

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 37**

Introduced by Wightman, 36.

Read first time January 10, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to decedents' estates; to amend section 30-2476,  
2 Revised Statutes Cumulative Supplement, 2012; to change  
3 provisions relating to powers of personal representatives  
4 with respect to a decedent's Internet sites; to provide  
5 an operative date; and to repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 30-2476, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           30-2476 Except as restricted or otherwise provided by the  
4 will or by an order in a formal proceeding, without limiting the  
5 authority conferred by section 30-2472, and subject to the priorities  
6 stated in section 30-24,100, a personal representative, acting  
7 reasonably for the benefit of the interested persons, may properly:

8           (1) retain assets owned by the decedent pending  
9 distribution or liquidation including those in which the  
10 representative is personally interested or which are otherwise  
11 improper for trust investment;

12           (2) receive assets from fiduciaries or other sources;

13           (3) perform, compromise, or refuse performance of the  
14 decedent's contracts that continue as obligations of the estate, as  
15 he or she may determine under the circumstances. In performing  
16 enforceable contracts by the decedent to convey or lease land, the  
17 personal representative, among other possible courses of action, may:

18           (i) execute and deliver a deed of conveyance for cash  
19 payment of all sums remaining due or the purchaser's note for the sum  
20 remaining due secured by a mortgage or deed of trust on the land; or

21           (ii) deliver a deed in escrow with directions that the  
22 proceeds, when paid in accordance with the escrow agreement, be paid  
23 to the successors of the decedent, as designated in the escrow  
24 agreement;

25           (4) satisfy written charitable pledges of the decedent

1 irrespective of whether the pledges constituted binding obligations  
2 of the decedent or were properly presented as claims, if in the  
3 judgment of the personal representative the decedent would have  
4 wanted the pledges completed under the circumstances;

5 (5) if funds are not needed to meet debts and expenses  
6 currently payable and are not immediately distributable, deposit or  
7 invest liquid assets of the estate, including money received from the  
8 sale of other assets, in federally insured interest-bearing accounts,  
9 readily marketable secured loan arrangements, or other prudent  
10 investments which would be reasonable for use by trustees generally;

11 (6) acquire or dispose of an asset, including land in  
12 this or another state, for cash or on credit, at public or private  
13 sale; and manage, develop, improve, exchange, partition, change the  
14 character of, or abandon an estate asset;

15 (7) make ordinary or extraordinary repairs or alterations  
16 in buildings or other structures, demolish any improvements, and raze  
17 existing or erect new party walls or buildings;

18 (8) subdivide, develop, or dedicate land to public use;  
19 make or obtain the vacation of plats and adjust boundaries; or adjust  
20 differences in valuation on exchange or partition by giving or  
21 receiving considerations; or dedicate easements to public use without  
22 consideration;

23 (9) enter for any purpose into a lease as lessor or  
24 lessee, with or without option to purchase or renew, for a term  
25 within or extending beyond the period of administration;

1                   (10) enter into a lease or arrangement for exploration  
2 and removal of minerals or other natural resources or enter into a  
3 pooling or unitization agreement;

4                   (11) abandon property when, in the opinion of the  
5 personal representative, it is valueless, or is so encumbered, or is  
6 in condition that it is of no benefit to the estate;

7                   (12) vote stocks or other securities in person or by  
8 general or limited proxy;

9                   (13) pay calls, assessments, and other sums chargeable or  
10 accruing against or on account of securities, unless barred by the  
11 provisions relating to claims;

12                   (14) hold a security in the name of a nominee or in other  
13 form without disclosure of the interest of the estate but the  
14 personal representative is liable for any act of the nominee in  
15 connection with the security so held;

16                   (15) insure the assets of the estate against damage,  
17 loss, and liability and himself or herself against liability as to  
18 third persons;

19                   (16) borrow money with or without security to be repaid  
20 from the estate assets or otherwise; and advance money for the  
21 protection of the estate;

22                   (17) effect a fair and reasonable compromise with any  
23 debtor or obligor, or extend, renew, or in any manner modify the  
24 terms of any obligation owing to the estate. If the personal  
25 representative holds a mortgage, pledge, or other lien upon property

1 of another person, he or she may, in lieu of foreclosure, accept a  
2 conveyance or transfer of encumbered assets from the owner thereof in  
3 satisfaction of the indebtedness secured by lien;

4 (18) pay taxes, assessments, compensation of the personal  
5 representative, and other expenses incident to the administration of  
6 the estate;

7 (19) sell or exercise stock subscription or conversion  
8 rights; consent, directly or through a committee or other agent, to  
9 the reorganization, consolidation, merger, dissolution, or  
10 liquidation of a corporation or other business enterprise;

11 (20) allocate items of income or expense to either estate  
12 income or principal, as permitted or provided by law;

13 (21) employ persons, including attorneys, auditors,  
14 investment advisors, or agents, even if they are associated with the  
15 personal representative, to advise or assist the personal  
16 representative in the performance of his or her administrative  
17 duties; act without independent investigation upon their  
18 recommendations; and instead of acting personally, employ one or more  
19 agents to perform any act of administration, whether or not  
20 discretionary;

21 (22) prosecute or defend claims or proceedings in any  
22 jurisdiction for the protection of the estate and of the personal  
23 representative in the performance of his or her duties;

24 (23) sell, mortgage, or lease any real or personal  
25 property of the estate or any interest therein for cash, for credit,

1 or for part cash and part credit, and with or without security for  
2 unpaid balances;

3 (24) continue any unincorporated business or venture in  
4 which the decedent was engaged at the time of death;

5 (25) form a business entity that has limited liability,  
6 including a limited partnership, limited liability partnership,  
7 limited liability company, or corporation, for any business or  
8 venture in which the decedent was engaged at the time of death;

9 (26) provide for exoneration of the personal  
10 representative from personal liability in any contract entered into  
11 on behalf of the estate;

12 (27) satisfy and settle claims and distribute the estate  
13 as provided in the Nebraska Probate Code; -

14 (28) take control of, conduct, continue, or terminate any  
15 account of a deceased person on any social networking web site,  
16 microblogging or short message service web site, or email service web  
17 site.

18 Sec. 2. This act becomes operative on January 1, 2014.

19 Sec. 3. Original section 30-2476, Revised Statutes  
20 Cumulative Supplement, 2012, is repealed.