

NEBRASKA LEGISLATURE

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Holographic will.

An instrument which purports to be testamentary in nature but does not comply with section 30-2327 is valid as a holographic will, whether or not witnessed, if the signature, the material provisions, and an indication of the date of signing are in the handwriting of the testator and, in the absence of such indication of date, if such instrument is the only such instrument or contains no inconsistency with any like instrument or if such date is determinable from the contents of such instrument, from extrinsic circumstances, or from any other evidence.

Source

- ☰ Laws 1974, LB 354, § 50, UPC § 2-503;
- ☰ Laws 1980, LB 694, § 7.

Annotations

A decedent's handwritten initials, as opposed to his or her whole name, constitute a signature within the meaning of this section. In determining the validity of a holographic instrument, only the portion of the instrument actually in the handwriting of the testator is to be considered; all other language is to be disregarded. In re Estate of Foxley, 254 Neb. 204, 575 N.W.2d 150 (1998).

When the purposes for requiring a date on a holographic will can be satisfied, a holographic will dated by only a month and year substantially complies with this section. In re Estate of Wells, 243 Neb. 152, 497 N.W.2d 683 (1993).

A document which did not contain sufficient material provisions expressing testamentary and donative intent within the document itself could not be legally recognized as a valid holographic will. Absent a latent ambiguity, extrinsic evidence could not be considered to aid in that determination. In re Estate of Tiedeman, 25 Neb. App. 702, 812 N.W.2d 816 (2018).

re Estate of Tiedeman, 25 Neb. App. 722, 912 N.W.2d 816 (2018).

A holographic will must contain sufficient material provisions, meaning words which express donative and testamentary intent. Donative intent relates to words reflecting specific bequests to particular beneficiaries, and testamentary intent concerns whether the document was intended to be a will. In re Estate of Tiedeman, 25 Neb. App. 722, 912 N.W.2d 816 (2018).

In determining the intent of the testator when he or she used controverted words in a holographic will, the court should place itself in the shoes of the testator, ascertain his or her intention, and enforce it, remembering at all times that the testator was unskilled in the field of will drafting. In re Estate of Matthews, 13 Neb. App. 812, 702 N.W.2d 821 (2005).

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