

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB315

Hearing Date: Thursday March 14, 2019
Committee On: Revenue
Introducer: Kolterman
One Liner: Provide for an inheritance tax exemption and change certain inheritance tax proceedings

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Briese, Crawford, Friesen, Groene, Kolterman, Linehan,
McCollister, Lindstrom

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Mark Kolterman
Tim Hruza
Larry Dix

Representing:

Introducer
Nebraska State Bar Association
NACO

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB315 proposes to exempt proceeds of life insurance receivable by a trustee from either an inter vivos trust or a testamentary trust from inheritance tax. The exemption applies to insurance under policies upon the life of the decedent. This exemption shall not apply if the decedent's estate is the beneficiary of the trust.

The bill amends the procedure for determination in absence of probate estates by including an independent proceeding for the sole purpose of determining the estate tax may be instituted in the county court where the property that might be subject to tax is situated.

After the petition to initiate such an independent proceeding is filed, the county court shall order the petition set for hearing no less than 2 weeks or more than 4 weeks after the date the petition has been filed.

If a petition is filed to initiate an independent proceeding and the decedent was 55 years of age or older or resided in a medical institution, a notice of the filing of such the petition shall be provided to the Department of Health and Human Services. The notification will include decedent's social security number and, if the decedent was predeceased by a spouse, the name and social security number of such spouse.

A certificate of the providing of the notice to the department shall be filed in the independent proceeding by an attorney for the petitioner or, if there is no attorney, by the petitioner, prior to the entry of an order pursuant to this section.

Note:

An inter vivos trust also known as a living trust, is created for the purpose of estate planning while an individual is still living. It is drafted as either a revocable or irrevocable living trust. It allows the individual for whom the document was established to access assets such as cash, investments and real estate property named in the title of the trust while they are still alive. Inter vivos trusts bypass the probate process once the trust owner passes away.

A testamentary trust is created when an individual dies, and is detailed in their last will and testament. Because the establishment of a testamentary trust does not happen until death, it is by nature irrevocable. A testamentary trust does not protect an individual's assets from the probate process.

Lou Ann Linehan, Chairperson