

CHAPTER 147 - PRESENTATION AND PAYMENT OF CLAIMS

PRESENTATION

SECTION 147.010	Notice to creditors.
SECTION 147.020	Death, resignation or removal of personal representative after expiration of time for notice: No further notice necessary.
SECTION 147.030	Filing of notice and affidavit of publication or certificate of mailing.
SECTION 147.040	Claims: Limit on time for filing.
SECTION 147.050	Claims of personal representative.
SECTION 147.060	Claims of tribal judge.
SECTION 147.070	Claims for \$250 or more must be supported by affidavit; correction or amendment of defective claim or affidavit.
SECTION 147.080	Claims founded on written instrument or secured by mortgage or lien.
SECTION 147.090	Effect of statute of limitations.
SECTION 147.100	Actions and proceedings pending against decedent or property in estate of decedent.
SECTION 147.110	Examination of claims by personal representative: Allowance or rejection; effect of failure to act on claims; untimely claims.
SECTION 147.120	Status of approved claims.
SECTION 147.130	Rejection of claim; notice; time to file suit; service of summons; removal of personal representative for default.
SECTION 147.140	Vacancy in administration.
SECTION 147.150	Claims must be filed and rejected; exception for mortgage.
SECTION 147.160	Offer of partial allowance of claim.
SECTION 147.170	Reference of controversy.
SECTION 147.180	Compromise of claim or action against estate: Petition; notice of hearing; execution of conveyances.
SECTION 147.190	Reimbursement for costs.

PAYMENT OF CLAIMS

SECTION 147.195	Debts and charges of estate: Priority of payment.
SECTION 147.200	Status of judgment against estate.
SECTION 147.210	Execution of judgment entered against decedent before his death; execution levied upon property of decedent during his lifetime; conversion of lien of attachment.
SECTION 147.220	Interest on claims.
SECTION 147.230	Personal representative not chargeable with debts of estate except under written agreement.

PRESENTATION

SECTION 147.010 Notice to creditors. A personal representative shall publish and mail notice to creditors in the manner provided in [SECTION 155.020](#).

SECTION 147.020 Death, resignation or removal of personal representative after expiration of time for notice: No further notice necessary. If a personal representative dies, resigns or is removed after the expiration of the time for the publication or mailing of notice to creditors, the successor need not give any further notice to creditors.

SECTION 147.030 Filing of notice and affidavit of publication or certificate of mailing. After the notice to creditors has been mailed or published, a copy, with the affidavit of publication or, if notice is mailed, with a certificate of mailing, must be filed with the clerk.

SECTION 147.040 Claims: Limit on time for filing.

1. A person having a claim, due or to become due, against the decedent must file his claim with the clerk within 90 days after the mailing for those required to be mailed, or 90 days after the first publication of the notice to creditors pursuant to [SECTION 155.020](#).

2. A creditor who receives a notice to creditors by mail pursuant to subsection 5 of [SECTION 155.020](#) must file a claim with the clerk within 30 days after the mailing or 90 days after the first publication of notice to creditors pursuant to [SECTION 155.020](#), whichever is later.

3. If a claim is not filed with the clerk within the time allowed by subsection 1 or 2, the claim is forever barred, but if it is made to appear, by the affidavit of the claimant or by other proof to the satisfaction of the court, that the claimant did not have notice as provided in [SECTION 155.020](#) or actual notice of the administration of the estate, the claim may be filed at any time before the filing of the final account.

4. The period of 90 days prescribed by this section is reduced to 60 days if summary administration is granted under [chapter 145](#).

SECTION 147.050 Claims of personal representative.

1. If a personal representative is a creditor of the decedent, the claim must be filed with the clerk, who must present it for allowance or rejection to the court. Its allowance by the court is sufficient evidence of its correctness, and it must be paid as other claims in due course of administration.

2. If the court rejects the claim, action thereon may be brought by the personal representative as claimant against the estate, and summons must be served upon the court, which 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 reasonable attorney's fees for the estate, to be fixed by the court.

SECTION 147.060 Claims of tribal judge.

1. If a judge of the tribal court files or presents a claim against the estate of a decedent, the administration of which is pending before that judge, the judge must designate, in writing, some other tribal judge who, upon presentation of the claim, is vested with power to approve or reject it.

2. In case of its rejection by the designated judge, the claimant has the same right to bring an action for its recovery as other persons whose claims are rejected.

SECTION 147.070 Claims for \$250 or more must be supported by affidavit; correction or amendment of defective claim or affidavit.

1. A 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 credited.

(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 a personal representative 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 person 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. Except as otherwise provided in subsection 7, the court may, 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, but an amendment may not be made to increase the amount of a claim after the time for filing a claim has expired.

SECTION 147.080 Claims founded on written instrument or secured by mortgage or lien.

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

2. If a claim is secured by a mortgage or lien, a certified copy of the mortgage or lien must be attached to the claim and filed with the clerk.

SECTION 147.090 Effect of statute of limitations. A claim which is barred by the statute of limitations must not be allowed or approved by a personal representative or by the court. No claim which has been timely filed is affected by the statute of limitations, pending the administration of the estate.

SECTION 147.100 Actions and proceedings pending against decedent or property in estate of decedent.

1. Except as otherwise ordered by the court for good cause shown, an action or proceeding pending against a decedent at the time of his death may not be continued against the decedent's personal representative unless:

(a) A claim is first filed as provided in this chapter;

(b) The claim is rejected in whole or in part; and

(c) Within 60 days after notice of rejection is given, the claimant who is the plaintiff applies to the court in which the action or proceeding is pending for an order substituting the personal representative in the action or proceeding. This requirement applies only if the notice of rejection contains a statement that the claimant has 60 days within which to apply for an order of substitution.

2. No recovery may be allowed in an action against property in the estate of a decedent unless proof is made of compliance with this section.

SECTION 147.110 Examination of claims by personal representative: Allowance or rejection; effect of failure to act on claims; untimely claims.

1. Within 15 days after the time for filing claims has expired, as provided in this chapter, the personal representative shall examine all claims filed and shall either endorse on each claim an 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 the notice of allowance or rejection must be attached to the claim allowed or rejected and filed with the clerk.

2. If a personal representative refuses or neglects to endorse on a claim an allowance or rejection within 15 days, as specified in this section, or does not file a notice of allowance or rejection, the claim shall be deemed rejected, but the personal representative may, nevertheless, allow the claim at any time before the filing of the final account.

3. A personal representative need not allow or reject a claim that was not timely filed unless the court otherwise orders.

SECTION 147.120 Status of approved claims. All claims approved by the personal representative or the court must be ranked among the acknowledged debts of the estate, to be paid in due course of administration.

SECTION 147.130 Rejection of claim; notice; time to file suit; service of summons; removal of personal representative for default.

1. If a claim is rejected by the personal representative or the court, in whole or in part, the claimant must be immediately notified by the personal representative, and the claimant must bring suit in the proper court against the personal representative within 60 days after the notice or file a timely petition for summary determination pursuant to subsection 2, whether the claim is due or not, or the claim is forever barred. A claimant must be informed of the rejection of the claim by written notice forwarded to the claimant's mailing address by registered or certified mail.

2. In any action brought upon a claim rejected in whole or in part by the personal representative, if he resides out of the State, or Reservation, or has departed from the Reservation or State, or cannot, after due diligence, be found within the Reservation or State, or conceals himself to avoid the service of summons, the summons, together with a copy of the complaint, must be mailed directly to the last address given by him, with a copy to the attorney for the estate, and proof of the mailing must be filed with the clerk where the administration of the estate is pending.

This service is the equivalent of personal service upon the personal representative, but he has 30 days from the date of service within which to answer.

3. If the personal representative defaults after such service, the default is sufficient grounds for his removal as personal representative by the court without notice. Upon petition and notice, in the manner provided for an application for letters of administration, an administrator or an administrator with the will annexed must be appointed by the court and, upon his qualification as such, letters of administration or letters of administration with the will annexed must be issued.

SECTION 147.140 Vacancy in administration. The time during which there is a vacancy in the administration must not be included in any limitations prescribed in this chapter, except as otherwise provided in [SECTION 147.020](#).

SECTION 147.150 Claims must be filed and rejected; exception for mortgage. No holder of a claim against an estate may maintain an action thereon unless the claim is first filed with the clerk and the claim is rejected in whole or in part, except in the following case: An action may be brought by the holder of a mortgage to enforce the mortgage against the property of the estate subject thereto if all recourse against any other property of the estate is expressly waived in the complaint.

SECTION 147.160 Offer of partial allowance of claim.

1. A personal representative who, or a court which, acts upon a filed claim shall endorse on the claim the amount offered to be allowed.

2. If the creditor refuses to accept the amount offered to be allowed in satisfaction of the claim, the creditor shall recover no costs in any action brought on the claim against the personal representative unless he recovers a greater amount than that offered to be allowed.

SECTION 147.170 Reference of controversy.

1. If the personal representative doubts the correctness of any claim filed, the personal representative may enter into an agreement in writing with the claimant to refer the matter in controversy to some disinterested person, as a master, to be approved by the court, and the agreement and approval must be filed with the clerk. The court shall enter an order referring the matter in controversy to the person so selected, or if the parties consent, the matter may be heard by the court.

2. The master must hear and determine the matter and make a report to the court.

3. The same proceedings must be had in all respects, and the master has the same powers, is entitled to the same compensation and is subject to the same control as in other cases of reference.

4. The court may remove the master, appoint another, set aside or confirm the report, and adjudge costs, as in actions against personal representatives, and the judgment of the court thereon is as valid and effectual, in all respects, as if the judgment had been entered in an action commenced by ordinary process.

SECTION 147.180 Compromise of claim or action against estate: Petition; notice of hearing; execution of conveyances.

1. After the time for the presentation of claims has expired, the personal representative, with the approval of the court, may compromise any claim against the estate or any action brought against the personal representative as such by the transfer of specific assets of the estate or otherwise.

2. To obtain such approval, the personal representative shall file a petition with the clerk showing the advantage of the compromise.

3. The clerk shall set the petition for hearing, and the personal representative shall give notice thereof for the period and in the manner required by [SECTION 155.010](#).

4. If, under this section, the court authorizes the transfer of real property of the estate, conveyances must be executed by the personal representative in the same manner as provided in [SECTION 148.280](#), and 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, is located.

SECTION 147.190 Reimbursement for costs. If a judgment is recovered with costs against a personal representative, the costs must be allowed to the personal representative from the accounts of the administration, unless it appears that the action or proceeding in which the costs were taxed was prosecuted or resisted by the personal representative without cause.

PAYMENT OF CLAIMS

SECTION 147.195 Debts and charges of estate: Priority of payment. The debts and charges of the estate must be paid in the following order:

1. Expenses of administration.
2. Funeral expenses.
3. The expenses of the last illness.
4. Family allowance.
5. Debts having preference by laws of the United States.
6. Wages to the extent of \$600, of each employee of the decedent, for work done or personal services rendered within 3 months before 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.
7. Judgments rendered against the decedent in his lifetime, and mortgages in order of their date. The preference given to a mortgage extends only to the proceeds of the property mortgaged. If the proceeds of that property are insufficient to pay the mortgage, the part remaining unsatisfied must be classed with other demands against the estate.
8. All other demands against the estate.

SECTION 147.200 Status of judgment against estate.

1. The effect of a judgment rendered against a personal representative upon a claim for money against the estate of the decedent is only to establish the claim in the same manner as if it had been allowed by the personal representative, and the judgment must be that the personal representative pay, in due course of administration, the amount ascertained to be due.
2. A certified copy of the judgment must be filed in the estate proceedings.
3. No execution may issue upon the judgment, nor does 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 of foreclosure of a mortgage.

SECTION 147.210 Execution of judgment entered against decedent before his death; execution levied upon property of decedent during his lifetime; conversion of lien of attachment.

1. If a judgment has been entered against the decedent in the decedent's lifetime, no execution may issue after death, but a certified copy of the judgment must be attached to the statement of claim filed with the clerk and must be acted on as any other claim.
2. If an execution has been levied upon any property of the decedent in the decedent's lifetime, the property may be sold for the satisfaction of the judgment, and the officer making the sale shall account to the personal representative for any surplus in his hands.
3. The lien of an attachment may be converted into the lien of a judgment on property in the estate subject to the lien of the attachment, with the same priority:
 - (a) If the judgment debtor dies after entry of judgment; or
 - (b) If judgment is entered after the death of the defendant,↳ in the action in which the property was attached.

SECTION 147.220 Interest on claims. All claims paid bear interest from date of filing at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of filing, plus 2 percent, unless a different rate is applicable by

contract or otherwise. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the amount of the claim is paid.

SECTION 147.230 Personal representative not chargeable with debts of estate except under written agreement. No personal representative is chargeable upon any special promise to assume liability for damages or to pay the debts of the decedent from his own assets, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by the personal representative, or by some other person by him thereunto specially authorized.