

AMENDMENTS TO LB 157

(Amendments to AM106)

Introduced by Coash

1 1. Strike sections 32, 33, 34, 35, 37, 42, and 43 and
2 insert the following new section:

3 Sec. 29. Section 30-2209, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 30-2209 Subject to additional definitions contained in
6 the subsequent articles which are applicable to specific articles
7 or parts, and unless the context otherwise requires, in the
8 Nebraska Probate Code:

9 (1) Application means a written request to the registrar
10 for an order of informal probate or appointment under part 3 of
11 Article 24.

12 (2) Beneficiary, as it relates to trust beneficiaries,
13 includes a person who has any present or future interest, vested
14 or contingent, and also includes the owner of an interest by
15 assignment or other transfer, and as it relates to a charitable
16 trust includes any person entitled to enforce the trust.

17 (3) Child includes any individual entitled to take as
18 a child under the code by intestate succession from the parent
19 whose relationship is involved and excludes any person who is only
20 a stepchild, a foster child, or a grandchild or any more remote
21 descendant.

22 (4) Claim, in respect to estates of decedents and

1 protected persons, includes liabilities of the decedent or
2 protected person whether arising in contract, in tort or otherwise,
3 and liabilities of the estate which arise at or after the death of
4 the decedent or after the appointment of a conservator, including
5 funeral expenses and expenses of administration. The term does not
6 include estate or inheritance taxes, demands or disputes regarding
7 title of a decedent or protected person to specific assets alleged
8 to be included in the estate.

9 (5) Court means the court or branch having jurisdiction
10 in matters relating to the affairs of decedents. This court in this
11 state is known as county court or, for purposes of guardianship
12 of a juvenile over which a separate juvenile court already has
13 jurisdiction, the county court or separate juvenile court.

14 (6) Conservator means a person who is appointed by a
15 court to manage the estate of a protected person.

16 (7) Devise, when used as a noun, means a testamentary
17 disposition of real or personal property and, when used as a verb,
18 means to dispose of real or personal property by will.

19 (8) Devisee means any person designated in a will to
20 receive a devise. In the case of a devise to an existing trust or
21 trustee, or to a trustee on trust described by will, the trust or
22 trustee is the devisee and the beneficiaries are not devisees.

23 (9) Disability means cause for a protective order as
24 described by section 30-2630.

25 (10) Disinterested witness to a will means any individual
26 who acts as a witness to a will and is not an interested witness
27 to such will.

1 (11) Distributee means any person who has received
2 property of a decedent from his or her personal representative
3 other than as a creditor or purchaser. A testamentary trustee
4 is a distributee only to the extent of distributed assets or
5 increment thereto remaining in his or her hands. A beneficiary
6 of a testamentary trust to whom the trustee has distributed
7 property received from a personal representative is a distributee
8 of the personal representative. For purposes of this provision,
9 testamentary trustee includes a trustee to whom assets are
10 transferred by will, to the extent of the devised assets.

11 (12) Estate includes the property of the decedent, trust,
12 or other person whose affairs are subject to the Nebraska Probate
13 Code as originally constituted and as it exists from time to time
14 during administration.

15 (13) Exempt property means that property of a decedent's
16 estate which is described in section 30-2323.

17 (14) Fiduciary includes personal representative,
18 guardian, conservator, and trustee.

19 (15) Foreign personal representative means a personal
20 representative of another jurisdiction.

21 (16) Formal proceedings mean those conducted before a
22 judge with notice to interested persons.

23 (17) Guardian means a person who has qualified as
24 a guardian of a minor or incapacitated person pursuant to
25 testamentary or court appointment, but excludes one who is merely
26 a guardian ad litem.

27 (18) Heirs mean those persons, including the surviving

1 spouse, who are entitled under the statutes of intestate succession
2 to the property of a decedent.

3 (19) Incapacitated person is as defined in section
4 30-2601.

5 (20) Informal proceedings mean those conducted without
6 notice to interested persons by an officer of the court acting as
7 a registrar for probate of a will or appointment of a personal
8 representative.

9 (21) Interested Except for purposes of article 26 of the
10 Nebraska Probate Code, interested person includes heirs, devisees,
11 children, spouses, creditors, beneficiaries, and any others having
12 a property right in or claim against a trust estate or the
13 estate of a decedent, ward, or protected person which may be
14 affected by the proceeding. It also includes persons having
15 priority for appointment as personal representative, and other
16 fiduciaries representing interested persons. The meaning as it
17 relates to particular persons may vary from time to time and must
18 be determined according to the particular purposes of, and matter
19 involved in, any proceeding.

20 (22) Interested witness to a will means any individual
21 who acts as a witness to a will at the date of its execution and
22 who is or would be entitled to receive any property thereunder
23 if the testator then died under the circumstances existing at
24 the date of its execution, but does not include any individual,
25 merely because of such nomination, who acts as a witness to a
26 will by which he or she is nominated as personal representative,
27 conservator, guardian, or trustee.

1 (23) Issue of a person means all his or her lineal
2 descendants of all generations, with the relationship of parent and
3 child at each generation being determined by the definitions of
4 child and parent contained in the Nebraska Probate Code.

5 (24) Lease includes an oil, gas, or other mineral lease.

6 (25) Letters include letters testamentary, letters
7 of guardianship, letters of administration, and letters of
8 conservatorship.

9 (26) Minor means an individual under nineteen years of
10 age, but in case any person marries under the age of nineteen years
11 his or her minority ends.

12 (27) Mortgage means any conveyance, agreement, or
13 arrangement in which property is used as security.

14 (28) Nonresident decedent means a decedent who was
15 domiciled in another jurisdiction at the time of his or her
16 death.

17 (29) Notice means compliance with the requirements of
18 notice pursuant to subdivisions (a)(1) and (a)(2) of section
19 30-2220.

20 (30) Organization includes a corporation, government, or
21 governmental subdivision or agency, business trust, estate, trust,
22 partnership, limited liability company, or association, two or more
23 persons having a joint or common interest, or any other legal
24 entity.

25 (31) Parent includes any person entitled to take, or who
26 would be entitled to take if the child died without a will, as
27 a parent under the Nebraska Probate Code, by intestate succession

1 from the child whose relationship is in question and excludes any
2 person who is only a stepparent, foster parent, or grandparent.

3 (32) Person means an individual, a corporation, an
4 organization, a limited liability company, or other legal entity.

5 (33) Personal representative includes executor,
6 administrator, successor personal representative, special
7 administrator, and persons who perform substantially the same
8 function under the law governing their status.

9 (34) Petition means a written request to the court for an
10 order after notice.

11 (35) Proceeding includes action at law and suit in
12 equity, but does not include a determination of inheritance tax
13 under Chapter 77, article 20, or estate tax apportionment as
14 provided in sections 77-2108 to 77-2112.

15 (36) Property includes both real and personal property or
16 any interest therein and means anything that may be the subject of
17 ownership.

18 (37) Protected person is as defined in section 30-2601.

19 (38) Protective proceeding is as defined in section
20 30-2601.

21 (39) Registrar refers to the official of the court
22 designated to perform the functions of registrar as provided in
23 section 30-2216.

24 (40) Relative or relation of a person means all persons
25 who are related to him or her by blood or legal adoption.

26 (41) Security includes any note, stock, treasury
27 stock, bond, debenture, evidence of indebtedness, certificate

1 of interest or participation in an oil, gas, or mining title
2 or lease or in payments out of production under such a title
3 or lease, collateral-trust certificate, transferable share,
4 voting-trust certificate or, in general, any interest or instrument
5 commonly known as a security, or any certificate of interest or
6 participation, any temporary or interim certificate, receipt, or
7 certificate of deposit for, or any warrant or right to subscribe to
8 or purchase, any of the foregoing.

9 (42) Settlement, in reference to a decedent's estate,
10 includes the full process of administration, distribution, and
11 closing.

12 (43) Special administrator means a personal
13 representative as described by sections 30-2457 to 30-2461.

14 (44) State includes any state of the United States, the
15 District of Columbia, the Commonwealth of Puerto Rico, and any
16 territory or possession subject to the legislative authority of the
17 United States.

18 (45) Successor personal representative means a
19 personal representative, other than a special administrator,
20 who is appointed to succeed a previously appointed personal
21 representative.

22 (46) Successors mean those persons, other than creditors,
23 who are entitled to property of a decedent under his or her will or
24 the Nebraska Probate Code.

25 (47) Supervised administration refers to the proceedings
26 described in Article 24, part 5.

27 (48) Testacy proceeding means a proceeding to establish a

1 will or determine intestacy.

2 (49) Testator means the maker of a will.

3 (50) Trust includes any express trust, private or
4 charitable, with additions thereto, wherever and however created.
5 It also includes a trust created or determined by judgment or
6 decree under which the trust is to be administered in the manner
7 of an express trust. Trust excludes other constructive trusts,
8 and it excludes resulting trusts, conservatorships, personal
9 representatives, trust accounts as defined in Article 27, custodial
10 arrangements pursuant to the Nebraska Uniform Transfers to Minors
11 Act, business trusts providing for certificates to be issued
12 to beneficiaries, common trust funds, voting trusts, security
13 arrangements, liquidation trusts, and trusts for the primary
14 purpose of paying debts, dividends, interest, salaries, wages,
15 profits, pensions, or employee benefits of any kind, and any
16 arrangement under which a person is nominee or escrowee for
17 another.

18 (51) Trustee includes an original, additional, or
19 successor trustee, whether or not appointed or confirmed by court.

20 (52) Ward is as defined in section 30-2601.

21 (53) Will means any instrument, including any codicil or
22 other testamentary instrument complying with sections 30-2326 to
23 30-2338, which disposes of personal or real property, appoints
24 a personal representative, conservator, guardian, or trustee,
25 revokes or revises an earlier executed testamentary instrument,
26 or encompasses any one or more of such objects or purposes.

27 2. On page 5, line 23, strike "eighteen" and insert

1 "nineteen".

2 3. On page 23, line 8, strike "the party" and insert
3 "such person".

4 4. On page 47, lines 8 and 9, strike "or older but is
5 less than eighteen years".

6 5. Renumber the remaining sections and correct internal
7 references and the repealer section accordingly.