if the appointment is necessary to carry out the trust.
2. The appointment may be made by the court upon the written application of any person interested in the trust, filed in the probate proceedings, and shall be made only after notice to all parties interested in the trust given as required upon a petition for the probate of a will.

25-153-110 Trusteeship Vacancy: Appointment of Temporary Trustee

1. If a trustee of a testamentary trust dies, resigns or is removed after distribution, and a vacancy in the trusteeship is created thereby, and no method of filling the vacancy is provided for in the will, the court which had jurisdiction over the settlement of his accounts shall have the power to appoint a new trustee to fill the vacancy, upon the petition of anyone interested in the trust estate, and notice given for the period and in the manner required upon petition for the probate of a will.
2. The court shall have power to appoint a temporary trustee without notice in order to preserve the trust estate when necessary.

25-153-120 Bond of Trustee

The court may, in its discretion, require the person appointed under 25-153-100 or 25-153-110, before acting as a trustee, to give a bond as is required of a person appointed administrator. If a bond is required the trustee shall be allowed the cost of the bond.

25-154 ESCHEATS

Property Escheating to The Tribe

25-154-010 When Estates Escheat to The Tribe for Educational Purposes

Estates shall escheat to and be vested in the Washoe Tribe for educational purposes if any person dies or has died, within this tribe, seised of any real or personal estate, and leaving no heirs, representatives, devisees or legatees capable of inheriting or holding the same, and in all cases where there is no

owner of such estate capable of holding the same. Any balance remaining in a retired employee's or beneficiary's individual account under the public employee's retirement system is not an estate within the meaning of this chapter.

25-154-020 Information Filed By Attorney General: Contents

1. Whenever the attorney general shall be informed, or shall have reason to believe, that any real Or personal estate has become escheateable to this tribe for the reasons specified in 25-154-010, or that any such estate has, for any other reason, become escheatable, he shall file an information in behalf of the state in the court of the county where such estate, or any part thereof, is situated.
2. The information shall set forth:
 - (a) A description of the estate.
 - (b) The name of the person last lawfully seised.
 - (c) The name of the terre-tenant and persons claiming the estate, if known.
 - (d) The facts and circumstances in consequence of which the estate is claimed to have become escheated.
3. The information shall allege that by reason hereof the Washoe Tribe has by law right to such estate.

25-154-030 Citation: Issuance; Publication

1. Upon the filing of the information, the court shall order that a citation be issued to the person or persons and bodies politic or corporate alleged in the information to hold, possess or claim the estate, requiring them to appear and show cause why the estate should not vest in the Washoe Tribe. The citation shall be made returnable within the time allowed bylaw in other civil actions.
2. The court may also, if deemed advisable, order the citation to be published in a newspaper published in the county, if any; and, if none, then in some newspaper in the State of Nevada.

25-154-040 Receiver: Appointment on Motion of Attorney General After Filing of Information; Bond

1. After the filing of an information as provided in 25-154-020, and upon motion of the attorney general, either before or after answer, upon notice to the person or persons claiming the estate, if known, the court may, on sufficient cause thereof being shown, appoint a receiver to take charge of the real estate or personal property, other than money, mentioned in the NW information, and receive the rents and profits of the same until the title of the property shall be finally settled.

2. The receiver shall, before entering upon his duties, execute a bond to the State of Nevada in a sum to be fixed by the court, with sureties to be approved by the judge, conditioned to perform faithfully the duties of the trust and to account fully to the person finally adjudged to be entitled to the property. Such person may maintain an action on the bond for any default or damage.

25-154-050 Where Residue of Estate Less Than \$2,000, Administrator to Deposit With County Treasurer

1. When the residue remaining of any estate mentioned in 25-154-010, after the payment of the costs and expenses of administration and creditor's claims and other expenses, does not exceed the sum or value of \$2,000, the proceedings specified in 25-154-020 and 25-154-030 for escheating of the estate to the Washoe Tribe shall be dispensed with, and the administrator of the estate, or other legal representative of the deceased shall, on the order of the Court, pay over or deliver the residue to the county treasurer of the county where the estate is being probated or is situated, for the benefit of the Washoe Tribe.
2. The receipt or certificate of the county treasurer, evidencing such payment or delivery, shall be filed with the clerk of the court of the county where the estate is being probated or is situated. Upon the filing of the receipt or certificate, the administrator or other legal representative of the deceased shall be released and discharged from all further liability as to the residue.
3. Upon such payment or delivery to him, the county treasurer shall notify the attorney general of the same, and shall pay over or deliver the residue to the state treasurer, taking his receipt or certificate therefore. The payment or delivery shall be subject to all of the provisions of this chapter concerning the recovery of the same from this state by any person or persons found to be entitled thereto.

25-154-060 Claimants May Appear and Plead to Information

1. All persons and bodies politic or corporate, named in the information as terre-tenants or claimants to the estate, may appear and plead to the proceedings; and may traverse or deny the facts stated' in the information (the title of the state to the estate therein mentioned) at any time on or before the return day of the citation.
2. Any other person claiming an interest in the estate may appear and be made a defendant, and plead as stated in subsection 1 by motion for that purpose made in open court within the time allowed for pleading.
3. If any person shall appear and plead as stated in subsections 1 and 2, denying the title set up by the state, or traverse any material fact set forth in the information, or issue or issues of fact to be made up, the matter shall proceed as other civil actions on issues of fact.

4. A survey may be ordered, as in other civil actions, when the boundary is called into question.

25-154-070 Judgment and Cost

After the issues are tried, if it shall appear from the facts that the tribe has good title to the estate mentioned in the information, or any part thereof, or if no defense be made by anyone, judgment shall be rendered that the state be seised thereof, and recover costs of suit against the defendants, if any appear.

25-154-080 Sale of Real Property After Judgment: Procedure

1. Upon any judgment hereafter rendered, or that has heretofore been rendered by any court of competent jurisdiction, escheating real property to the tribe, on motion of the attorney general, or on motion of any executor or administrator having charge of the estate, the court shall, or the court may, upon its own motion, make an order that the real property be sold by the sheriff of the county where the same is situated, at public sale, after giving notice of the time and place of sale as is provided in cases of sale of property under execution.
2. The sheriff shall within 10 days after the sale, make a report thereof to the court. Upon the hearing of the report the court may examine the report and witnesses in relation to the same, and if the proceedings were unfair, or the sum bid be disproportionate to the value of the property sold, or if it appears that a sum exceeding the bid by at least 10 percent may be obtained, the court may vacate the sale and direct another sale to be had, of which notice must be given, and the sale conducted in all respects as if no previous sale had taken place.
3. If an offer of 10 percent more in amount than that named in the report be made to the court in writing by a responsible person, the court may, in its discretion, accept such offer, and confirm the sale to such person, or order a new sale.
4. If it appears to the court that the sale was legally made and fairly conducted, and that the sum bid is not disproportionate to the value of the property sold, and that a sum in excess of 10 percent of the bid cannot be obtained, or, if the increased bid mentioned above be made and accepted by the court, the court must make an order confirming the sale and directing the sheriff, in the name of the state, to execute to the purchaser or purchasers a conveyance of the property sold. The conveyance shall vest in the purchaser or purchasers all of the right and title of the state therein.
5. The sheriff shall, out of the proceeds of the sale, pay the costs of the proceedings incurred on behalf of the state, including the expenses of making the sale, and also an attorney's fee, if additional counsel were employed in the proceedings, to be fixed by the court, not exceeding 15

percent on the amount of the sale. The residue thereof shall be paid into the state treasury by the sheriff.

25-151-090 Person Recovering Estate Entitled to Sale Proceeds In Lieu of Real Property

In all proceedings to recover estates which have vested in the state by escheat, whenever the same has been sold as provided in 25-154-008, the party adjudged entitled to the proceeds of the sale paid into the state treasury, in lieu of the real property sold, and the court shall decree accordingly.

25-154-100 Appeal From Judgment

As in civil cases, the attorney, general, in behalf of the state, and any party whom has appeared in any proceedings mentioned in 25-154-060, has the right to appeal from any judgment rendered in the proceedings.

25-154-110 State Controller and Director of State Department of Conservation and Natural Resources to Keep Accounts, Records and Descriptions of Escheated Estates

1. The estate all shall keep a just and .true account of all money paid into the state treasury, and also of all lands and personal property vested in the state by escheat.
2. The director of the state department of conservation and natural resources shall keep a just and true record or description of all real estate and personal property vested in the state by escheat. When describing land involved in an escheatment, the description shall be shown by legal subdivision or by a. metes and bounds description sufficiently accurate to identify the ground on an approved township plot from the Bureau of Land Management; or, if within an approved townsite, by reference to the lot, block, and tract or subdivision.

25-154-120 Proceedings for Recovery of Property Which Has Escheated to The State

1. If, within 6 years after any judgment escheating property to the state, any person shall appear and claim any money that may have been paid into the state treasury or any real or .personal property vested in the state by the judgment, the person may file a petition in the court of Carson City, stating the nature of the claim, with an appropriate prayer for the relief demanded.
2. A copy of the petition shall be served upon the attorney general before or at the time of filing the same. Within 20 days after service, the attorney general shall appear in the proceeding and plead or answer to the petition. If, after examining all the facts, the attorney general is convinced that the state has no legal defense against the petition, he may, with the consent of the court, confess judgment on behalf of the state.

3. If judgment is not confessed, the petition shall be considered at issue on the 20th day after its filing, and may be heard by the court on that day, or at such future day as the court may order.
4. Upon the hearing, the court shall examine into the claim and hear the allegations and proofs, from which, if the court shall find that the person is entitled to any money paid into the state treasury, it shall, by judgment, order and direct the state controller to draw his warrant in favor of the claimant upon the state treasurer for the sum specified in the order, but without interest or cost to the state. A certified copy of the judgment and order directing the state controller to draw his warrant for money shall be sufficient voucher for him so to do.
5. If any real property is the subject of the trial, and the court finds the claimant entitled to it, the court shall decree accordingly, which decree shall be effectual for divesting the interests of the state in or to the real property, but no costs shall be taxed against the state.
6. If any real or personal property, Other than money, has been sold as provided in this chapter after the judgment of escheat, and the proceeds paid into the state treasury, the petitioner shall be entitled to the proceeds thereof, in lieu of the real or personal property, and the court shall decree accordingly.
7. All persons, except infants and persons of unsound mind, who shall fail to appear and file their petitions within the time limited in subsection 1, shall be barred forever. Infants and persons of unsound mind have the right to appear and file their petitions at any time within 5 years after their respective disabilities are removed.

25-154-130 Person Furnishing Information Entitled to Percentage of Value of Recovered Property

Any person furnishing original information of any property escheatable to the Tribe, with the necessary evidence to sustain the information in that behalf, to the court of the county where the property is located, and to the attorney general, shall be entitled to receive, upon the final recovery of the property, 5 percent of the value of the property so recovered; provided:

1. That the amount so received by the person furnishing the information shall not in the aggregate exceed the sum of \$20,000 in any one case; and
2. That one person only shall be entitled to compensation for such service.

25-154-140 Escheated Moneys Paid Into State Permanent School Fund

All moneys which have accrued or may hereafter accrue to the state from escheated estates shall be paid into the state permanent school fund.

Disposition of Property After Escheat

25-154-150 Sale of Escheated Land: Procedure

1. A person desiring to acquire title to any individual item or parcel of land which has escheated to the state must proceed by application to the director or the state department of conservation and natural resources on forms obtainable at his office and in the manner described in 25-154-150 to 25-154-180, inclusive.
2. When applying for unimproved real estate outside of approved townsites, no application will be accepted for a parcel of land less than the smallest legal subdivision (40 acres) unless the area in its entirety is less than 40 acres. In such case that portion of the subdivision shall be described and disposed of on one application, unless, in the discretion of the director of the state department of conservation and natural resources, it is found that the remaining portion could be disposed of within a reasonable length of time, and would not become an isolated tract. He could then accept an application for a portion of the tract, provided that a survey be made and a plot submitted on tracing cloth (24" x 32") on which would be set forth an accurate metes and bounds description of the property, with at least one corner of the property tied to a point on the United States public land survey.

25-154-160 Application to Be Accompanied By Purchase Price and Fees

1. The purchase price in the amount of the applicant's offer for the real estate desired.
2. A sufficient sum to cover the cost of advertising.
3. An application fee of \$5.

25-154-170 Notice of Sale: Posting, Publication and Contents; Rejection of Bids

1. The director of the state department of conservation and natural resources shall issue a receipt to the applicant for the amount deposited in his trust and shall without any unnecessary delay cause notice of the application to be given in the following manner.
 - (a) By posting one of the notices in a conspicuous place in the office of the director of the state department of conservation and natural resources.
 - (b) By posting one of the notices at a conspicuous place at the property.
 - (c) By publishing a notice in a newspaper in the county in which the land applied for is situate at least once each week for 4 consecutive weeks prior to the date of sale.
2. The notice shall contain:

- (a) The name of the deceased owner in which was vested the title before death, if known.
 - (b) A description of the property as contained in the application.
 - (c) The amount of the offer contained in the application.
 - (d) A statement that the property will be sold to the highest bidder, specifying the time and place of the sale and that the transaction must be handled in legal tender of the United States or certified check.
3. The director of the state department of conservation and natural resources shall have the power to reject any or all bids.

25-154-180 Costs Borne By Purchaser

The person to whom the title passes shall bear the cost of advertising and the application fee. When the title passes to a person other than the person who made the application; the original applicant shall be reimbursed all moneys deposited by him.

25-154-190 Proceeds of Sale-Used for Educational Purposes Only

All moneys collected under the authority of 25-154-150 to 25-154-180, inclusive, shall be placed in the state treasury to be used for educational purposes only.

25-155 NOTICES, ORDERS, PROCEDURE AND APPEALS

Notices

25-155-010 Mode of Giving Notice Unless Otherwise Specified By Statute; Notice to Certain Persons Required; Proof

- 1. Unless otherwise provided in a specific statute relating to the kind of notice required or otherwise ordered by the court in a particular instance, every notice required by this Title shall be given by registered or certified mail, postage prepaid, at least 10 days prior to the date set for hearing or other action by the court. Each such notice shall be addressed to the intended recipient at his last-known address, receipt for delivery requested.
- 2. Notice shall be given to each executor, administrator or trustee who is not a party to the filing and to any person who has requested notice as provided for in this chapter or who is otherwise entitled to individual notice pursuant to this Title.
- 3. Proof of the giving of notice shall be made at the hearing; and if it appears to the satisfaction of the court that the notice has been regularly given the court shall so find in its order, and the order, when it becomes final, is conclusive upon all persons.

25-155-020 Publication of Notice Required In Certain Instances

1. Notice of a petition for the probate of a will and the issuance of letters testamentary, or for letters of administration, shall be given:
 - (a) To the persons respectively entitled thereto, by mail as provided in 25-155-010.
 - (b) To the public at large, by publication on three dates of publication prior to the hearing, and if the newspaper is published oftener than once a week there shall be at least 10 days from the first to last dates of publication (both first and last days included).
2. Except as otherwise provided in 25-145-050, notice to creditors of the appointment of an executor or administrator shall be given by publication in the manner provided in paragraph (b) of subsection 1.
3. Notice of the hearing on the filing of a final account and petition for distribution shall be given:
 - (a) To the persons individually entitle thereto, by mail as provided in 25-155-10.
 - (b) To the public at large by publication once a week for a total of 2 weeks before the hearing.
4. Every publication required by this section shall be made in a newspaper printed in the county where the proceedings are pending, if there is such a newspaper; if not, then in one having general circulation in that county.

25-155-030 Requests for Special Notice

1. At any time after the issuance of letters testamentary or letters of administration upon the estate of any decedent, any person interested in the estate or the property thereof, or the attorney for such person, may serve upon the executor or administrator (or upon the attorney for the executor or administrator, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that he desires special notice of any or all of the following matters, steps or proceedings in the administration of the estate:
 - (a) Filing of returns of sales, leases or mortgages of any property of the estate, and for confirmation thereof.
 - (b) Filing of accounts.
 - (c) Filing of petitions for any purpose.
 - (d) Filing of reports explaining why estates have not been closed.
2. The request shall state the post office address of the person or his attorney, and thereafter a brief notice of the filing of any such returns, petitions, accounts or reports shall be addressed to such person, or his attorney, at his stated post office address, and deposited in the United States Post Office, with the postage thereon prepaid, within 2 days after

the filing of the return, petition or account; or personal service of such notices may be made on such person or his attorney within the 2 days, and such personal service shall be equivalent to deposit in the post office, and proof of mailing, or of personal service must be filed with the clerk before the hearing of the petition, return or account.

3. If, upon the hearing, it shall appear to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order or judgment and such judgment shall be final and conclusive upon all persons.

25-155-040 Personal Notice By Citation

Whenever personal notice is required by this Title to be given to any person in the matter of an estate, and no other mode of giving notice is prescribed, it shall be given by citation, which shall be issued by the clerk, under the seal of the court, and directing to the person to be served, and commanding the person to appear before the court or judge, as the case may be, at a time and place to be named in the citation. The nature or character of the proceedings shall be briefly stated in body thereof.

25-155-050 Service of Citation

The citation described in 25-155-040 is to be served in the same manner as the personal service of summons. If personal service cannot be made upon the person to be served, the citation may be served by leaving a copy with his attorney of record or in such other manner as the court may direct.

25-155-060 Time for Service of Citation

When no other time is specially prescribed, citation shall be served at least 2 days before the return day.

25-155-070 Number of Publications; Extensions or Shortening Time

When publication is required, such publication shall be made daily, or otherwise, as often during the prescribed period as the newspaper is regularly issued, unless otherwise provided in this title. The court or judge, however, may prescribe a less number of publications during the period for publication, and the court or judge may, for good cause shown, extend or shorten any of the times prescribed in this Title.

25-155-080 Methods of Proving Publication, Service of Notice

All proofs of publication or other mode or modes of giving notice or serving papers may be made by the affidavit of any person competent to be a witness, which affidavit must be filed, and constitutes prima facie evidence of publication or service, as the case may be. Proof of service may also be made by any means permitted by Title 2 on Civil Procedure of this Washoe Tribe Law and Order Code.

25-155-090 Clerk May Give Notices Without Court Order

All notices required to be given by this Title may be given by the clerk of the court without an order from the judge for the same; and, when so given, for the time and in the manner required by law, they shall be as legal and valid as though made upon an order from such judge.

Orders

25-155-100 Entry of Minutes By Clerk

The clerk shall enter a minute of all proceedings in matters of estates, as in other actions.

25-155-110 Transcript of Court Minutes or Copy of Orders Have Same Force As Letter Testamentary or Letters of Administration

1. A transcript from the minutes of court, or a copy of the signed order of the court, showing the appointment of any person as executor or administrator, together with the certificate of the clerk, under his hand and the seal of the court that such person has given bond and been qualified, and that letters testamentary or letters of administration have been issued to him, and have not been revoked, shall have the same effect in evidence as the letters themselves.
2. A copy of the letters, with like certificates, shall have the same effect.

25-155-120 Recordation of Order Setting Apart Homestead

When a decree is rendered, setting apart a homestead, a certified copy of the decree shall be recorded in the office of the county recorder of the county where the property is located.

Procedure

25-155-130 Estate Proceedings Are Proceedings of Record

All proceedings in matters of estate shall be proceedings of record as other actions and proceedings.

25-155-140 Appointed Attorney to Represent Minors and Others In Proceedings

When, upon any proceeding in an estate, an attorney has been appointed for minors or others interested in the estate, such attorney, until another may be appointed, shall represent the person or persons for whom he has been appointed in all subsequent proceedings.

25-155-150 Issues of Fact and Questions of Costs

1. All issues of fact in matters of an estate shall be disposed of in the same manner as is by law provided upon the trial of issues of, fact in common law action.
2. All questions of cost may be determined by the court, and execution may issue therefor in accordance with the order of the court.

25-155-160 Objections to Proceedings May Be Filed With Clerk When Court Not In Session

If the court is not in session at the time set for the hearing of any matter concerning the settlement of the estates of deceased persons, anyone opposing the application therein made may file objections thereto with the clerk.

25-155-170 Depositions of Absent Witnesses

The testimony of a witness or witnesses in other counties of this state, or in other states or territories, or foreign countries, may be taken by deposition as provided in Title 2 - Civil Procedures of the Law and Order Code. When a commission issues ex parte, no cross-interrogatories shall be necessary.

25-155-180 Applicability of Law and Rules Regulating Civil Actions In Estate Matters

When not otherwise specially provided in this Title, all the provisions of law regulating proceedings in civil cases apply in matters of estate, when appropriate, or the same may be applied as auxiliary to the provisions of this Title.

Appeals

25-155-190 Appealable Orders or Decrees

In addition to any order or decree from which an appeal is expressly permitted by this Title, an appeal may be taken to the appellate court within 30 days after its entry, from an order or decree:

1. Granting or revoking letters testamentary or letters of administration.
2. Admitting a will to probate or revoking the probate thereof.
3. Setting aside an estate claimed not to exceed \$1,000 in value.
4. Setting apart property as a homestead, or claimed to be exempt from execution.
5. Granting or modifying a family allowance.

6. Directing or authorizing the sale or conveyance or confirming the sale of property.
7. Settling an account of an executor or administrator or trustee.
8. Instructing or appointing a trustee.
9. Instructing or directing an executor or administrator.
10. Directing or allowing the payment of a debt claim, legacy or attorney's fee.
11. Determining heirship or the persons to whom distribution must be made or trust property must pass.
12. Distributing property.
13. Refusing to make any order mentioned in this section or any decision wherein the amount in controversy equals or exceeds, exclusive of costs, \$1,000.

25-155-200 No Undertaking on Appeal Required of Executors, Administrators

An appeal by an executor or administrator who has given an official bond as provided in this Title shall be complete and effectual without an undertaking on appeal.

25-155-210 Power of Court on Appeal

1. Upon an appeal, the appellate court may, in its discretion, reverse, affirm or modify the judgment, order or decree appealed from, and as to any or all of the parties, and order a remittitur as in other cases, and may order costs to be paid by any party to the proceeding, or out of the estate, as justice may require.
2. Execution for costs may issue out of the court.

25-155-220 Reversal of Order or Decree Appointing Executor, Administrator

When an order or decree appointing an executor or administrator shall be reversed on appeal, all lawful acts in administration upon the estate performed by such executor or administrator, if he shall have qualified, shall be as valid as if such order or decree had been affirmed.

Construction and Appeal

25-155-230 Construction of Title

This Title shall be liberally construed, to the end that justice may be done all parties, and a speedy settlement of estates at the least expense secured.

25-156 ADMINISTRATION OF ESTATES OF MISSING PERSONS

Trustees of Estates of Persons Missing Over 90 Days

25-156-010 Petition for Appointment of Trustee Presented to Court; Filing, Appointment of Day of Hearing

If any resident of this state, who owns or is entitled to the possession of any real or personal property situate therein, is missing, or his whereabouts is unknown, for 90 days or more, and a verified petition is presented to the court of the county in which his last known residence was located by any member of his family or any friend representing that his whereabouts has been, for such time, and still is, unknown, and that his estate requires attention, supervision and care of ownership, the court shall order such petition to be filed, and appoint a day for its hearing, not less than 10 days from the date of the order.

25-156-020 Notice of Hearing: Publication By Clerk; Court May Direct Further Notice

The clerk of the court shall thereupon cause a notice to be published in some daily or weekly newspaper published in the county, at least 10 days prior to such hearing, stating that such petition will be heard at the courtroom of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as it may deem proper.

25-156-030 Hearing; Appointment of Trustee

The court shall hear the evidence offered in support of or in opposition to the petition, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, it shall appoint some suitable person as trustee to take charge and possession of such estate and manage and control it under the direction of the court.

25-156-040 Who May Be Appointed Trustee

In appointing such trustee, the court shall prefer the spouse of the missing person, or the spouse's nominee, and, in the absence of a spouse, some relative of the missing person.

25-156-050 Bond of Trustee

Every trustee appointed under 25-156-010 to 25-156-110, inclusive, shall give a bond in an amount to be fixed by the court.

25-156-060 Trustee's Powers and Duties; Payments for Family Expenses, Support

1. The trustee shall take possession of the real and personal estate in this state of such missing person, and collect and receive the rents, income

and proceeds thereof, collect all indebtedness owing to him, and pay such indebtedness of the missing person as may be authorized by the court.

2. The court may direct the trustee to pay to the family of the missing person such sums of money for family expenses and support from the income and principal of the estate as it may, from time to time, determine.

25-156-070 Accountings By Trustee; Removal and Appointment of Another Trustee

The trustee shall, when directed by the court, account to it for all his acts as trustee, and the court may, from time to time, upon good cause shown, remove any trustee, and appoint another in his place.

25-156-080 Sale of Mortgage of Property: Filing of Petition By Trustee; Notice of Hearing

1. The trustee may sell any or all of the personal property or sell, mortgage or give a deed of trust upon any or all of the real property of the missing person when it is considered by the court to be in the best interest of the estate and all parties concerned including legatees and devisees and those who would be, in case of the death of such person, the heirs at law, and for that purpose shall file a petition with the court asking for an order directing and authorizing such sale, mortgage or deed of trust.
2. The petition shall be set for hearing not sooner than 10 days after the filing thereof and notice of such hearing shall be given by the clerk of the court by posting a notice at the courthouse door.
3. Notice shall also be given by registered or certified mail to each of the persons who would be heirs at law of the missing person, if he were dead, and if it appears that such missing person left a will, like notice shall be given to each legatee and devisee mentioned therein, at their respective places of residence, and a return receipt shall be requested for each notice so mailed.
4. If the address of any such person is unknown, the notice shall be mailed by registered or certified mail to such person at the county seat of the county in which the court is held, and an affidavit of the trustee shall be filed showing that such address is unknown, and stating what efforts he has made to learn the address.

25-156-090 Sale or Mortgage of Property: Hearing; Order for Sale, Mortgage; Limitations and Procedure

Proof shall be offered at the hearing provided for in 25-156-080 showing the reasons for making the sale, mortgage or deed of trust. If the court finds that it will be for the best interested of all persons concerned in the estate of the missing person to make such sale, mortgage or deed of trust, it shall order the trustee to proceed therewith in the manner provided in this Title for the sales, mortgage or deeds of trust of deceased persons. No such sale, mortgage or deed of trust may

take place prior to the expiration of 8 months from the date of the appointment and qualification of the trustee.

25-156-100 Accounting If Missing Person Returns

If the missing person returns, the court, upon application of such person, or upon its own motion, shall require the trustee to render and file a verified account of the administration of the trust. The provisions of this Title relating to accounting by executors and administrators of estates of deceased persons shall apply to such accounting.

25-156-110 Settlement of Account on Return of Missing Person; Order Requiring Delivery of Property

Upon settling the account of the trustee, the court shall order the property of the missing person remaining in the hands of the trustee to be delivered to the owner thereof.

Administration of Estates of Persons Missing Over 7 Years

25-156-120 Person Deemed Missing After 7 Years; Administration of Property; Procedure

If any person owning property in the State of Nevada has been absent from his last-known place of residence for a continuous period of 7 years, with his whereabouts for such period unknown to the person most likely to know thereof, he shall be deemed to be a missing person, and all property of such person in the State of Nevada may be administered, as though such person were deceased, in the same manner provided in this Title for the administration of estates of deceased persons, subject to the conditions, restrictions and limitations prescribed in 25-156-120 to 25-156-260, inclusive.

25-156-130 Jurisdiction of Proceedings; Residence of Absentee; Entitlement of Proceedings

1. If such person was a resident of this state at the time of his disappearance, the court of the county in which that residence was located shall have jurisdiction of all proceedings initiated under 25-156-120 to 25-156-260, inclusive.
2. If such person was a nonresident of this state, the court in any county where any real property of the missing person is located or of the county where any personal property is located, if there is no real property in the state, shall have jurisdiction in such proceedings.
3. The title of all proceedings commenced and prosecuted under 25-156-120 to 25-156-260, inclusive, shall be entitled "In the matter of the estate of _____, a missing person."

25-156-140 Petition for Administration or Probate; Contents, Verification of Petition; Appointment of Day for Hearing

1. If a verified petition is presented to the court having jurisdiction, as provided in 25-1566-130, by his spouse or any of his family or friends, representing that his whereabouts has been for such period and time and still is unknown and that he left an estate which requires administration, the clerk of the court shall appoint a day for hearing such petition, not less than 3 months from the date of filing.
2. Such petition may be for administration of the estate or probate of the will of such person, as the case may be, and shall be verified to the best knowledge and belief of the petitioner.
3. Such petition shall set forth a statement of facts as required in the case of the administration of estates of deceased persons and shall contain allegations as to the last-known place of residence of the missing person, when he disappeared therefrom, the fact that he has not been heard from by the person most likely to hear, naming such person and his relationship, for a period of 7 years or more, and the fact that his whereabouts is unknown to such person and the petitioner.

25-156-150 Manner of Giving Notice of Hearing The Petition

Notice of hearing the petition for administration of the estate or probate of the will of the missing person shall be given in the manner provided in this Title for giving notice of hearing in the administration of estates of deceased persons, and notice shall be mailed by registered or certified mail to the last-known address of the missing person, and proof by affidavit of such notices shall be filed prior to or at the hearing.

25-156-160 Hearing; Appointment of Administrator, Executor; Time Fixed When Person Became Missing

1. The court shall hear all evidence in support of or in opposition to the petition provided for in 15-156-140, and if satisfied that the allegations thereof are true, and that such person has remained missing for a continuous period of 7 years or more and that his whereabouts is unknown, shall appoint some qualified person as administrator or executor in the manner provided in this Title for the estates of deceased persons.
2. If the court grants such order, it shall fix and determine the time when such person left his last place of residence and abode and became missing and that his whereabouts has not been known continuously for a period of at least 7 years.
3. At the hearing the court may consider the testimony of any witnesses likely to know the last place of residence and whereabouts of such

person, and may receive in evidence and consider the affidavits and depositions of other competent persons.

25-156-170 No Sales, Mortgages, Distribution of Property for 1 Year; Exceptions

Except for the purposes of paying taxes, assessments, liens, insurance premiums, allowing claims for debts contracted by the missing person before his disappearance or to prevent the depreciation of property on account of neglect or waste, or to specifically perform contracts made by the missing person before his disappearance, no sale, mortgage or other disposition or distribution of the property of such person shall be made until the lapse of 1 year after the appointment and qualification of the executor or administrator.

25-156-180 Distribution of Property to Heirs, Devisees or Legatees: Time; Bond of Distributee; Conditions

No distribution of the property of such missing person to the heirs, devisees or legatees thereof shall be made until the lapse of 3 years after the appointment and qualification of the executor or administrator, unless the distributee gives a hand in a penal sum not less than the value of the property distributed and for such additional amount as the court may prescribe, conditioned for the return of the property or the value thereof to the representative of the estate in case the missing person be adjudicated to be still living since the commencement of such 7-year period, and also conditioned to save the representative of the estate harmless from the damages and expenses of all suits brought by the missing person or anyone succeeding to his rights, by reason of such distribution during such period of 3 years.

25-156-190 Petition of Person Claiming to Be The Missing Person: Contents; Service; Security for Costs; Trial of Issue of Identity

1. If any person, within 3 years after the appointment and qualification of a representative, files a verified petition, claiming to be the missing person, and causes a copy thereof to be served personally or by registered, or certified mail upon the representative and upon each of the persons entitled to share in the estate of such person upon the death thereof, and the legatees and devisees, the court shall determine the identity of the claimant at a hearing for such purpose.
2. The court may, upon application or of its own motion, require the claimant to give security to be approved by the court for all costs and expenses involved in the hearing and ultimate determination thereof, in case the outcome of such hearing be adverse to the claimant.
3. Such petition shall set forth the facts and circumstances of the claimant's disappearance and continued absence, and other facts and circumstances upon which he relies for his identification.

25-156-200 Order Vacating Proceedings; Exceptions; Delivery of Residue to Claimant

If the court determines that the claimant is the missing person, an order shall be made vacating all of the proceedings for administration, except those providing for the payment of taxes, assessments, liens, insurance premiums, allowed claims, the specific performance of contracts, preservation of the property, and any sale, encumbrance or other disposition of the property made in compliance with an order of the court. The remainder of the estate, less fees, costs and expenses incurred, shall be surrendered and delivered to the claimant.

25-156-210 Petition Claiming Death of Missing Person: Service; Security for Costs; Trial of Issue; Order

1. If any other person within 3 years after the appointment and qualification of the representative files a verified petition claiming that the missing person died subsequent to the commencement of the 7 year period provided herein, and such petitioner is entitled to the property in the estate or any portion thereof as successor in interest to the rights of the missing person, and if such petitioner causes a copy of such petition to be served personally or by registered or certified mail upon the representative of the estate and upon each of the heirs, legatees and devisees, the court shall determine the truth of the facts contained in such petition.
2. The court may, upon application or on its own motion, require the claimant to give security to be approved by the court for all costs and expenses involved in the hearing and determination of the truth of the facts contained in such petition, in case the hearing be decided adverse to such claimant.
3. If the hearing be decided in favor of the claimant, the court shall make and enter such order as the circumstances require.

25-156-220 Final Distribution; Conclusive Presumption of Death

1. If no claims are made during the 3 year period by any person claiming to be the missing person or a person claiming to have succeeded to the rights of such person, a conclusive presumption shall arise that the raising person died prior to the filing of the petition for the administration of his estate or the probate of his will.
2. In such event the estate shall be finally distributed accordingly so far as the same has not already been accomplished, and the court shall order the estate closed and all liability of sureties, the representative and distributees ended, and all bonds concealed.

25-156-230 Distribution Without Bond If Absence Exceeds 10 Years

If the petition provided in 25-156-140 is filed more than 10 years after the disappearance of the missing person, the estate of such person may be finally

distributed and closed at the end of 1 year from the filing of such petition, without a bond being given.

25-156-240 Limitation of Actions

No claims against the estate of such person, or against the representative of the estate or any surety or distributee may be brought by any person, including the missing person and persons claiming under him, after the expiration of 10 years from the date of disappearance as determined in the manner provided in 25-156-160.

25-156-250 Powers, Duties of Administrators and Executors

The administrator or executor to whom letters have been issued as provided in 25-156-120 to 25-156-260, inclusive, shall administer and distribute the estate of the missing person in the same manner and method and with the same force and effect as provided in this Title for the administration and settlement of estates of deceased persons, except as otherwise provided in 25-156-120 to 25-156-260, inclusive.

25-156-260 Applicability of 25-156-120 to 25-156-260, Inclusive

The provisions of 25-156-120 to 25-156-260, inclusive, apply to all missing persons, whether their absence commenced prior to March 30, 1959, is still continuing, or commences subsequent to March 30, 1959.