

## AB 130 -- Bankers Help Make Small Estates Easier To Claim By Spouses and Heirs

I am very pleased to advise that effective October 1, 2015 two significant changes have occurred through Assembly Bill 130 in the way small and modest estates may pass to heirs in Nevada. Nevada banks made the need for revision known and assisted in these helpful changes to existing law even though banks do not directly benefit from them. These changes make both types of lower cost processes far more useful and have long been in need of revision to keep pace with our neighboring states that have similar laws but are subject to more realistic levels for those laws .

The first change is to Chapter 146 of the NRS and will allow spouses to claim certain property from their deceased husband's or wife's modest estates by affidavit up to \$100,000 rather than the far less useful \$20,000 limit that now exists in Nevada for use of an affidavit to claim an estate. This is a fivefold increase. Certain conditions continue to apply, but many estates will be eligible for this type of small estate that may pass entirely free of costly court proceedings called "probate". Even non-spousal heirs will realize a modest increase in small estates that may be claimed by affidavit from \$20,000 to \$25,000. The statute also provides for transfer of motor vehicles in a modest estate as well.

This legislation also raises small estates that may pass under the more streamlined probate process of Chapter 145 from the existing \$200,000 limit to a much higher \$300,000—a significant increase that will allow many additional estates to save substantial legal expense even within the probate process.

Our sincere thanks to Assemblyman Erv Nelson who assisted in addressing stakeholder concerns about the changes introduced by AB 130 and through his efforts was able to reach consensus amongst the various impacted parties which allowed the bill to pass unanimously through both houses of our Nevada Legislature.

## AB 195 Makes It Once Again Safe To Sell A Commercial Loan At A Discount.

I am very pleased to advise that effective May 25, 2015 with the Governor's approval, and with the most helpful assistance of Las Vegas Assemblyman Erv Nelson, the Nevada Legislature has once again allowed lenders through Assembly Bill 195 to sell, transfer or otherwise convey at a discount/below par a commercial loan to another purchaser or acquiring entity of that commercial loan without suffering the NRS 40.459 and Chapter 40 impacts of "acquiring the right to obtain a deficiency judgment" ridiculously applied from 2011 onward which change effectively and arbitrarily forgave the discounted portion of the loan transfer as part of Nevada anti-deficiency laws and allowed joyous borrowers and guarantors to avoid bankruptcy and structure defaults and escape the full repayment of the loan as a windfall of the transfer. Many banks suffered mightily from this arbitrary change although the courts slowly started to see the merit in the bank's positions towards the end of the litigation debacle.

Efforts were made in 2013 to restore the statute due to unintended outcomes but they were unsuccessful and seen as somehow not helpful to the foreclosure mess. In a unanimous vote in both houses in 2015, the Legislature finally recognized the obvious, ongoing harm and entirely scraped the 2011 improvident change as to commercial lending and in so doing the Legislature restored prior law as to commercial loans and commercial loan transfers. The restriction remains, however, applicable to residential loans impacting principal residences. This law has some enabling provisions that should be considered and generally applies to deficiency judgments obtained after May 25, 2015 (its effective date) and not before.



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