

## CHAPTER 143 - POWERS AND DUTIES OF PERSONAL REPRESENTATIVES

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**SECTION 143.010 Multiple personal representatives: Effect of absence or disability; sufficiency of acts of majority.** If there are two personal representatives, the acts of one alone are valid if the other is absent from the state or reservation, or for any cause is laboring under any legal disability, and if there are more than two, the acts of a majority are sufficient.

**SECTION 143.020 Right to possession of decedent's property.** Except as otherwise provided in [SECTION 146.010](#), a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

**SECTION 143.030 Duty to take possession of estate and collect debts.**

1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

**SECTION 143.035 Duty to use reasonable diligence; report required if estate not closed within certain times; hearing and determinations by court.**

1. A personal representative shall use reasonable diligence in performing the duties of the personal representative and in pursuing the administration of the estate.

2. A personal representative in charge of an estate that has not been closed shall:

(a) Within 6 months after the personal representative's appointment, where no federal estate tax return is required to be filed for the estate; or

(b) Within 15 months after the personal representative's 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 clerk shall set a time and place for a hearing of the report. The personal representative shall send a copy of the report and shall give notice of the hearing, for the period and in the manner provided in [SECTION 155.010](#), to:

(a) Each person whose interest is affected as an heir or devisee.

4. At the hearing, the court shall determine whether or not the personal representative has used reasonable diligence in the administration of the estate, and if the personal representative has not, the court may:

(a) Subject to the provisions of [SECTION 143.037](#):

(1) Prescribe the time within which the estate must be closed; or

(2) Allow the personal representative additional time for closing and order a subsequent report; or

(b) Revoke the letters of the personal representative, appoint a successor and prescribe a reasonable time within which the successor shall close the estate.

**SECTION 143.037 Duty to close estate within 18 months after appointment; exceptions.**

1. Except as otherwise provided in this section, a personal representative shall close an estate within 18 months after appointment.

2. If a claim against the estate is in litigation or in summary determination pursuant to subsection 5 of [SECTION 145.060](#) or subsection 2 of [SECTION 147.130](#) or the amount of federal estate tax has not been determined, the court, upon petition of a devisee, creditor or heir, shall order that:

(a) A certain amount of money, or certain other assets, be retained by the personal representative to:

(1) Satisfy the claim or tax; and

(2) Pay any fees or costs related to the claim or tax, including fees for appraisals, attorney's fees and court costs; and

(b) The remainder of the estate be distributed.

3. If a contest of the will or a proceeding to determine heirship is pending, the court which appointed the personal representative:

(a) Shall order that a certain amount of money, or certain other assets, be retained and the remainder of the estate distributed; or

(b) May, for good cause shown, order that the entire distributable estate be retained pending disposition of the contest or proceeding.

**SECTION 143.040 Rights of surviving partner.**

1. If a partnership existed between the decedent, at the time of death, and any other person, the surviving partner may continue in possession of the effects of the partnership and settle its business, but the interest of the decedent must be included in the inventory and appraised as an asset of the estate.

2. The surviving partner shall proceed to settle the affairs of the partnership without delay, and shall account to the personal representative and pay over such balance as may be, from time to time, payable to the estate of the decedent.

3. Upon the petition of the personal representative, the court may, whenever it may appear necessary, order the surviving partner to render an accounting, and in case of neglect or refusal, may, after notice, compel it by any lawful process, and the personal representative may maintain against the surviving partner any action which the decedent could have maintained.

4. Upon any sale of a partnership interest, the surviving partner may be a bidder.

**SECTION 143.050 Continuing business of decedent.** After notice given as provided in [SECTION 155.010](#) or in such other manner as the court directs, the court may authorize the personal representative 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 any interested persons.

**SECTION 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 a personal representative in all cases in which the actions might have been maintained by or against the decedent.

**SECTION 143.065 Statute of limitations for cause of action of decedent.** A statute of limitations running on a cause of action belonging to a decedent, that was not barred as of the date of death, does not bar the cause of action sooner than 1 year after the death. A cause of action that, but for this section, would be barred less than 1 year after the death of the decedent is barred after 1 year unless the running of the statute is tolled under other law.

**SECTION 143.070 Actions by personal representative for conversion or trespass.**

1. A personal representative may commence or maintain an action against any person who has wasted, destroyed, taken, carried away or converted the goods of the decedent.

2. A personal representative may also commence or maintain an action for trespass committed on the real property of the decedent while living.

**SECTION 143.080 Actions against personal representative for conversion or trespass.** Any person or the personal representative has a right of action against the personal representative of a decedent who, in the lifetime of the decedent wasted, destroyed, took, carried away or converted the goods or chattels of that person, or committed any trespass on the real property of that person.

**SECTION 143.090 Action on bond of former personal representative.** A successor personal representative may, for the use and benefit of all interested persons, maintain an action on the bond of a former personal representative of the same estate.

**SECTION 143.100 Action for conversion before letters granted.** If any person, before the granting of letters, converts, takes or alienates any of the money, goods, chattels or effects of a decedent, that person is chargeable and liable to an action by the personal representative for double the value of the property so converted, taken or alienated, to be recovered for the benefit of the estate.

**SECTION 143.110 Procedure when conversion alleged: Citation; examination; allowance of necessary expenses.**

1. If a personal representative or other interested person alleges in a petition to the court that any person has, or is suspected to have, concealed, converted, conveyed away or otherwise disposed of any money, goods, chattels or effects of the decedent, or that the person has possession or knowledge of any deeds, conveyances, bonds, contracts or other writings which contain evidence of, or tend to disclose the right, title or interest of the decedent in or to any real or personal property, or any claim or demand, or any last will of the decedent, the court may cause that person to be cited to appear before the court to answer, upon oath, upon the matter of the petition.

2. If the person is not in the county where letters have been granted, the person may be cited and examined either before the court of the county where the person may be found, or before the court issuing the citation. If the person appears, and is found innocent, his necessary expenses must be allowed out of the estate.

**SECTION 143.120 Procedure when conversion alleged: Commitment for refusal to appear for examination; order requiring delivery of property to personal representative.**

1. If the person so cited refuses to appear and submit to examination or to testify concerning the matter of the complaint, the court may commit the person to the jail, there to remain confined until the person obeys the order of the court or is discharged according to law.

2. If, upon examination, it appears that the person has concealed, converted, smuggled, conveyed away, or in any manner disposed of any money, goods or chattels of the decedent, or that the person has possession or control of any deeds, conveyances, bonds, contracts or other writings which contain evidence of, or tend to disclose the right, title, interest or claim of the decedent to any real or personal property, claim or demand, or any last will of the decedent, the court may enter an order requiring the person to deliver any such property or effects to the personal representative at such time as the court may fix. If the person fails to comply with the order, the court may commit the person to the jail until the order is complied with or the person is discharged according to law.

3. The order of the court for the delivery of the property is prima facie evidence of the right of the personal representative to the property in any action that may be brought for its recovery, and any judgment recovered must be for treble damages equal to three times the value of the property.

4. In addition to the examination of the party, witnesses may be produced and examined on either side.

**SECTION 143.130 Accounting by person holding assets of estate for personal representative; penalty for failure or refusal to comply with order.** The court, upon the petition of a personal representative, may require any person entrusted by the personal representative with any part of the estate of the decedent to appear before the court and render on oath a full accounting of any money, goods, chattels, bonds, accounts, or other papers or effects belonging to the estate which have come into the possession of the person in trust for the personal representative. If the person so cited fails or refuses to appear and render the accounting, the court may proceed against the person as provided in [SECTION 143.120](#).

**SECTION 143.140 Discharging debtor of estate, compromising claims and renewing obligations: Procedure.**

1. If a debtor of the decedent is unable to pay all debts, the personal representative, with the approval of the court, may give the person 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 personal representative, 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 the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by [SECTION 155.010](#).

**SECTION 143.150 Action to recover fraudulently conveyed property for benefit of creditors.**

1. If the decedent conveyed any real property or any rights or interests therein, with intent to defraud creditors or to avoid any obligation, debt or duty owed another, or so conveyed the property that by law the deeds of conveyance are void as against creditors, or made a gift of property in contemplation of death, and there is a deficiency of assets in the hands of the personal representative to pay all the expenses and debts of the estate, the personal representative, on petition of any creditor, shall commence and prosecute to final judgment any proper action for the recovery of the property for the benefit of the creditors.

2. The personal representative may also, for the benefit of the creditors, maintain an action for and recover all goods, chattels, rights or credits, or their value, which may have been so fraudulently conveyed by the decedent, whatever may have been the manner of fraudulent conveyance.

**SECTION 143.160 Costs; disposal of property recovered; proceeds.**

1. A personal representative is not bound to maintain an action for the estate, pursuant to [SECTION 143.150](#), for the benefit of the creditors, unless a creditor of the decedent:

- (a) Files a petition; and
- (b) Pays the costs and expense of the litigation or gives such security as the court directs.

2. All real property so recovered must be sold for the payment of debts in the same manner as prescribed in this title for sales of real property by personal representatives.

3. The proceeds of all goods, chattels, rights or credits so received, after reimbursement of costs and expenses of litigation advanced by the creditor, must be applied in payment of debts in the same manner as other personal property in the hands of a personal representative.

**SECTION 143.165 Temporary order to restrain personal representative from performing administration, disbursement or distribution of estate: Issuance; hearing.**

1. On petition of an interested person, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office, if it appears to the court that the personal representative otherwise may take some action that would jeopardize unreasonably the interest of the petitioner or of some other interested person. A person with whom the personal representative may transact business may be made a party to the temporary order.

2. The matter must be set for hearing within 10 days after entry of the temporary order unless the parties otherwise agree. Notice as the court directs must be given by the petitioner to the personal representative and the attorney of record of the personal representative, if any, and to any other party named as a party in the temporary order.

**SECTION 143.170 Purchase of property of estate by personal representative.** Unless approved in advance by a court after application, notice and a hearing on the matter, a personal representative shall not directly or indirectly purchase any property of the estate represented by the personal representative.

**SECTION 143.175 Power to make certain investments.**

1. A personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to [SECTION 678.755](#) of the Nevada Revised Statutes;

(b) Interest-bearing obligations of, or fully guaranteed by, the United States;

(c) Interest-bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this Reservation or State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

**SECTION 143.180 Power to make loans, advances of credit and other investments insured by Federal Housing Administrator; validation of loans, advances of credit and purchases of obligations made before October 1, 1999.**

1. Subject to such regulations as may be prescribed by the Federal Housing Administrator, a personal representative may:

(a) 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 obtain such insurance.

(b) Make such loans secured by mortgage on real property as are eligible for insurance by the Federal Housing Administrator, and obtain such insurance.

(c) Purchase, invest in, and dispose of notes or bonds secured by mortgage 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 or Reservation 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, applies to loans, advances of credit or purchases made pursuant to subsection 1.

3. All above-described loans, advances of credit, and purchases of obligations made and insured pursuant to the terms of the National Housing Act before October 1, 1999, are hereby validated and confirmed.

**SECTION 143.185 Power to invest in farm loan bonds and other obligations issued by federal land banks and banks for cooperatives.** A personal representative may purchase, invest in, and dispose of:

1. 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, formerly 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq., as amended; and

2. Bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq., as amended.

**SECTION 143.187 Power to hold stock in name of nominee; personal liability of personal representative.**

1. A personal representative holding certificates of stock in that capacity may hold the stock in the name of a nominee without mention in the stock certificate or registration books, if:

(a) The records of the personal representative and all reports and accountings the personal representative renders clearly show the holding and the facts regarding it; and

(b) The nominee deposits with the personal representative a signed statement of the true interest of the personal representative.

2. A personal representative is personally liable for any loss to the estate resulting from any act of the nominee in connection with stock so held.

**SECTION 143.190 Cumulative method of service of process on personal representative; written statement containing permanent address of personal representative to be filed with clerk.**

1. Before letters are delivered to a personal representative, the personal representative shall file with the tribal court clerk of the reservation in which the administration of the estate is pending a written statement containing the name and permanent address of the personal representative. The permanent address may, from time to time, be changed by filing with the tribal court clerk a written statement giving the changed address. The permanent address shall be deemed to be that contained in the last statement so filed by the personal representative.

2. The taking of his oath of office by a personal representative constitutes an appointment of the tribal court clerk of the reservation in which the administration of the estate is pending to be the true and lawful attorney, upon whom all legal process in any action or proceeding against the personal representative may be served.

3. Service of process may be made by mailing by registered or certified mail a copy of the process, and if the process is a summons, there must be attached thereto a copy of the complaint certified by the clerk or the plaintiff's attorney, directly to the personal representative at the address contained in the statement filed with the clerk. This service is sufficient personal service upon the personal representative if proof of the service is filed with the clerk.

4. The court in which the action is pending may order such continuances as may be necessary to afford the personal representative reasonable opportunity to defend the action.

5. The foregoing method of service is cumulative, and does not prevent the personal service of process upon the personal representative.

**SECTION 143.200 Actions not to abate on death, disqualification, resignation or removal of personal representative; substitution of successor.** No action to which a personal representative is a party abates by reason of the death, disqualification, resignation or removal of the personal representative, but the person who is appointed, qualifies and is acting as the successor must, upon motion, be substituted as a party to the action.

**SECTION 143.210 Necessary parties to actions.** In actions brought by or against personal representatives, it is not necessary to join those as parties who have not qualified.