

CHAPTER 39 - PARTITION OF REAL PROPERTY AND MINING CLAIMS

REAL PROPERTY

NRS 39.010	Actions for partition of real property; partial partition.
NRS 39.020	Interests of all parties must be set forth in complaint.
NRS 39.030	Lienholders not of record need not be made parties.
NRS 39.040	Plaintiff must record notice of pending litigation immediately after complaint is filed.
NRS 39.050	Summons must be directed to all parties interested in property.
NRS 39.060	Unknown and absent parties may be served by publication of summons; appointment of counsel to represent their interests.
NRS 39.070	Contents of answers.
NRS 39.080	Rights of several parties may be determined; proof of title; consideration of rights of unknown parties.
NRS 39.100	Lienholders must be made parties or master appointed.
NRS 39.110	Lienholders must be notified to appear before master.
NRS 39.120	Court may order sale or partition.
NRS 39.130	Partition in accordance with rights of parties.
NRS 39.140	Report of master's proceedings regarding partition.
NRS 39.150	Court may confirm or modify master's report or appoint new master; conclusive judgment.
NRS 39.160	Judgment not to affect tenants for years to whole property.
NRS 39.170	Apportionment of expenses.
NRS 39.180	Guarantee: Contents; costs.
NRS 39.190	Guarantee: Correction.
NRS 39.200	Interest allowed on disbursements.
NRS 39.210	Liens on undivided interests of parties are charges only on shares assigned to those parties.
NRS 39.220	Estate for life or years may be set off in part of property not sold when property not all sold.
NRS 39.230	Application of proceeds of sale of encumbered property.
NRS 39.240	Lien claimant holding other securities may be required to exhaust them first.
NRS 39.250	Distribution of proceeds of sale upon direction of court.
NRS 39.260	Continuance for determination of claims to proceeds of sales.
NRS 39.270	Sales; notice.
NRS 39.280	Court must direct terms of sale and credit; investment of purchase money; appointment of master to appraise.
NRS 39.290	Acceptance of securities for purchase money.
NRS 39.300	Tenant whose estate has been sold is entitled to receive compensation.
NRS 39.310	Court may fix compensation for tenant.
NRS 39.320	Court must protect unknown tenants.
NRS 39.330	Court must secure value of future interests.
NRS 39.340	Terms and manner of sale must be made known.
NRS 39.350	Who may not be purchasers.
NRS 39.360	Master to make report of sale to court; contents.
NRS 39.370	Execution of conveyances and taking of securities after sale confirmed.
NRS 39.380	Proceeding if party entitled to share or lienholder becomes purchaser.
NRS 39.390	Recorded conveyances bar interested persons.
NRS 39.400	Proceeds belonging to unknown owner must be invested.
NRS 39.410	Investment must be made in name of clerk.
NRS 39.420	When interests of parties ascertained, securities must be taken in their names.
NRS 39.430	Duties of clerk concerning investments.
NRS 39.440	When unequal partition is ordered, compensation to be made on account of inequality.
NRS 39.450	Share of infant paid to guardian.
NRS 39.460	Share of insane person to be received by guardian.
NRS 39.470	Guardian may consent to partition without action and execute releases.
NRS 39.480	Cost of partition is lien upon several shares.
NRS 39.490	Court may appoint numerous masters upon request.

MINING CLAIMS

NRS 39.500	Court may order master to divide mining claims.
NRS 39.510	Time ordered for division.
NRS 39.520	Division of claim.

NRS 39.530	Parties may unite for purposes of division; order of court to govern.
NRS 39.540	Portions sold at auction; master to mark off portions sold.
NRS 39.550	Remaining parties have privilege of selection; interests marked off.
NRS 39.560	Master to return evidences of authority with master's report.
NRS 39.570	Expenses of master and others apportioned among parties.

HEIRS PROPERTY (UNIFORM ACT)

NRS 39.600	Short title.
NRS 39.605	Definitions.
NRS 39.610	“Ascendant” defined.
NRS 39.615	“Collateral” defined.
NRS 39.620	“Descendant” defined.
NRS 39.625	“Determination of value” defined.
NRS 39.630	“Heirs property” defined.
NRS 39.635	“Partition by sale” defined.
NRS 39.640	“Partition in kind” defined.
NRS 39.645	“Record” defined.
NRS 39.650	“Relative” defined.
NRS 39.655	Applicability; relation to other law.
NRS 39.660	Manner of service; notice by posting.
NRS 39.665	Masters appointed by court.
NRS 39.670	Determination of value.
NRS 39.675	Cotenant buyout.
NRS 39.680	Partition alternatives.
NRS 39.685	Considerations for partition in kind.
NRS 39.690	Open-market sale; sale by sealed bids or auction.
NRS 39.695	Report of open-market sale.
NRS 39.700	Applying and construing Uniform Act to promote uniformity.
NRS 39.705	Relation to Electronic Signatures in Global and National Commerce Act.

REAL PROPERTY

NRS 39.010 Actions for partition of real property; partial partition. When several persons hold and are in possession of real property as joint tenants or as tenants in common, in which one or more of them have an estate of inheritance, or for life or lives, or for years, an action may be brought by one or more of such persons for a partial partition thereof according to the respective rights of the persons interested therein, and for a sale of such property or a part of it, if a partition cannot be made without great prejudice to the owners or if the owners consent to a sale. Whenever from any cause it is, in the opinion of the court, impracticable or highly inconvenient to make a complete partition, in the first instance, among all the parties in interest, the court may first ascertain and determine the shares or interest respectively held by the original cotenants, and thereupon cause a partition to be made, as if the original cotenants were the only parties to the action and thereafter may proceed to adjudge and make partition separately of each share or portion so ascertained and allotted as between those claiming under the original tenant to whom the property has been set apart, or may allow them to remain tenants in common thereof, as they may desire.

[1911 CPA § 585; RL § 5527; NCL § 9074]—(NRS A [1985, 771](#))

NRS 39.020 Interests of all parties must be set forth in complaint. The interests of all persons in the property, whether such persons be known or unknown, shall be set forth in the complaint specifically and particularly, as far as known to the plaintiff; and if one or more of the parties, or the share or quantity of interest of any of the parties, be unknown to the plaintiff, or be uncertain or contingent, or the ownership of the inheritance depend upon an executory devise, or the remainder be a contingent remainder, so that such parties cannot be named, that fact shall be set forth in the complaint.

[1911 CPA § 586; RL § 5528; NCL § 9075]

NRS 39.030 Lienholders not of record need not be made parties. Persons who have or claim any liens upon the property by mortgage, judgment or otherwise, need be made parties to the action, unless such liens be matters of record.

[1911 CPA § 587; RL § 5529; NCL § 9076]

NRS 39.040 Plaintiff must record notice of pending litigation immediately after complaint is filed. Immediately after filing the complaint, the plaintiff shall record with the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties so far as known,

the object of the action and a description of the property to be affected thereby. From the time of the recording of the notice, except as otherwise provided in [NRS 14.017](#), it shall be deemed notice to all persons.

[1911 CPA § 588; RL § 5530; NCL § 9077]—(NRS A [1987, 639](#); [2001, 1750](#); [2003, 75](#))

NRS 39.050 Summons must be directed to all parties interested in property. The summons shall be directed to all the joint tenants and tenants in common, and all persons having any interest in, or any liens of record by mortgage, judgment or otherwise upon the property, or upon any particular portion thereof; and generally to all persons unknown who have or claim any interest in the property.

[1911 CPA § 589; RL § 5531; NCL § 9078]

NRS 39.060 Unknown and absent parties may be served by publication of summons; appointment of counsel to represent their interests.

1. If a party having a share or interest is unknown or any one of the known parties reside out of the State or cannot be found, and this fact is made to appear by affidavit, the summons may be served on the absent or unknown party by publication, as in other cases. When publication is made, the summons as published must be accompanied by a brief description of the property which is the subject of the action.

2. The court may appoint an attorney to represent an absent or unknown party.

[1911 CPA § 590; RL § 5532; NCL § 9079]—(NRS A [1985, 771](#))

NRS 39.070 Contents of answers. The defendants who have been personally served with the summons and a copy of the complaint shall set forth in their answers, fully and particularly, the nature and extent of their interest in the property, and if such defendants claim a lien upon the property by mortgage, judgment or otherwise, they shall state its amount and date, the amount remaining due thereon, whether the amount has been secured in any other way or not and, if secured, the extent and nature of the security, or they shall be deemed to have waived their rights to the lien.

[1911 CPA § 591; RL § 5533; NCL § 9080]—(NRS A [1985, 115](#))

NRS 39.080 Rights of several parties may be determined; proof of title; consideration of rights of unknown parties. The rights of the several parties, plaintiffs as well as defendants, may be put to issue, tried and determined by such action; and when a sale of the premises is necessary, the title shall be ascertained by proof to the satisfaction of the court, before the judgment of sale shall be made; and where service of the complaint has been made by publication, like proof shall be required of the right of the absent or unknown parties before such judgment is rendered; except that where there are several unknown persons having an interest in the property, their rights may be considered together in the action, and not as between themselves.

[1911 CPA § 592; RL § 5534; NCL § 9081]

NRS 39.100 Lienholders must be made parties or master appointed. If it shall appear to the court by the certificate of the county recorder or county clerk, or by the sworn or verified statement of any person who may have examined or searched the records that there are outstanding liens or encumbrances of record upon such real property, or any part thereof, which existed and were of record at the time of the commencement of the action, and the persons holding such liens are not made parties to the action, the court shall either order such persons to be made parties to the action, by an amendment or supplemental complaint, or appoint a master to ascertain whether or not such liens or encumbrances have been paid, or if not paid what amount remains due thereon, and their order among the liens or encumbrances severally held by the persons and the parties to the action, and whether the amount remaining due thereon has been secured in any manner, and if secured the nature and extent of the security.

[1911 CPA § 594; RL § 5536; NCL § 9083]

NRS 39.110 Lienholders must be notified to appear before master. The plaintiff shall cause a notice to be served a reasonable time previous to the day for appearance before the master appointed, as provided in [NRS 39.100](#), on each person having outstanding liens of record who is not a party to the action, to appear before the master at a specified time and place, to make proof, by the person's own affidavit or otherwise, of the true amount due or to become due, contingently or absolutely thereon. In case such person be absent, or the person's residence be unknown, service may be made by publication of notice to the person's agents, under the direction of the court, in such manner as may be proper. The report of the master thereon shall be made to the court, and shall be confirmed, modified or set aside and a new reference ordered, as the justice of the case may require.

[1911 CPA § 595; RL § 5537; NCL § 9084]

NRS 39.120 Court may order sale or partition. If the evidence establishes to the satisfaction of the court that the property, or any part of it, is so situated that partition cannot be made without great prejudice to the owners or if the owners consent, the court may order a sale thereof. Otherwise, upon the requisite proofs being made, it shall order a partition according to the respective rights of the parties, as ascertained by the court, and may appoint a master to partition the property. The court shall designate the portion of the property to remain undivided for the owners whose interests remain unknown, or are not ascertained.

[1911 CPA § 596; RL § 5538; NCL § 9085]—(NRS A [1985, 771](#))

NRS 39.130 Partition in accordance with rights of parties. In making the partition, the master or the court shall divide the property and allot the several portions thereof to the respective parties, quality and quantity relatively considered, according to the respective rights of the parties, as determined by the court, designating the several portions by proper landmarks, and may employ a surveyor with the necessary assistants to aid in the division.

[1911 CPA § 597; RL § 5539; NCL § 9086]—(NRS A [1985, 772](#))

NRS 39.140 Report of master's proceedings regarding partition. The master shall make a report of the proceedings, specifying therein the manner of executing the master's trust, describing the property divided and the shares allotted to each party, with a particular description of each share.

[1911 CPA § 598; RL § 5540; NCL § 9087]—(NRS A [1985, 772](#))

NRS 39.150 Court may confirm or modify master's report or appoint new master; conclusive judgment.

1. The court may confirm, change, modify or set aside the report, and, if necessary, appoint a new master.
2. Upon the report being confirmed, or upon partition by the court, the court shall enter a judgment of partition. The judgment is binding and conclusive:

(a) On all persons named as parties to the action, and their legal representatives, who have at the time any interest in the property divided, or any part thereof, as owners in fee or as tenants for life or for years, or as entitled to the reversion, remainder or the inheritance of the property, or of any part thereof, after the determination of a particular estate therein, and who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share as tenants for years or for life;

(b) On all persons interested in the property who may be unknown, to whom notice has been given of the action for partition by publication; and

(c) On all other persons claiming from any such parties or persons.

3. No judgment is invalidated by reason of the death of any party, after filing of the report of the master and before final judgment or decree. The judgment or decree is as conclusive against the heirs, legal representatives or assigns of the decedent as if it had been entered before the decedent's death.

[1911 CPA § 599; RL § 5541; NCL § 9088]—(NRS A [1985, 772](#))

NRS 39.160 Judgment not to affect tenants for years to whole property. Such judgment and partition shall not affect tenants for years less than 10 to the whole of the property which is the subject of the partition.

[1911 CPA § 600; RL § 5542; NCL § 9089]

NRS 39.170 Apportionment of expenses. If it appear that other actions or proceedings have been necessarily prosecuted or defended by any one of the tenants in common for the protection, confirmation or perfecting of the title, or setting the boundaries, or making a survey or surveys of the estate partitioned, the court shall allow to the parties to the action, who have paid the expenses of such litigation or other proceedings, all the expenses necessarily incurred therein, except counsel fees, which shall have accrued to the common benefit of the other tenants in common, with interest thereon from the date of making the expenditures, and in the same kind of money expended or paid, and the same must be pleaded and allowed by the court, and included in the final judgment, and shall be a lien upon the share of each tenant respectively, in proportion to the tenant's interest, and shall be enforced in the same manner as taxable costs of partition are taxed and collected.

[1911 CPA § 601; RL § 5543; NCL § 9090]

NRS 39.180 Guarantee: Contents; costs.

1. To the extent necessary to grant the relief sought or other appropriate relief, the court shall upon adequate proof ascertain the state of the title to the property to be partitioned pursuant to a report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the plaintiff or the defendant, and which lists the names of:

(a) Each owner of record of the property to be partitioned; and

(b) Each holder of record of a security interest in the property to be partitioned, if the security interest was created by a mortgage or a deed of trust.

2. The cost of the guarantee, with interest thereon from the time the same is subject to the inspection of the respective parties to the action, must be allowed and taxed.

3. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of [NRS 692A.120](#).

[1911 CPA § 602; RL § 5544; NCL § 9091]—(NRS A [2021, 1413](#))

NRS 39.190 Guarantee: Correction. The guarantee mentioned in [NRS 39.180](#) may be corrected from time to time if found incorrect, under the direction of the court.

[1911 CPA § 603; RL § 5545; NCL § 9092]—(NRS A [2021, 1414](#))

NRS 39.200 Interest allowed on disbursements. Whenever during the progress of the action for partition, any disbursements shall have been made under the direction of the court or the judge thereof by a party thereto, interest must be allowed thereon from the time of making such disbursements.
[1911 CPA § 604; RL § 5546; NCL § 9093]

NRS 39.210 Liens on undivided interests of parties are charges only on shares assigned to those parties. When a lien is on an undivided interest or estate of any of the parties, such lien, if a partition be made, shall thenceforth be a charge only on the share assigned to such party, but such share shall be first charged with its just proportion of the costs of the partition, in preference to such lien.
[1911 CPA § 605; RL § 5547; NCL § 9094]

NRS 39.220 Estate for life or years may be set off in part of property not sold when property not all sold. When a part of the property only is ordered to be sold, if there be an estate for life or years in an undivided share of the whole property, such estate may be set off in any part of the property not ordered to be sold.
[1911 CPA § 606; RL § 5548; NCL § 9095]

NRS 39.230 Application of proceeds of sale of encumbered property. The proceeds of the sale of encumbered property must be applied, under the direction of the court, or by the court, as follows:

1. To pay its just proportion of the general costs of the action.
 2. To pay the costs of the reference, if any.
 3. To satisfy and cancel of record the liens in their order of priority, by payment of the sums due and to become due, the amount due to be verified by affidavit at the time of payment.
 4. The residue among the owners of the property sold, according to their respective shares therein.
- [1911 CPA § 607; RL § 5549; NCL § 9096]—(NRS A [1985, 772](#))

NRS 39.240 Lien claimant holding other securities may be required to exhaust them first. Whenever any party to an action who holds a lien upon the property, or any part thereof, has other securities for the payment of the amount of such lien, the court may, in its discretion, order such securities to be exhausted before a distribution of the proceeds of sale, or may order a just deduction to be made from the amount of the lien on the property on account thereof.
[1911 CPA § 608; RL § 5550; NCL § 9097]

NRS 39.250 Distribution of proceeds of sale upon direction of court. The proceeds of sale and the securities taken by the master or the court, or any part thereof, must be distributed to the persons entitled thereto, whenever the court so directs. If the court does not direct the master to distribute the proceeds and the securities, the master shall deposit them with the court or as the court directs.
[1911 CPA § 609; RL § 5551; NCL § 9098]—(NRS A [1985, 773](#))

NRS 39.260 Continuance for determination of claims to proceeds of sales. When the proceeds of sales of any shares or parcels belonging to persons who are parties to the action, and who are known, are paid into court, the action may be continued as between such parties, for the determination of their respective claims thereto, which shall be ascertained and adjudged by the court. Further testimony may be taken in court, or by a master at the discretion of the court, and the court may, if necessary, require such parties to present the facts or law in controversy, by pleadings, as in an original action.
[1911 CPA § 610; RL § 5552; NCL § 9099]

NRS 39.270 Sales; notice.

1. All sales of real property under this chapter must be made by public auction or by private sale. The sale must be made to the highest bidder, upon notice published in the manner required by subsections 2 and 3. The notice must state terms of sale, and if the property or any part of it is to be sold subject to a prior estate, charge or lien, that must be stated in the notice.

2. Notice of a public auction or a private sale must be posted for 20 consecutive days, in three public places of the township or city in which the property is situated and at the location where the property is to be sold. The notice must also be given by publishing a copy once each week for 3 consecutive weeks in a newspaper of general circulation, if there is one in the county. The cost of publication may not exceed the rate for legal advertising provided in [NRS 238.070](#). If the newspaper neglects or refuses to make the publication, then posting of the notices is sufficient notice.

3. In case of a private sale, the notice must state a place where bids or offers will be received and a day on or after which the sale will be made. The sale must be made within 1 year after that date.
[1911 CPA § 611; RL § 5553; NCL § 9100]—(NRS A [1985, 773](#))

NRS 39.280 Court must direct terms of sale and credit; investment of purchase money; appointment of master to appraise. The court shall, in the order for sale, direct the terms of the sale and of any credit which

may be allowed for the purchase money of any portion of the premises of which it may direct a sale on credit, and for that portion of which the purchase money is required, by the provisions of this chapter, to be invested for the benefit of unknown owners, infants or parties out of the State. The court may appoint a master to appraise the property before directing the terms of the sale.

[1911 CPA § 612; RL § 5554; NCL § 9101]—(NRS A [1985, 773](#))

NRS 39.290 Acceptance of securities for purchase money. The master or the court may take separate mortgages and other securities for the whole or convenient portions of the purchase money, of such parts of the property as are sold on credit, for the shares of any known owner of full age, in the name of the owner, and for the shares of an infant, in the name of the guardian of the infant, and for other shares, in the name of the clerk of the county and the clerk's successors in office.

[1911 CPA § 613; RL § 5555; NCL § 9102]—(NRS A [1985, 774](#))

NRS 39.300 Tenant whose estate has been sold is entitled to receive compensation. The person entitled to a tenancy for life or years, whose estate shall have been sold, shall be entitled to receive such sum as may be deemed a reasonable satisfaction for such estate, and which the person so entitled may consent to accept instead thereof, by an instrument in writing, filed with the clerk of the court. Upon the filing of such consent, the clerk shall enter the same in the minutes of the court.

[1911 CPA § 614; RL § 5556; NCL § 9103]

NRS 39.310 Court may fix compensation for tenant. If such consent be not given, filed and entered, as provided in [NRS 39.300](#), at the time or before a judgment of sale is rendered, the court shall ascertain and determine what proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable sum to be allowed on account of such estate, and shall order the same to be paid to such party, or deposited in court for such party, as the case may require.

[1911 CPA § 615; RL § 5557; NCL § 9104]

NRS 39.320 Court must protect unknown tenants. If the persons entitled to such estate for life or years be unknown, the court shall provide for the protection of their rights in the same manner, as far as may be, as if they were known and had appeared.

[1911 CPA § 616; RL § 5558; NCL § 9105]

NRS 39.330 Court must secure value of future interests. In all cases of sales, when it appears that any person has a vested or contingent future right or estate in any of the property sold, the court shall ascertain and settle the proportional value of such contingent or vested right or estate, and shall direct such proportion of the sale to be invested, secured or paid over, in such manner as to protect the rights and interests of the parties.

[1911 CPA § 617; RL § 5559; NCL § 9106]

NRS 39.340 Terms and manner of sale must be made known. In all cases of sales of property, the terms shall be made known at the time; and if the premises consist of distinct farms or lots, they shall be sold separately.

[1911 CPA § 618; RL § 5560; NCL § 9107]

NRS 39.350 Who may not be purchasers. Neither a master nor any person for the benefit of a master, may be interested in any purchase, nor may a guardian of an infant party be interested in the purchase of any real property which is the subject of the sale, except for the benefit of the infant. All sales contrary to the provisions of this section are void.

[1911 CPA § 619; RL § 5561; NCL § 9108]—(NRS A [1985, 774](#))

NRS 39.360 Master to make report of sale to court; contents. After completing a sale of the property, or any part thereof ordered to be sold, the master shall report the sale to the court, with a description of the different parcels of land sold to each purchaser, the name of the purchaser, the price paid or secured, the terms and conditions of the sale, and the securities, if any taken. The report must be filed in the office of the clerk of the county where the property is situated.

[1911 CPA § 620; RL § 5562; NCL § 9109]—(NRS A [1985, 774](#))

NRS 39.370 Execution of conveyances and taking of securities after sale confirmed. If the sale is confirmed by the court, an order must be entered directing the master to execute conveyances and take securities pursuant to the sale, which the master is hereby authorized to do. The order may also give directions to the master respecting the disposition of the proceeds of the sale. The court may execute conveyances and take securities pursuant to a sale conducted by the court.

[1911 CPA § 621; RL § 5563; NCL § 9110]—(NRS A [1985, 774](#))

NRS 39.380 Proceeding if party entitled to share or lienholder becomes purchaser. When a party entitled to a share of the property, or an encumbrancer entitled to have the encumbrancer's lien paid out of the sale, becomes a purchaser, the master or the court may take the purchaser's receipt for so much of the proceeds of the sale as belongs to the purchaser.

[1911 CPA § 622; RL § 5564; NCL § 9111]—(NRS A [1985, 774](#))

NRS 39.390 Recorded conveyances bar interested persons. The conveyances shall be recorded in the county where the premises are situated, and shall be a bar against all persons interested in the property in any way who shall have been named as parties in the action, and against all such parties and persons as were unknown if the summons has been served by publication, and against all persons claiming from them or either of them.

[1911 CPA § 623; RL § 5565; NCL § 9112]

NRS 39.400 Proceeds belonging to unknown owner must be invested. When there are proceeds of a sale belonging to an unknown owner, or to a person without the State, who has no legal representative within it, the same shall be invested in securities or placed at interest for the benefit of the persons entitled thereto.

[1911 CPA § 624; RL § 5566; NCL § 9113]

NRS 39.410 Investment must be made in name of clerk. When the security of the proceeds of the sale is taken, or when an investment of any such proceeds is made, it shall be done, except as herein otherwise provided, in the name of the clerk of the county where the papers are filed, and the clerk's successors in office, who shall hold the same for the use and benefit of the parties interested, subject to the order of the court.

[1911 CPA § 625; RL § 5567; NCL § 9114]

NRS 39.420 When interests of parties ascertained, securities must be taken in their names. When the parties to an action for partition agree upon their interests in the property to be partitioned or their interests have been determined by the court and the property is sold on credit which is secured by the purchasers, the security must be taken in the names of the parties entitled to the security. The security must be delivered to them upon their receipt for it. The agreement of the parties and the receipt must be returned and filed with the clerk.

[1911 CPA § 626; RL § 5568; NCL § 9115]—(NRS A [1985, 774](#))

NRS 39.430 Duties of clerk concerning investments. The clerk in whose name a security is taken, or by whom an investment is made, and the clerk's successors in office, shall receive the interest and principal as it becomes due, and apply and invest the same as the court may direct, and shall file in the clerk's office all securities taken, and keep an account in a book provided and kept for that purpose in the clerk's office, free for inspection by all persons, of investments and moneys received by the clerk thereon, and the disposition thereof.

[1911 CPA § 627; RL § 5569; NCL § 9116]

NRS 39.440 When unequal partition is ordered, compensation to be made on account of inequality. When it appears that partition cannot be made equal between the parties, according to their respective rights, without prejudice to the rights and interest of some of them, and a partition be ordered by judgment, the court may adjudge compensation to be made by one party to another, on account of the inequality of partition; but such compensation shall not be required to be made to others by owners unknown, nor by infants, unless in case of an infant it appears that the infant has personal property sufficient for that purpose, and that the infant's interests will be promoted thereby.

[1911 CPA § 628; RL § 5570; NCL § 9117]

NRS 39.450 Share of infant paid to guardian. When the share of an infant is sold, the proceeds of the sale may be paid by the master making the sale to the infant's general guardian or the special guardian appointed for the infant in the action, upon giving the security required by law or directed by order of the court.

[1911 CPA § 629; RL § 5571; NCL § 9118]

NRS 39.460 Share of insane person to be received by guardian. The guardian who may be entitled to the custody and management of the estate of an insane person, or other person adjudged incapable of conducting the person's own affairs, whose interest in real property shall have been sold, may receive, in behalf of such person, the person's share of the proceeds of such real property, from the master, on executing with sufficient sureties an undertaking approved by a judge of the court, that the guardian will faithfully discharge the trust imposed in the guardian, and will render a true and just account to the person entitled, or to the person's legal representatives.

[1911 CPA § 630; RL § 5572; NCL § 9119]

NRS 39.470 Guardian may consent to partition without action and execute releases. The general guardian of an infant and the guardian entitled to the custody and management of the estate of an insane person or other person adjudged incapable of conducting the person's own affairs, who is interested in real estate held in joint tenancy or in common, or in any other manner, so as to authorize the guardian of such infant or person being

made a party to an action for the partition thereof, may consent to a partition without action, and agree upon the share to be set off to such infant or other person entitled, and may execute a release in the infant's or person's behalf to the owners of the shares of the parts to which they may be respectively entitled, upon an order of the court.

[1911 CPA § 631; RL § 5573; NCL § 9120]

NRS 39.480 Cost of partition is lien upon several shares. The costs of partition, fees of the master and other disbursements and also, in the discretion of the court, reasonable counsel fees expended by the parties for the common benefit, must be paid by the parties respectively entitled to share in the lands divided, in proportion to their respective interests therein, and may be included and specified in the judgment. If the costs and fees are included in the judgment, there is a lien on the several shares, and the judgment may be enforced by execution against the shares and against other property held by the respective parties. When litigation arises between some of the parties only, the court may require the expenses of the litigation to be paid by the parties to the litigation or any of them.

[1911 CPA § 632; A [1921, 106](#); NCL § 9121]—(NRS A [1985, 775](#))

NRS 39.490 Court may appoint numerous masters upon request. The court may appoint three masters upon request of the parties instead of a single master, in the proceedings under the provisions of this chapter. The three masters have all the powers and must perform all the duties required of the single master.

[1911 CPA § 633; RL § 5575; NCL § 9122]—(NRS A [1985, 775](#))

MINING CLAIMS

NRS 39.500 Court may order master to divide mining claims. When the action is for partition of a mining claim among the tenants in common, joint tenants, coparceners or partners thereof, the court, upon good cause shown by any party or parties in interest, may, instead of ordering partition to be made in the manner provided in [NRS 39.010](#) to [39.390](#), inclusive, or ordering a sale of the premises for cash, direct the master to divide the claim in the manner specified in [NRS 39.510](#) to [39.570](#), inclusive.

[1911 CPA § 634; RL § 5576; NCL § 9123]—(NRS A [1985, 775](#))

NRS 39.510 Time ordered for division. The court shall, in its order, or by a subsequent order made upon motion, fix the time for division of the claim by the master, which may not be less than 20 nor more than 40 days from the day of making the order, except by consent of all the parties in interest who have appeared in the action.

[1911 CPA § 635; RL § 5577; NCL § 9124]—(NRS A [1985, 775](#))

NRS 39.520 Division of claim. On the day designated in the order, the master shall go upon the claim to be divided, and proceed to make division of the claim as provided in [NRS 39.530](#) to [39.570](#), inclusive, and shall continue from day to day until the whole business is completed.

[1911 CPA § 636; RL § 5578; NCL § 9125]—(NRS A [1985, 775](#))

NRS 39.530 Parties may unite for purposes of division; order of court to govern. Two or more of the tenants in common, joint tenants, copartners or parceners may unite together for the purposes of the division, of which they must give the master written notice before the master commences the business of division. All who do not unite or give notice of separate action, shall, for the purposes of division, be deemed to have united. The master shall recognize those named in the order of the court, or their agents and attorneys-in-fact, the guardian of an infant, and the guardian entitled to the custody and management of the estate of an insane person or other person adjudged incapable of conducting the person's own affairs, and as to the interest of each, the master must be controlled entirely by the order of the court.

[1911 CPA § 637; RL § 5579; NCL § 9126]—(NRS A [1985, 775](#))

NRS 39.540 Portions sold at auction; master to mark off portions sold. At the time and place of division, the master shall, in the manner of public auction, offer to the party or parties who will take the least part or portion of the mining claim in proportion to the interest that the party or parties may have therein, the privilege of first selecting the place at which the party's or parties' portion will be located, and upon closing the bids the master shall proceed to measure and mark off, by distinct metes and bounds, to the lowest bidder, the lowest bidder's portion of the mining claim, at the place designated by the lowest bidder, according to the terms of the bid.

[1911 CPA § 638; RL § 5580; NCL § 9127]—(NRS A [1985, 776](#))

NRS 39.550 Remaining parties have privilege of selection; interests marked off. When the master has marked off and set apart the interest of the lowest bidder, as provided in [NRS 39.540](#), the master shall offer to the remaining parties the privilege of selection, and shall, upon closing the bids, proceed in the same manner to locate and mark off the portion of the lowest bidder, and shall thereafter continue in the same manner to receive

bids and mark off the interest of the bidder or bidders until there remains but one party in interest, or parties united, forming one interest, as provided in [NRS 39.530](#). The party or parties remaining become the owner or owners, as the case may be, of the entire claim not marked off and set apart to the other parties, in proportion to their respective interests in the claim.

[1911 CPA § 639; RL § 5581; NCL § 9128]—(NRS A [1985, 776](#))

NRS 39.560 Master to return evidences of authority with master’s report. The master shall return with the report required by [NRS 39.140](#) the evidences of authority presented to the master by persons other than the parties mentioned in the order of the court by which they claim the right to bid, or otherwise act, during the proceedings.

[1911 CPA § 640; RL § 5582; NCL § 9129]—(NRS A [1985, 776](#))

NRS 39.570 Expenses of master and others apportioned among parties. The expenses of the master and those of a surveyor and the surveyor’s assistant, when employed, must be ascertained and allowed by the court, and the amount thereof, together with the fees allowed by law to the master, must be apportioned among the different parties to the action.

[1911 CPA § 641; RL § 5583; NCL § 9130]—(NRS A [1985, 776](#))

HEIRS PROPERTY (UNIFORM ACT)

NRS 39.600 Short title. [NRS 39.600](#) to [39.705](#), inclusive, may be cited as the Uniform Partition of Heirs Property Act.

(Added to NRS by [2011, 309](#))

NRS 39.605 Definitions. As used in [NRS 39.600](#) to [39.705](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 39.610](#) to [39.650](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2011, 310](#))

NRS 39.610 “Ascendant” defined. “Ascendant” means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

(Added to NRS by [2011, 310](#))

NRS 39.615 “Collateral” defined. “Collateral” means an individual who is related to another individual under the law of intestate succession of this State but who is not the other individual’s ascendant or descendant.

(Added to NRS by [2011, 310](#))

NRS 39.620 “Descendant” defined. “Descendant” means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

(Added to NRS by [2011, 310](#))

NRS 39.625 “Determination of value” defined. “Determination of value” means an order of a court determining the fair market value of heirs property under [NRS 39.670](#) or [39.690](#) or adopting the valuation of the property agreed to by all cotenants.

(Added to NRS by [2011, 310](#))

NRS 39.630 “Heirs property” defined. “Heirs property” means real property held in tenancy in common which satisfies all the following requirements as of the filing of a partition action:

1. There is no agreement in a record binding all the cotenants which governs the partition of the property.
2. One or more of the cotenants acquired title from a relative, whether living or deceased.
3. Any of the following applies:
 - (a) Twenty percent or more of the interests are held by cotenants who are relatives;
 - (b) Twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or
 - (c) Twenty percent or more of the cotenants are relatives.

(Added to NRS by [2011, 310](#))

NRS 39.635 “Partition by sale” defined. “Partition by sale” means a court-ordered sale of the entire heirs property, whether by auction, sealed bids or open-market sale conducted under [NRS 39.690](#).

(Added to NRS by [2011, 310](#))

NRS 39.640 “Partition in kind” defined. “Partition in kind” means the division of heirs property into physically distinct and separately titled parcels.

(Added to NRS by [2011, 310](#))

NRS 39.645 “Record” defined. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(Added to NRS by [2011, 310](#))

NRS 39.650 “Relative” defined. “Relative” means an ascendant, descendant or collateral or an individual otherwise related to another individual by blood, marriage, adoption or law of this State other than [NRS 39.600](#) to [39.705](#), inclusive.

(Added to NRS by [2011, 310](#))

NRS 39.655 Applicability; relation to other law.

1. In an action to partition real property under [NRS 39.010](#) to [39.490](#), inclusive, the court shall determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under [NRS 39.600](#) to [39.705](#), inclusive, unless all the cotenants agree otherwise in a record.

2. [NRS 39.600](#) to [39.705](#), inclusive, supplement the provisions of [NRS 39.010](#) to [39.490](#), inclusive, and, if an action is governed by [NRS 39.600](#) to [39.705](#), inclusive, replace provisions of [NRS 39.010](#) to [39.490](#), inclusive, that are inconsistent with [NRS 39.600](#) to [39.705](#), inclusive.

(Added to NRS by [2011, 310](#))

NRS 39.660 Manner of service; notice by posting.

1. [NRS 39.600](#) to [39.705](#), inclusive, do not limit or affect the method by which service of a summons and complaint in a partition action may be made.

2. If the plaintiff in a partition action seeks to provide notice by publication pursuant to [NRS 39.060](#) and the court determines that the property may be heirs property, the plaintiff, not later than 10 days after the court’s determination, shall post, and maintain while the action is pending, a conspicuous sign on the property that is the subject of the action. The sign must state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

(Added to NRS by [2011, 310](#))

NRS 39.665 Masters appointed by court. If the court appoints a master pursuant to the provisions of [NRS 39.010](#) to [39.490](#), inclusive, each master, in addition to the requirements and disqualifications applicable to masters in [NRS 39.010](#) to [39.490](#), inclusive, must be disinterested, impartial and neither a party to nor a participant in the action.

(Added to NRS by [2011, 311](#))

NRS 39.670 Determination of value.

1. Except as otherwise provided in subsections 2 and 3, if the court determines that the property which is the subject of the partition action is heirs property, the court shall determine the fair market value of the property by ordering an appraisal pursuant to subsection 4.

2. If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

3. If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.

4. If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this State to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

5. If an appraisal is conducted pursuant to subsection 4, not later than 10 days after the appraisal is filed, the court shall send notice to each party with a known address, stating:

(a) The appraised fair market value of the property;

(b) That the appraisal is available at the clerk of the court’s office; and

(c) That a party may object to the appraisal not later than 30 days after the notice is sent, stating the grounds for the objection.

6. If an appraisal is filed with the court pursuant to subsection 4, the court shall conduct a hearing to determine the fair market value of the property not earlier than 30 days after a copy of the notice of appraisal is sent to each party under subsection 5, whether or not an objection to the appraisal is filed under paragraph (c) of subsection 5. In addition to the court-ordered appraisal, the court may consider any other evidence of value that is offered by a party.

7. After the hearing under subsection 6, but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.

(Added to NRS by [2011, 311](#))

NRS 39.675 Cotenant buyout.

1. If any cotenant requested partition by sale, after the determination of value under [NRS 39.670](#), the court shall send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy the interest of any cotenant that requested partition by sale.

2. Not later than 45 days after the notice is sent under subsection 1, any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

3. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under [NRS 39.670](#) multiplied by that cotenant's fractional ownership of the entire parcel.

4. After expiration of the period in subsection 2, the following rules apply:

(a) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact.

(b) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(c) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action under subsections 1 and 2 of [NRS 39.680](#).

5. If the court sends notice to the parties under either paragraph (a) or (b) of subsection 4, the court shall set a date, not earlier than 60 days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. After this date, the following rules apply:

(a) If all electing cotenants timely pay their apportioned price, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them.

(b) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under subsections 1 and 2 of [NRS 39.680](#) as if the interests of the cotenants that requested partition by sale were not purchased.

(c) If one or more but not all the electing cotenants fail to timely pay their apportioned price, the court shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.

6. Not later than 20 days after the court gives the notice described in paragraph (c) of subsection 5, any cotenant that paid may elect to purchase all the remaining interest by paying the entire price to the court. After the 20-day period, the following rules apply:

(a) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall issue promptly an order reallocating all the interests of all the cotenants and disburse the amounts held by the court to the persons entitled to them.

(b) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under subsections 1 and 2 of [NRS 39.680](#) as if the interests of the cotenants that requested partition by sale were not purchased.

(c) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall issue promptly an order reallocating all the cotenants' interests, disburse the amounts held by the court to the persons entitled to them and promptly refund any excess payment held by the court.

7. Not later than 45 days after the court sends notice to the parties pursuant to subsection 1, any cotenant entitled to buy an interest under this section may request the court to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

8. If the court receives a timely request under subsection 7, the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

(a) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections 1 to 6, inclusive, have been paid into the court and those interests have been reallocated among the cotenants as provided in those subsections; and

(b) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value under [NRS 39.670](#).

(Added to NRS by [2011, 311](#))

NRS 39.680 Partition alternatives.

1. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to [NRS 39.675](#) or if, after conclusion of the buyout under [NRS 39.675](#), a cotenant remains that has requested partition in kind, the court shall order partition in kind unless the court, after consideration of the factors listed in [NRS 39.685](#), finds that partition in kind will result in great prejudice to the cotenants as a group.

In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

2. If the court does not order partition in kind under subsection 1, the court shall order partition by sale pursuant to [NRS 39.690](#) or, if no cotenant requested partition by sale, the court shall dismiss the action.

3. If the court orders partition in kind pursuant to subsection 1, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

4. If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable or are the subject of a default judgment, if their interests were not bought out pursuant to [NRS 39.675](#), a part of the property representing the combined interests of these cotenants as determined by the court and this part of the property shall remain undivided.

(Added to NRS by [2011, 313](#))

NRS 39.685 Considerations for partition in kind.

1. In determining under subsection 1 of [NRS 39.680](#) whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

- (a) Whether the heirs property practicably may be divided among the cotenants;
- (b) Whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which the court-ordered sale likely would occur;
- (c) Evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of that cotenant or each other;
- (d) A cotenant's sentimental attachment to the property, including, without limitation, any attachment arising because the property has ancestral or other unique or special value to the cotenant;
- (e) The lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;
- (f) The degree to which the cotenants have contributed their pro rata share of the property taxes, insurance and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance or upkeep of the property; and
- (g) Any other relevant factor.

2. The court may not consider any one factor in subsection 1 to be dispositive without weighing the totality of all relevant factors and circumstances.

(Added to NRS by [2011, 314](#))

NRS 39.690 Open-market sale; sale by sealed bids or auction.

1. If the court orders a sale of heirs property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

2. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint that broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price not lower than the determination of value and on the terms and conditions established by the court.

3. If the broker appointed under subsection 2 obtains within a reasonable time an offer to purchase the property for at least the determination of value:

- (a) The broker shall comply with the reporting requirements set forth in [NRS 39.695](#); and
- (b) The sale may be completed in accordance with state law other than [NRS 39.600](#) to [39.705](#), inclusive.

4. If the broker appointed under subsection 2 does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after hearing, may:

- (a) Approve the highest outstanding offer, if any;
- (b) Redetermine the value of the property and order that the property continue to be offered for an additional time; or
- (c) Order that the property be sold by sealed bids or at an auction.

5. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders an auction, the auction must be conducted under the provisions of [NRS 39.010](#) to [39.490](#), inclusive.

6. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

(Added to NRS by [2011, 314](#))

NRS 39.695 Report of open-market sale.

1. Unless required to do so within a shorter time by [NRS 39.010](#) to [39.490](#), inclusive, a broker appointed under subsection 2 of [NRS 39.690](#) to offer heirs property for open-market sale shall file a report not later than 7 days after receiving an offer to purchase the property for at least the value determined under [NRS 39.670](#) or [39.690](#).

2. The report required by subsection 1 must contain the following information:

- (a) A description of the property to be sold to each buyer;
 - (b) The name of each buyer;
 - (c) The proposed purchase price;
 - (d) The terms and conditions of the proposed sale, including, without limitation, the terms of any owner financing;
 - (e) The amounts to be paid to lienholders;
 - (f) A statement of contractual or other arrangements or conditions of the broker's commission; and
 - (g) Other material facts relevant to the sale.
- (Added to NRS by [2011, 315](#))

NRS 39.700 Applying and construing Uniform Act to promote uniformity. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Added to NRS by [2011, 315](#))

NRS 39.705 Relation to Electronic Signatures in Global and National Commerce Act. [NRS 39.600](#) to [39.705](#), inclusive, modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

(Added to NRS by [2011, 315](#))