

## CHAPTER 148 - SALES, CONVEYANCES AND EXCHANGES

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## GENERAL PROVISIONS

**SECTION 148.050 Sale of property for certain purposes: No priority between personal and real property; method and order of sale.** In selling property to pay debts, devisees, family allowance or expenses, there is no priority between personal and real property. When a sale of property of the estate is necessary for any such purpose, or when it is for the advantage, benefit and best interests of the estate and any interested persons that any property of the estate be sold, the personal representative may sell the property, either at public auction or private sale, using his discretion as to which property to sell first, except as otherwise provided in [SECTION 150.225](#) and [151.003](#).

**SECTION 148.060 Confirmation of sale: Report; petition; notice.**

1. Except as otherwise provided in [SECTION 148.170](#) and [148.180](#) and in summary administration under [chapter 145](#), all sales of property must be reported to the court and confirmed by the court before the title to the property passes. The report and a petition for confirmation of the sale must be made within 30 days after each sale.

2. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice thereof for the period and in the manner required by [SECTION 155.010](#), or for such a period and in such manner as may be ordered by the court.

**SECTION 148.070 Written objection: Hearing; proof of notice.** An interested person may file written objections to the confirmation of the sale and may be heard thereon, and may produce witnesses in support of the objections. Before an order is made confirming a sale, it must be proved to the satisfaction of the court that notice of the sale was given as prescribed by this chapter, and the order of confirmation must show that such proof was made.

**SECTION 148.080 Sales under direction of will.** If property is directed by the will to be sold, or authority is given in the will to sell the property, the personal representative may sell it either at public auction or private sale, and with or without notice, as the personal representative may determine, but the personal representative must make a return of sales and obtain confirmation as in other cases. In either case, no title passes unless the sale is confirmed by the court, but the necessity of the sale, or its advantage or benefit to the estate or interested persons need not be

shown. If directions are given in the will as to the mode of selling, or the particular property to be sold, those directions must be observed.

**SECTION 148.090 Petition for order requiring sale.** If the personal representative neglects or refuses to sell any property of the estate when it is necessary or when it is for the advantage, benefit and best interests of the estate and interested persons, or if the personal representative is directed by the will to sell the property, an interested person may petition the court for an order requiring the personal representative to sell. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice to the personal representative by citation served at least 5 days before the hearing.

**SECTION 148.100 Neglect or misconduct of personal representative.** If there is neglect or misconduct in the proceedings of the personal representative in relation to any sale by which an interested person suffers damage, the person aggrieved may recover damages in an action upon the bond of the personal representative or otherwise.

**SECTION 148.105 Contracts to find purchaser of personal property: Liability of personal representative; limitations on commission.**

1. The personal representative may enter into a written contract with any bona fide agent, broker, or multiple group of agents or brokers to secure a purchaser for any personal property of the estate, and by that contract, the personal representative may grant an exclusive right to sell and shall provide for the payment to the agent, broker, or multiple group of agents or brokers, out of the proceeds of a sale to any purchaser secured pursuant to the contract, of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale. If the sale is confirmed to the purchaser, the contract is binding and valid as against the estate for the amount so allowed by the court.

2. By the execution of any such contract, no personal liability is incurred by the personal representative, and no liability of any kind is incurred by the estate unless a sale is made and confirmed by the court.

3. Except as otherwise provided in subsection 4, the commission must not exceed 25 percent of the proceeds from the sale of any personal property pursuant to this section unless, before the sale of the personal property, the court approves a commission that exceeds 25 percent of the proceeds from the sale.

4. If a manufactured home or motor vehicle is sold pursuant to the provisions of this section, the commission for the sale of the manufactured home or motor vehicle must not exceed 10 percent of the proceeds from the sale.

5. As used in this section:

(a) "Commission" means all fees collected by an agent, broker or group of agents or brokers to secure a purchaser for any personal property of an estate pursuant to this section, including all fees for costs related to the sale of any personal property pursuant to this section.

(b) "Manufactured home" has the meaning ascribed to it in [SECTION 118B.015](#) of the Nevada Revised Statutes.

**SECTION 148.110 Contracts to find purchaser of real property: Liability of personal representative; limitation on commission.**

1. The personal representative may enter into a written contract with any bona fide agent, broker, or multiple group of agents or brokers to secure a purchaser for any real property of the estate, and by that contract, the personal representative may grant an exclusive right to sell and shall provide for the payment to the agent, broker, or multiple group of agents or brokers, out of the proceeds of a sale to any purchaser secured pursuant to the contract, of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale. If the sale is confirmed to the purchaser, the contract is binding and valid as against the estate for the amount so allowed by the court.

2. By the execution of any such contract, no personal liability is incurred by the personal representative, and no liability of any kind is incurred by the estate unless a sale is made and confirmed by the court.

3. The commission must not exceed:

(a) Ten percent for unimproved real property.

(b) Seven percent for improved real property.

**SECTION 148.120 Division of commission upon confirmation of highest bid.** When an offer is presented for confirmation by the court, other offerors may submit higher bids and the court may confirm the highest bid. Upon confirmation, the real estate commission must be divided between the listing agent and the agent, if any, who procured the purchaser to whom the sale was confirmed, in accordance with the listing agreement.

**SECTION 148.130 Sale of property subject to mortgage or other lien.**

1. If real or personal property is sold that is subject to a mortgage or other lien which is a valid claim against the estate, the purchase money must be applied, after paying the necessary expenses of the sale:
  - (a) First to the payment and satisfaction of the mortgage or other lien; and
  - (b) The residue, if any, in due course of administration.
2. The application of the purchase money to the satisfaction of the mortgage or other lien must be made without delay, and the property is subject to the mortgage or other lien until the purchase money has been so applied.

**SECTION 148.140 Disposition of proceeds of sale.** The purchase money, or so much thereof as is sufficient to pay the mortgage or other lien, with interest, and any lawful costs and charges thereon, may be paid to the clerk if the mortgagee or other lienholder cannot be found, whereupon the mortgage or other lien upon the property ceases, and the purchase money must be paid over by the clerk without delay, in payment of the expenses of sale, and in satisfaction of the obligation secured by the mortgage or other lien, and the surplus, if any, at once returned to the personal representative unless, for good cause shown, after notice to the personal representative, the court otherwise directs.

**SECTION 148.150 Right of holder of lien on property to purchase it; receipt as payment pro tanto.** At a sale of real or personal property upon which there is a mortgage or lien, the holder thereof may become the purchaser, and the receipt for the amount due to the holder from the proceeds of the sale is a payment pro tanto.

**SECTION 148.160 Sale of equity of estate in property: Procedure.**

1. A personal representative may sell the equity of the estate in any property which is subject to a mortgage or lien and sell the property subject to the mortgage or lien, upon such proceedings as are prescribed in this chapter for the sale of like property.
2. If a claim has been filed upon the debt secured by the mortgage or lien, no such sale may be confirmed unless the holder of the claim, by a signed and acknowledged instrument filed in the matter of the estate, releases the estate from all liability upon the claim.

**PERSONAL PROPERTY**

**SECTION 148.170 Sale of perishable and depreciating property.** Perishable property and other personal property which will depreciate in value if not disposed of promptly, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to provide the family allowance pending the receipt of other sufficient money, may be sold without notice, and title passes without confirmation, but the personal representative is responsible for the actual value of the property unless he obtains an order approving the sale before the closing of the estate.

**SECTION 148.180 Sale of securities: Authorized by will or consent of devisees or heirs; authorized by court.**

1. If the sale of securities is authorized by will or by consent of the devisees or heirs to whom the securities are to be distributed, the securities may be sold without notice, and title passes without confirmation, if the securities are sold upon an established securities exchange.
2. All other securities may be sold upon obtaining an order of the court. Upon the filing of a petition requesting such an order, the clerk shall set the matter for hearing and the petitioner shall give notice for the period and in the manner required by [SECTION 155.010](#), but the court may shorten the period or dispense with notice.

**SECTION 148.190 Sale of other personal property: Publication; description of property; inspection.**

1. Except as otherwise provided in subsection 3 and [SECTION 148.080](#), [148.170](#) and [148.180](#) and in summary administration under [chapter 145](#), a personal representative may sell personal property of the estate only after notice is published in a newspaper published in the county where the proceedings are pending, if there is such a newspaper, and if not, then in one having general circulation in the county, for 2 weeks, consisting of three publications 1 week apart, before the day of the sale or, in the case of a private sale, before the day on or after which the sale is to be made. For good cause shown, the court may decrease the number of publications to one and shorten the time for publication to a period not less than 8 days. The notice shall include a brief description of the property to be sold, a place where bids or offers will be received, and a day on or after which the sale will be made.

2. Public sales may be made at the courthouse door, at some other public place, at the residence of the decedent or at a place designated by the personal representative, but no sale may be made of any personal property which is not available for inspection at the time of sale, unless the court otherwise orders.

3. If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate consent in writing, the court may waive the requirement of publication.

**SECTION 148.195 Confirmation of sale: New appraisal; appraisal dispensed with under certain circumstances.**

1. Except as otherwise provided in subsection 2, no sale of personal property at private sale may be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold, nor unless the personal property has been appraised within 1 year before the time of sale. If it has not been appraised, a new appraisal must be had, as in the case of an original appraisal of personal property. This may be done at any time before the sale or confirmation thereof.

2. If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs consent in writing to sale without an appraisal, the requirement of an appraisal may be dispensed with.

**SECTION 148.200 Terms of sale.** Personal property may be sold for cash or upon credit.

**SECTION 148.210 Interests in partnerships.** Partnership interests or interests belonging to an estate by virtue of any partnership formerly existing, an interest in personal property pledged, and choses in action, may be sold in the same manner as other personal property.

**REAL PROPERTY**

**SECTION 148.220 Notice of sale: Publication; posting; description of property.**

1. Notice of the time and place of sale of real property must be published in a newspaper published in the county in which the property, or some portion of the property, is located, if there is one so published, and if not, then in such paper as the court directs, for 2 weeks, being three publications, 1 week apart, before the day of sale or, in the case of a private sale, before the day on or after which the sale is to be made. For good cause shown, the court may decrease the number of publications to one and shorten the time for publication to a period not less than 8 days.

2. If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate consent in writing, the court may waive the requirement of publication.

3. If it appears from the inventory and appraisal that the value of the property to be sold does not exceed \$5,000, the personal representative may waive the requirement of publication and, in lieu thereof, post a notice of the time and place of sale in three of the most public places in the county, or reservation, in which the property, or some portion of the property, is located, for 2 weeks before the day of the sale or, in the case of a private sale, before the day on or after which the sale is to be made.

4. The property proposed to be sold must be described with common certainty in the notice.

**SECTION 148.230 Public auction; postponement of sale.**

1. A sale at public auction must be made on the Reservation or in the county in which the real property is located, and if it is located in two or more reservations or counties, it may be sold in either. The sale must be made between the hours of 9 a.m. and 5 p.m. on the day named in the notice of sale, unless the sale is postponed.

2. If, at the time appointed for the sale, the personal representative determines that the sale should be postponed, it may be postponed from time to time, not to exceed 3 months. In case of a postponement, notice must be given by a public declaration at the time and place first appointed for the sale.

**SECTION 148.240 Private sale.**

1. The notice of a private sale must state a place where bids or offers will be received, and a day on or after which the sale will be made, which must be at least 2 weeks after the first publication or posting of the notice, and the sale may not be made before that day, and must be made within 1 year thereafter, but if it is shown that it will be for the best interests of the estate, the court may, by an order, decrease the number of publications and shorten the time of notice, which may not, however, be less than 8 days, and may provide that the sale may be made on or after a day less than 2 weeks, but not less than 8 days after the first publication or posting of the notice, in which case the notice of sale and the sale may be made to correspond with the order.

2. The bids or offers must be in writing, and may be left at the place designated in the notice or delivered to the personal representative personally at any time after the first publication or posting of the notice and before the making of the sale.

**SECTION 148.260 Confirmation of sale: New appraisal; appraisal dispensed with under certain circumstances.**

1. Except as otherwise provided in subsection 2, no sale of real property at private sale may be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold, nor unless the real property has been appraised within 1 year before the time of sale. If it has not been appraised, a new appraisal must be had, as in the case of an original appraisal of an estate. This may be done at any time before the sale or confirmation thereof.

2. If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs consent in writing to sale without an appraisal, the requirement of an appraisal may be dispensed with and the personal representative may rely on the assessed value of the property.

**SECTION 148.270 Hearing concerning confirmation of sale: Considerations; higher offer; continuance.**

1. At the hearing, the court shall consider the necessity for the sale, or the advantage, benefit and interest of the estate in having the sale made, and must examine the return and the evidence in relation to the sale.

2. If it appears to the court that good reason existed for the sale, that the sale was legally made and fairly conducted, and complied with the requirements of [SECTION 148.260](#), that the sum bid is not disproportionate to the value, and it does not appear that a sum exceeding the bid by at least 5 percent if the bid is not more than \$100,000, or by at least \$5,000 if the bid is \$100,000 or more, may be obtained, the court shall enter an order confirming the sale and directing conveyances to be executed. Otherwise, it shall vacate the sale. If the court directs that the property be resold, notice must be given and the sale in all respects conducted as if no previous sale had taken place.

3. If a written offer of 5 percent or \$5,000 more in amount than that named in the return is made to the court by a responsible person, as provided in subsection 2, and the bid complies with all provisions of the law, the court may accept the offer and confirm the sale to that person, order a new sale or conduct a public auction in open court.

4. If a higher bid is received at the time of a hearing to confirm the sale, the court may continue the hearing if it finds that the original bidder was not notified of the hearing and might desire to increase his bid, but failure to notify the original bidder or to continue the hearing is not grounds to void an order confirming a sale.

**SECTION 148.280 Conveyances after confirmation of sale.**

1. If a sale is confirmed, a conveyance must be executed to the purchaser by the personal representative. The conveyance must refer to the order confirming sale, and a certified copy of the order must be recorded in the office of the recorder of the county in which the property, or any portion thereof, is located.

2. A conveyance so made conveys all the right, title, interest and estate of the decedent in the property at the time of his death, and if before the sale, by operation of law or otherwise, the estate has acquired any right, title or interest in the property other than or in addition to that of the decedent at the time of his death, that right, title or interest also passes by the conveyance.

**SECTION 148.290 Sale on credit.**

1. If a sale is made upon credit, the personal representative shall take the note or notes of the purchaser for the unpaid portion of the purchase money, with a mortgage on the property to secure their payment.
2. The mortgage may contain a provision for release of parts of the property if the court approves the provision.

**SECTION 148.300 Failure of purchaser to complete sale.** If, after the confirmation, the purchaser neglects or refuses to comply with the terms of the sale, the court, on motion of the personal representative, and after notice to the purchaser, may vacate the order of confirmation and order a resale of the property. If the amount realized on the resale does not cover the bid and the expenses of the previous sale, the purchaser is liable to the estate for the deficiency.

**SECTION 148.310 Fraudulent sale: Penalty.** A personal representative who fraudulently sells any real property of a decedent contrary to or otherwise than under the provisions of this chapter is liable for double the value of the property sold, as liquidated damages, to be recovered in an action by the person having an estate of inheritance therein.

**SECTION 148.320 Periods of limitation.** The periods of limitation prescribed in [SECTION 11.270](#) of the Nevada Revised Statutes apply to all actions for the recovery of any property sold by a personal representative in accordance with the provisions of this chapter, and to all actions to set aside such a sale.

**CONTRACT TO PURCHASE REAL PROPERTY**

**SECTION 148.330 Method of sale.** If a decedent, at the time of death, was a party to a contract for the purchase of property, the interest in the property and under the contract may be sold by the personal representative in the same manner as if the decedent had died seised of the property, and the same proceedings may be had for that purpose as are prescribed in this chapter for the sale of property of which he died seised, except as otherwise provided in this chapter.

**SECTION 148.340 Sale subject to claims; bond of purchaser.**

1. The sale must be made subject to all payments which are due at the time of sale or which may thereafter become due on the contract, and if there are any, the sale must not be confirmed by the court until the purchaser executes a bond to the personal representative for the benefit and indemnity of himself and of the persons entitled to the interest of the decedent in the property so contracted for, in double the whole amount of payments then due and thereafter to become due on the contract, with such sureties as the court approves.
2. The bond must be conditioned that the purchaser will make all payments for the property which are then due or which become due after the date of the sale, and will fully indemnify the personal representative and the persons so entitled against all demands, cost, charges and expenses by reason of any covenant or agreement contained in the contract.
3. A bond need not be given if no claim has been made against the estate upon the contract and time for filing or presenting claims has expired, nor if the holder of the claim, by a signed and acknowledged instrument filed in the matter of the estate, releases the estate from all liability upon the claim.

**SECTION 148.350 Assignment after confirmation.** Upon the confirmation of the sale, the personal representative shall execute to the purchaser an assignment of the contract, which vests in the purchaser, and the heirs and assigns of the purchaser, all the right, title and interest of the estate, or of the persons entitled to the interest of the decedent, in the property sold at the time of the sale, and the purchaser has the same rights and remedies against the seller of the property as the decedent would have had if living.

## MINING PROPERTY

### **SECTION 148.360 Petition for sale: Notice.**

1. To enter into an agreement to sell or to give an option to purchase a mining claim, or real property worked as a mine, belonging to the estate of a decedent, the personal representative, or an interested person, shall file a petition describing the property in question, stating the terms and general conditions of the proposed agreement or option, showing the advantage or advantages that may accrue to the estate from entering into it, and requesting an order authorizing or directing its execution.

2. The clerk shall set the petition for hearing, and the petitioner shall give notice for the period and in the manner provided in [SECTION 155.010](#).

### **SECTION 148.370 Hearing; order authorizing sale.**

1. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objection thereto that may have been filed or presented, and if, after a hearing, the court is satisfied that it will be to the advantage of the estate to enter into the proposed agreement, it shall enter an order directing the personal representative to enter into the agreement of sale or to give the option to purchase.

2. The order may prescribe the terms and conditions of the agreement or option.

3. A certified copy of the order must be recorded in the office of the county recorder of every county in which the property affected by the agreement or option, or any portion thereof, is located.

### **SECTION 148.380 Additional bond of personal representative; agreement or option to purchase.**

1. The order must fix the amount of such additional bond as the court determines should be given by the personal representative, who is not entitled to receive any of the proceeds from the agreement or option until the bond is given and approved.

2. When the order is entered, the personal representative shall execute, acknowledge and deliver an agreement or option to purchase containing the conditions specified in the order and setting forth therein that it is made by authority of the order, and giving the date of the order.

**SECTION 148.390 Failure to comply with agreement or option.** If the purchaser or option holder neglects or refuses to comply with the terms of the agreement or option, the court, on petition of the personal representative, and after notice to the purchaser or option holder, shall enter an order cancelling the agreement or option, but the cancellation does not affect any liability previously created.

**SECTION 148.400 Procedure after compliance with agreement or option to purchase.** If the terms of an agreement to sell or option to purchase have been complied with by the purchaser or option holder, and all payments have been made according to the terms thereof, the personal representative shall make a return to the court and petition for confirmation. Notice must be given, a hearing had, an order made by the court confirming or refusing to confirm the proceedings and conveyances executed, in the same manner and with like effect as in the case of the sale of real property.

## CONVEYANCES

### General Provisions

### **SECTION 148.410 Petition for order to convey, transfer or deliver property: Conditions; contents; hearing and notice; response; effect if order granted.**

1. The personal representative or an interested person may petition the court to enter an order:

(a) If the decedent died in possession of, or holding title to, property and the property or an interest in it is claimed by another.

(b) If the decedent died having a claim to property and another holds title to or is in possession of the property.

2. The petition must state the facts upon which it is based and the name and address of each person entitled to notice of the petition.



3. Upon the filing of the petition, the clerk shall set it for hearing and the petitioner shall give notice of the hearing, at least 30 days before the time set, to:

(a) All interested persons, in the manner provided in [SECTION 155.010](#).

(b) Each person claiming an interest in, or having title to or possession of the property, and any other person whose right, title or interest in or to the property would be affected by the granting of the petition, in the manner provided in [SECTION 155.040](#).

(c) Any other person, in the manner directed by the court.

4. An interested person may request time for filing a response to the petition, for discovery or for other preparation for the hearing, and the court may grant a continuance for a reasonable time.

5. The court shall not grant a petition under this section if it determines that the matter should be determined by a civil action.

6. A person having or claiming title to or an interest in the property which is the subject of the petition may, at or before the hearing, object to the hearing if the petition is filed in a court which is not the proper court under other law for the trial of a civil action seeking the same relief, and if the ground for the objection is established, the court shall not grant the petition.

7. If a civil action is pending with respect to the subject matter of the petition and jurisdiction was obtained in the court where that action is pending before the petition was filed, upon request of a party to the civil action, the court shall stay action on the petition until the conclusion of the civil action, but the court need not stay action if it determines that the civil action was filed for the purpose of delay.

8. Except as otherwise provided in subsection 5, 6 or 7, if the court is satisfied that a conveyance, transfer, delivery or other disposition should be made, the court shall enter an order directing the personal representative or other person having title to or possession of the property to convey, transfer or deliver it to the person entitled thereto or granting other appropriate relief.

9. If an order is entered pursuant to subsection 8:

(a) The order is prima facie evidence of the correctness of the proceedings and of the personal representative or other person to execute the conveyance or transfer.

(b) The person entitled under the order has the right to possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred.

(c) The personal representative or other person to whom the order is directed shall execute the conveyance or transfer according to the terms of the order.

(d) A conveyance or transfer by the personal representative passes title to the property as fully as if the decedent had executed it while living.

### **Conveyance to Complete Contract**

**SECTION 148.420 Authorization of conveyance.** If a person who is bound by contract in writing to convey or transfer property dies before making the conveyance or transfer, and the decedent, if living, could have been compelled to make the conveyance or transfer, the court in which proceedings are pending for the administration of the estate of the decedent may enter an order directing the personal representative to convey or transfer the property to the persons entitled thereto.

### **SECTION 148.430 Petition and notice.**

1. The personal representative, or the person claiming to be entitled to the conveyance or transfer, may file with the clerk a petition setting forth the facts upon which the claim is predicated.

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

### **SECTION 148.440 Hearing and order.**

1. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall hear the petition and any objection that has filed or is presented.

2. If the court is satisfied that the conveyance or transfer should be made, it shall enter an order directing the personal representative to execute the conveyance or transfer to the person entitled thereto.

3. If the transaction relates to real property, a certified copy of the order must be recorded with the deed in the office of the county recorder of the county in which the real property is located.

**SECTION 148.450 Effect of order; execution of order.**

1. The order is prima facie evidence of the correctness of the proceedings and of the authority of the personal representative to make the conveyance or transfer, and after its entry, the person entitled to the conveyance or transfer has a right to the possession of the property contracted for, and to hold the property according to the terms of the intended conveyance or transfer, in like manner as if it had been conveyed or transferred pursuant to the order.

2. The personal representative shall execute the conveyance or transfer according to the directions of the order, and the court may enforce its execution by process. The conveyance or transfer passes title to the property contracted for as fully as if the contracting party had executed it while living.

**EXCHANGE OF PROPERTY**

**SECTION 148.500 Authorization to exchange: Petition; notice.** If it appears advantageous to the estate to exchange any property of the estate for other property, the court may authorize the exchange, upon petition of the personal representative or of an interested person. The clerk shall set the petition for hearing, and the petitioner shall give notice of the hearing for the period and in the manner required by [SECTION 155.010](#).