

SENATE BILL NO. 6

State of Washington
39th Regular Session

By Senators Petrich,
Neill and Gissberg

Read first time January 12, 1965.

1 AN ACT Establishing a code of probate law and procedure, including the
2 making and probating of wills, administration of estates of de-
3 ceased persons and appointment of guardians of the persons and
4 estates of minors, insane and mentally incompetent persons and
5 administration of their estates; enacting a title of the Re-
6 vised Code of Washington to be known as Title 11--Probate Law
7 and Procedure; providing penalties; repealing certain acts and
8 parts of acts; and declaring an effective date.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 TITLE 11

11 PROBATE LAW AND PROCEDURE

12 Chapter 11.02

13 GENERAL PROVISIONS

14 Section 11.02.005 DEFINITIONS AND USE OF TERMS. When used in
15 this title, unless otherwise required from the context:

16 (1) "Personal representative" includes executor, administrator,
17 special administrator, and guardian.

18 (2) "Net estate" refers to the real and personal property of a
19 decedent exclusive of homestead rights, exempt property, the family
20 allowance and enforceable claims against, and debts of, the estate.

21 (3) "Representation" refers to a method of determining distri-
22 bution in which the takers are in unequal degrees of kinship with re-
23 spect to the intestate, and is accomplished as follows: After first
24 determining who, of those entitled to share in the estate, are in the
25 nearest degree of kinship, the estate is divided into equal shares, the
26 number of shares being the sum of the number of persons who survive
27 the intestate who are in the nearest degree of kinship and the number

1 of persons in the same degree of kinship who died before the intestate,
2 but who left issue surviving the intestate; each share of a deceased
3 person in the nearest degree shall be divided among those of his is-
4 sue who survive the intestate and have no ancestor then living who is
5 in the line of relationship between them and the intestate, those more
6 remote in degree taking together the share which their ancestor would
7 have taken had he survived the intestate. Posthumous children are
8 considered as living at the death of their parent.

9 (4) "Issue" includes all the lawful lineal descendants of the
10 ancestor, all lawfully adopted children, and illegitimates as speci-
11 fied in RCW 11.04.081.

12 (5) "Degree of kinship" shall mean the degree of kinship as
13 computed according to the rules of the civil law; that is, by counting
14 upward from the intestate to the nearest common ancestor and then
15 downward to the relative, the degree of kinship being the sum of these
16 two counts.

17 (6) "Heirs" denotes those persons, including the surviving
18 spouse, who are entitled under the statutes of intestate succession to
19 the real and personal property of a decedent on his death intestate.

20 (7) "Real estate" includes, except as otherwise specifically
21 provided herein, all lands, tenements, and hereditaments, and all
22 rights thereto, and all interest therein possessed and claimed in fee
23 simple, or for the life of a third person

24 (8) "Wills" includes all codicils.

25 (9) "Codicil" shall mean an instrument executed in the manner
26 provided by this title for wills, which refers to an existing will for
27 the purpose of altering or changing the same, and which need not be at-
28 tached thereto.

29 (10) "Guardian" means a personal representative of the estate
30 of an incompetent person as defined in RCW 11.88.010 and the term may
31 be used in lieu of "personal representative" wherever required by con-
32 text.

33 (11) "Administrator" means a personal representative of the

1 estate of a decedent and the term may be used in lieu of "personal
2 representative" wherever required by context.

3 (12) "Executor" means a personal representative of the estate
4 of a decedent appointed by will and the term may be used in lieu of
5 "personal representative" wherever required by context.

6 (13) "Special administrator" means a personal representative
7 of the estate of a decedent appointed for limited purposes and the
8 term may be used in lieu of "personal representative" wherever re-
9 quired by context.

10 (14) Words that import the singular number only, may also be
11 applied to the plural of persons and things.

12 (15) Words importing the masculine gender only may be extended
13 to females also.

14 Sec. 11.02.010 JURISDICTION IN PROBATE MATTERS--POWERS OF
15 COURTS. The superior courts in the exercise of their jurisdiction
16 of matters of probate shall have power to probate or refuse to pro-
17 bate wills, appoint personal representatives of deceased or incompe-
18 tent persons and administer and settle all such estates, award pro-
19 cesses and cause to come before them all persons whom they may deem
20 it necessary to examine, and order and cause to be issued all such
21 writs as may be proper or necessary, and do all things proper or in-
22 cident to the exercise of such jurisdiction.

23 Sec. 11.02.020 POWERS OF COURTS WHEN LAW INAPPLICABLE, INSUF-
24 FICIENT, OR DOUBTFUL. It is the intention of this title that the
25 courts mentioned shall have full and ample power and authority to ad-
26 minister and settle all estates of decedents and incompetent persons
27 in this title mentioned. If the provisions of this title with ref-
28 erence to the administration and settlement of such estates should in
29 any cases and under any circumstances be inapplicable or insufficient
30 or doubtful, the court shall nevertheless have full power and author-
31 ity to proceed with such administration and settlement in any manner
32 and way which to the court seems right and proper, all to the end
33 that such estates may be by the court administered upon and settled.

Senate Committee Amendment to Senate Bill No. 6
By Judiciary Committee

On page 5, section 11.04.015, following subsection (d), add a new subsection as follows:

"(e) If the intestate not be survived by issue nor by either parent, nor by any issue of the parent or parents who survive the intestate, nor by any grandparent or grandparents who survive the intestate, then to the issue of any grandparent or grandparents who survive the intestate, the issue of any maternal grandparent or grandparents sharing equally with the issue of the paternal grandparent or grandparents."

Adopted March 5, 1965

House Amendment to Engrossed Senate Bill No. 6
By Representative Clark

On page 4, section 11.04.015, line 22 of the engrossed and printed bills, after "(a)" strike "All of the" and insert "If the intestate is survived by issue or by either parent, three-fourths of the"

Adopted 3/9/65

11.04.015 Descent and distribution of real and personal estate. The net estate of a person dying intestate shall descend subject to the provisions of RCW 11.04.250 and be distributed as follows:

(1) Share of surviving spouse. The surviving spouse shall receive the following share:

(a) All of the net community estate unless there be surviving issue or parents, in which event, the surviving spouse shall take three-fourths of the net community estate; and

(b) One-half of the net separate estate if the intestate is survived by issue; or

(c) Three-quarters of the net separate estate if there is no surviving issue, but the intestate is survived by one or more of his parents, or by one or more of the issue of one or more of his parents; or

(d) All of the net separate estate, if there is no surviving issue nor parent nor issue of parent.

(2) Shares of others than surviving spouse. The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(a) To the issue of the intestate; if they are all in the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(b) If the intestate not be survived by issue, then to the parent or parents who survive the intestate.

(c) If the intestate not be survived by issue nor by either parent, then to those issue of the parent or parents who survive the intestate; if they are all in the same degree of kinship to the intestate, they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation.

(d) If the intestate not be survived by issue nor by either parent, nor by any issue of the parent or parents who survive the intestate, then to the grandparent or grandparents who survive the intestate, the maternal grandparent or grandparents sharing equally with the paternal grandparent or grandparents.

(e) If the intestate not be survived by issue nor by either parent, nor by any issue of the parent or parents who survive the intestate, nor by any grandparent or grandparents who survive the intestate, then to the issue of any grandparent or grandparents who survive the intestate, the issue of any maternal grandparent or grandparents sharing equally with the issue of the paternal grandparent or grandparents. [1965 1st ex.s. c 55 § 1; 1965 c 145 § 11.04.015. Former RCW sections: RCW 11.04.020, 11.04.030, 11.04.050.]

1 distributed as follows:

2 (a) To the issue of the intestate; if they are all in the same
3 degree of kinship to the intestate, they shall take equally, or if of
4 unequal degree, then those of more remote degrees shall take by rep-
5 resentation.

6 (b) If the intestate not be survived by issue, then to the
7 parent or parents who survive the intestate.

8 (c) If the intestate not be survived by issue nor by either
9 parent, then to those issue of the parent or parents who survive the
10 intestate; if they are all in the same degree of kinship to the intes-
11 tate, they shall take equally, or, if of unequal degree, then those of
12 more remote degree shall take by representation.

13 (d) If the intestate not be survived by issue nor by either
14 parent, nor by any issue of the parent or parents who survive the in-
15 testate, then to the grandparent or grandparents who survive the in-
16 testate, the maternal grandparent or grandparents sharing equally with
17 the paternal grandparent or grandparents.

18 Sec. 11.04.035 KINDRED OF THE HALF BLOOD. Kindred of the half
19 blood shall inherit the same share which they would have inherited if
20 they had been of the whole blood.

21 Sec. 11.04.041 ADVANCEMENTS. If a person dies intestate as to
22 all his estate, property which he gave in his lifetime as an advance-
23 ment to any person who, if the intestate had died at the time of mak-
24 ing the advancement, would be entitled to inherit a part of his es-
25 tate, shall be counted toward the advancee's intestate share, and to
26 the extent that it does not exceed such intestate share shall be taken
27 into account in computing the estate to be distributed. Every gratu-
28 itous inter vivos transfer is deemed to be an absolute gift and not an
29 advancement unless shown to be an advancement. The advancement shall
30 be considered as of its value at the time when the advancee came into
31 possession or enjoyment or at the time of the death of the intestate,
32 whichever first occurs. If the advancee dies before the intestate,
33 leaving a lineal heir who takes from the intestate, the advancement

1 shall be taken into account in the same manner as if it had been made
2 directly to such heir. If such heir is entitled to a lesser share in
3 the estate than the advancee would have been entitled had he survived
4 the intestate, then the heir shall only be charged with such propor-
5 tion of the advancement as the amount he would have inherited, had
6 there been no advancement, bears to the amount which the advancee
7 would have inherited, had there been no advancement.

8 Sec. 11.04.060 TENANCY IN DOWER AND BY CURTESY ABOLISHED.
9 The provisions of RCW 11.04.015, as to the inheritance of the husband
10 and wife from each other take the place of tenancy in dower and ten-
11 ancy by curtesy, which are hereby abolished.

12 Sec. 11.04.071 SURVIVORSHIP AS INCIDENT OF TENANCY BY THE
13 ENTIRETIES ABOLISHED. The right of survivorship as an incident of
14 tenancy by the entireties is abolished.

15 Sec. 11.04.081 INHERITANCE BY AND FROM ILLEGITIMATE CHILD.
16 For the purpose of inheritance to, through and from an illegitimate
17 child, such child shall be treated the same as if he were the legiti-
18 mate child of his mother, so that he and his issue shall inherit from
19 his mother and from his maternal kindred, in all degrees, and they may
20 inherit from him. Such child shall also be treated the same as if he
21 were a legitimate child of his mother for the purpose of determining
22 homestead rights, the distribution of exempt property and the making
23 of family allowances. When the parents of an illegitimate child shall
24 marry subsequent to his birth, or the father shall acknowledge said
25 child in writing, such child shall be deemed to have been made the
26 legitimate child of both of the parents for purposes of intestate suc-
27 cession.

28 Sec. 11.04.085 INHERITANCE BY ADOPTED CHILD. A lawfully
29 adopted child shall not be considered an "heir" of his natural parents
30 for purposes of this title.

31 Sec. 11.04.095 INHERITANCE FROM STEPPARENT AVOIDS ESCHEAT. If
32 a person die leaving a surviving spouse and issue by a former spouse
33 and leaving a will whereby all or substantially all of the deceased's

1 property passes to the surviving spouse or having before death con-
2 veyed all or substantially all his or her property to the surviving
3 spouse, and afterwards the latter dies without heirs and without dis-
4 posing of his or her property by will so that except for this section
5 the same would all escheat, the issue of the spouse first deceased who
6 survive the spouse last deceased shall take and inherit from the spouse
7 last deceased the property so acquired by will or conveyance or the
8 equivalent thereof in money or other property; if such issue are all
9 in the same degree of kinship to the spouse first deceased they shall
10 take equally, or, if of unequal degree, then those of more remote de-
11 gree shall take by representation with respect to such spouse first
12 deceased.

13 Sec. 11.04.230 U. S. SAVINGS BOND--EFFECT OF DEATH OF CO-OWNER.
14 If either co-owner of United States savings bonds registered in two
15 names as co-owners (in the alternative) dies without having presented
16 and surrendered the bond for payment to a federal reserve bank or the
17 treasury department, the surviving co-owner will be the sole and ab-
18 solute owner of the bond.

19 Sec. 11.04.240 U. S. SAVINGS BOND--EFFECT OF BENEFICIARY'S
20 SURVIVAL OF REGISTERED OWNER. If the registered owner of United States
21 savings bonds registered in the name of one person payable on death to
22 another dies without having presented and surrendered the bond for
23 payment or authorized reissue to a federal reserve bank or the treas-
24 ury department, and is survived by the beneficiary, the beneficiary
25 will be the sole and absolute owner of the bond.

26 Sec. 11.04.250 WHEN REAL ESTATE VESTS--RIGHTS OF HEIRS. When
27 a person dies seized of lands, tenements or hereditaments, or any
28 right thereto or entitled to any interest therein in fee or for the
29 life of another, his title shall vest immediately in his heirs or de-
30 visees, subject to his debts, family allowance, expenses of administra-
31 tion and any other charges for which such real estate is liable under
32 existing laws. No administration of the estate of such decedent, and
33 no decree of distribution or other finding or order of any court shall

1 be necessary in any case to vest such title in the heirs or devisees,
2 but the same shall vest in the heirs or devisees instantly upon the
3 death of such decedent: PROVIDED, That no person shall be deemed a
4 devisee until the will has been probated. The title and right to pos-
5 session of such lands, tenements, or hereditaments so vested in such
6 heirs or devisees, together with the rents, issues and profits thereof
7 shall be good and valid against all persons claiming adversely to the
8 claims of any such heirs, or devisees, excepting only the personal rep-
9 resentative when appointed, and persons lawfully claiming under such
10 personal representative; and any one or more of such heirs or devisees,
11 or their grantees, jointly or severally, may sue for and recover their
12 respective shares or interests in any such lands, tenements, or here-
13 ditaments and the rents, issues and profits thereof, whether letters
14 testamentary or of administration be granted or not, from any person
15 except the personal representative and those lawfully claiming under
16 such personal representative.

17 Sec. 11.04.270. LIMITATION OF LIABILITY FOR DEBTS. The estate
18 of a deceased person shall not be liable for his debts unless letters
19 testamentary or of administration be granted within six years from the
20 date of the death of such decedent: PROVIDED, HOWEVER, That this sec-
21 tion shall not affect liens upon specific property, existing at the
22 date of the death of such decedent.

23 Sec. 11.04.290 VESTING OF TITLE. RCW 11.04.250 through 11.04-
24 .290 shall apply to community real property and also to separate es-
25 tate; and upon the death of either husband or wife, title of all com-
26 munity real property shall vest immediately in the person or persons
27 to whom the same shall go, pass, descend or be devised, as provided in
28 RCW 11.04.015, subject to all the charges mentioned in RCW 11.04.250.

29 Chapter 11.05

30 UNIFORM SIMULTANEOUS DEATH ACT

31 Sec. 11.05.010 DEVOLUTION OF PROPERTY IN CASE OF SIMULTANEOUS
32 DEATH OF OWNERS. Where the title to property or the devolution there-
33 of depends upon priority of death and there is no sufficient evidence

1 that the persons have died otherwise than simultaneously, the property
2 of each person shall be disposed of as if he had survived, except as
3 provided otherwise in this chapter.

4 Sec. 11.05.020 PROCEDURE WHEN BENEFICIARIES DIE SIMULTANEOUS-
5 LY. Where two or more beneficiaries are designated to take successive-
6 ly or alternately by reason of survivorship under another person's
7 disposition of property and there is no sufficient evidence that these
8 beneficiaries have died otherwise than simultaneously the property
9 thus disposed of shall be divided into as many equal portions as there
10 are successive or alternate beneficiaries and the portion allocated to
11 each beneficiary shall be distributed as if he had survived all the
12 other beneficiaries.

13 Sec. 11.05.030 JOINT TENANTS--SIMULTANEOUS DEATH. Where there
14 is no sufficient evidence that two joint tenants have died otherwise
15 than simultaneously, the property so held shall be distributed one-
16 half as if one had survived, and one-half as if the other had sur-
17 vived. If there are more than two joint tenants and all of them have
18 so died, the property thus distributed shall be in the proportion that
19 one bears to the whole number of joint tenants.

20 Sec. 11.05.040 DISTRIBUTION OF INSURANCE POLICY WHEN INSURED
21 AND BENEFICIARY DIE SIMULTANEOUSLY. Where the insured and the benefi-
22 ciary in a policy of life or accident insurance have died and there is
23 no sufficient evidence that they have died otherwise than simultaneou-
24 sly the proceeds of the policy shall be distributed as if the insured
25 had survived the beneficiary.

26 Sec. 11.05.050 SCOPE OF CHAPTER LIMITED. This chapter shall
27 not apply in the case of wills, living trusts, deeds, or contracts of
28 insurance wherein provision has been made for distribution of property
29 different from the provisions of this chapter.

30 Sec. 11.05.900 APPLICATION OF CHAPTER TO PRIOR DEATHS. This
31 chapter shall not apply to the distribution of the property of a per-
32 son who has died before it takes effect.

33 Sec. 11.05.910 CONSTRUCTION OF CHAPTER. This chapter shall be

1 so construed and interpreted as to effectuate its general purpose to
2 make uniform the law in those states which enact it.

3 Chapter 11.08

4 ESCHEATS

5 PROPERTY OF DECEASED INMATES OF STATE INSTITUTIONS

6 Sec. 11.08.101 PROPERTY OF DECEASED INMATES OF STATE INSTITU-
7 TIONS--DISPOSITION AFTER TWO YEARS. Where, upon the expiration of two
8 years after the death of any inmate of any state institution, there re-
9 mains in the custody of the superintendent of such institution, money
10 or property belonging to said deceased inmate, the superintendent shall
11 forward such money to the state treasurer for deposit in the general
12 fund of the state, and shall reportsuch transfer and any remaining
13 property to the department of institutions, which department shall
14 cause the sale of such property and proceeds thereof shall be forward-
15 ed to the state treasurer for deposit in the general fund.

16 Sec. 11.08.111 -----DISPOSITION WITHIN TWO YEARS. Prior to
17 the expiration of the above two-year period, the superintendent may
18 transfer such money or property in his possession, upon request and
19 satisfactory proof submitted to him, to the following designated per-
20 sons:

21 (1) To the personal representative of the estate of such de-
22 ceased inmate; or

23 (2) To the next of kin of the decedent, where such money and
24 property does not exceed the value of five hundred dollars, and the
25 person or persons requesting same shall have furnished an affidavit as
26 to his or her being next of kin; or

27 (3) In the case of money, to the person who may have deposited
28 such money with the superintendent for the use of the decedent, where
29 the sum involved does not exceed five hundred dollars; or

30 (4) To the department of institutions, when there are moneys
31 due and owing from such deceased person's estate for the cost of his
32 care and maintenance at such institution: PROVIDED, That transfer of
33 such money or property may be made to the person first qualifying

1 under this section and such transfer shall exonerate the superintend-
2 ent from further responsibility relative to such money or property:
3 AND PROVIDED FURTHER, That upon satisfactory showing the funeral ex-
4 penses of such decedent are unpaid, the superintendent may pay up to
5 three hundred dollars from said deceased inmate's funds on said obli-
6 gation.

7 Sec. 11.08.120 -----SALE--DISPOSITION OF PROCEEDS. The prop-
8 erty, other than money, of such deceased inmate remaining in the cus-
9 tody of a superintendent of a state institution after the expiration of
10 the above two-year period may be forwarded to the department of insti-
11 tutions at its request and may be appraised and sold at public auction
12 to the highest bidder in the manner and form as provided for public
13 sales of personal property, and all moneys realized upon such sale,
14 after deducting the expenses thereof, shall be paid into the general
15 fund of the state treasury.

16 Sec. 11.08.140 ESCHEAT FOR WANT OF HEIRS. Whenever any
17 person dies, whether a resident of this state or not, leaving property
18 subject to the jurisdiction of this state and without being survived
19 by any person entitled to the same under the laws of this state, such
20 property shall be designated escheat property and shall be subject to
21 the provisions of RCW 11.08.140 through 11.08.280.

22 Sec. 11.08.150 TITLE TO PROPERTY VESTS IN STATE AT DEATH OF
23 OWNER. Title to escheat property, which shall include any intangible
24 personalty, shall vest in the state at the death of the owner thereof.

25 Sec. 11.08.160 JURISDICTION, DUTIES, OF TAX COMMISSION. The
26 tax commission of this state shall have supervision of and jurisdic-
27 tion over escheat property and may institute and prosecute any proceed-
28 ings deemed necessary or proper in the handling of such property, and
29 it shall be the duty of the tax commission to protect and conserve
30 escheat property for the benefit of the permanent common school fund
31 of the state until such property or the proceeds thereof have been for-
32 warded to the state treasurer or the state land commissioner as here-
33 inafter provided.

1 Sec. 11.08.170 PROBATE OF ESCHEAT PROPERTY--NOTICE TO TAX COM-
2 MISSION. Escheat property may be probated under the provisions of the
3 probate laws of this state. Whenever such probate proceedings are in-
4 stituted, whether by special administration or otherwise, the peti-
5 tioner shall promptly notify the tax commission in writing thereof on
6 forms furnished by the tax commission to the county clerks. There-
7 after, the tax commission shall be served with written notice at least
8 twenty days prior to any hearing on proceedings involving the valua-
9 tion or sale of property, on any petition for the allowance of fees,
10 and on all interim reports, final accounts or petitions for the deter-
11 mination of heirship. Like notice shall be given of the presentation
12 of any claims to the court for allowance. Failure to furnish such no-
13 tice shall be deemed jurisdictional and any order of the court entered
14 without such notice shall be void: PROVIDED, That the tax commission
15 may waive the provisions of this section in its discretion.

16 Sec. 11.08.180 TAX COMMISSION TO BE FURNISHED COPIES OF DOCU-
17 MENTS AND PLEADINGS. The tax commission may demand copies of any
18 papers, documents or pleadings involving the escheat property or the
19 probate thereof deemed by it to be necessary for the enforcement of
20 RCW 11.08.140 through 11.08.280 and it shall be the duty of the admin-
21 istrator or his attorney to furnish such copies to the commission.

22 Sec. 11.08.200 LIABILITY FOR USE OF ESCHEATED PROPERTY. If
23 any person shall take possession of escheat property without proper
24 authorization to do so, and shall have the use thereof for a period
25 exceeding sixty days, he shall be liable to the state for the reason-
26 able value of such use, payment of which may be enforced by the tax
27 commission or by the administrator of the estate.

28 Sec. 11.08.210 ALLOWANCE OF CLAIMS, ETC.--SALE OF PROPERTY--
29 DECREE OF DISTRIBUTION. If at the expiration of four months from the
30 date of the first publication of notice to creditors no heirs have ap-
31 peared and established their claim to the estate, the court may enter
32 an interim order allowing claims, expenses and partial fees. If at
33 the expiration of sixteen months from the date of issuance of letters

1 testamentary or of administration no heirs have appeared and established
2 their claim to the estate, all personal property not in the form of
3 cash shall be sold under order of the court. Personal property found
4 by the court to be worthless shall be ordered abandoned. Real proper-
5 ty shall not be sold for the satisfaction of liens thereon, or for the
6 payment of the debts of decedent or expenses of administration until
7 the proceeds of the personal property are first exhausted. The court
8 shall then enter a decree allowing any additional fees and charges
9 deemed proper and distributing the balance of the cash on hand, togeth-
10 er with any real property, to the state. Remittance of cash on hand
11 shall be made to the tax commission which shall make proper records
12 thereof and forthwith forward such funds to the state treasurer for
13 deposit in the permanent common school fund of the state.

14 Sec. 11.08.220 CERTIFIED COPIES OF DECREE--DUTIES OF COMMIS-
15 SIONER OF PUBLIC LANDS. The tax commission shall be furnished two
16 certified copies of the decree of the court distributing any real prop-
17 erty to the state, one of which shall be forwarded to the state land
18 commissioner who shall thereupon assume supervision of and jurisdic-
19 tion over such real property and thereafter handle it the same as
20 state common school lands. The administrator shall also file a certi-
21 fied copy of the decree with the auditor of any county in which the
22 escheated real property is situated.

23 Sec. 11.08.230 APPEARANCE AND CLAIM OF HEIRS--NOTICES TO TAX
24 COMMISSION. Upon the appearance of heirs and the establishment of
25 their claim to the satisfaction of the court prior to entry of the
26 decree of distribution to the estate, the provisions of RCW 11.08.140
27 through 11.08.280 shall not further apply, except for purposes of ap-
28 peal: PROVIDED, That the tax commission shall be promptly given writ-
29 ten notice of such appearance by the claimants and furnished copies of
30 all papers or documents on which such claim of heirship is based. Any
31 documents in a foreign language shall be accompanied by translations
32 made by a properly qualified translator, certified by him to be true
33 and correct translations of the original documents. The administrator

1 or his attorney shall also furnish the tax commission with any other
2 available information bearing on the validity of the claim.

3 Sec. 11.08.240 LIMITATION ON FILING CLAIM. Any claimant to
4 escheated funds or real property shall have seven years from the date
5 of issuance of letters testamentary or of administration within which
6 to file his claim. Such claim shall be filed with the court having
7 original jurisdiction of the estate, and a copy thereof served upon
8 the tax commission, together with twenty days notice of the hearing
9 thereon.

10 Sec. 11.08.250 ORDER OF COURT ON ESTABLISHMENT OF CLAIM. Upon
11 establishment of the claim to the satisfaction of the court, it shall
12 order payment to the claimant of any escheated funds and delivery of
13 any escheated land, or the proceeds thereof, if sold.

14 Sec. 11.08.260 PAYMENT OF ESCHEATED FUNDS TO CLAIMANT. In the
15 event the order of the court requires the payment of escheated funds or
16 the proceeds of the sale of escheated real property, a certified copy
17 of such order shall be served upon the tax commission which shall
18 thereupon take any steps necessary to effect payment to the claimant
19 out of the general fund of the state.

20 Sec. 11.08.270 CONVEYANCE OF ESCHEATED PROPERTY TO CLAIMANT.
21 In the event the order of the court requires the delivery of real prop-
22 erty to the claimant, a certified copy of such order shall be served
23 upon the state land commissioner who shall thereupon make proper cert-
24 ification to the office of the governor for issuance of a quit claim
25 deed for the property to the claimant.

26 Sec. 11.08.280 LIMITATION WHEN CLAIMANT IS MINOR OR INCOMPE-
27 TENT NOT UNDER GUARDIANSHIP. The claims of any persons to escheated
28 funds or real property which are not filed within seven years as spec-
29 ified above are forever barred, excepting as to those persons who are
30 minors or who are legally incompetent and not under guardianship, in
31 which event the claim may be filed within seven years after their
32 disability is removed.

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Chapter 11.12

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WILLS

Sec. 11.12.010 WHO MAY MAKE A WILL. The following persons of sound mind may, by last will, devise all his or her estate, both real and personal:

- (1) Any person who has attained the age of majority.
- (2) Any person who has legally married, and has attained the age of eighteen years.
- (3) Any person who has attained the age of eighteen years and is actively engaged with the armed forces of the United States or employed on a vessel of the United States merchant marine.

All wills executed subsequent to September 16, 1940, and which meet the requirements of this section are hereby validated and shall have all the force and effect of wills executed subsequent to the taking effect of this section.

Sec. 11.12.020 REQUISITES OF WILLS. FOREIGN WILLS. Every will shall be in writing signed by the testator or by some other person under his direction in his presence, and shall be attested by two or more competent witnesses, subscribing their names to the will in the presence of the testator by his direction or request: PROVIDED, That a last will and testament, executed without the state, in the mode prescribed by law, either of the place where executed or of the testator's domicile shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state.

Sec. 11.12.025 -----NUNCUPATIVE WILLS. Nothing contained in this chapter shall prevent any member of the armed forces of the United States or person employed on a vessel of the United States merchant marine from disposing of his wages or personal property, or prevent any person competent to make a will from disposing of his or her personal property of the value of not to exceed one thousand dollars, by nuncupative will if the same be proved by two witnesses who were present at the making thereof, and it be proven that the testator, at the time of pronouncing the same, did bid some person present to bear witness

1 that such was his will, or to that effect, and that such nuncupative
2 will was made at the time of the last sickness of the testator, but no
3 proof of any nuncupative will shall be received unless it be offered
4 within six months after the speaking of the testamentary words, nor
5 unless the words or the substance thereof be first committed to writ-
6 ing, and in all cases a citation be issued to the widow and/or heirs
7 at law of the deceased that they may contest the will, and no real es-
8 tate shall be devised by a nuncupative will.

9 Sec. 11.12.030 SIGNATURE OF TESTATOR AT HIS DIRECTION--SIGNA-
10 TURE BY MARK. Every person who shall sign the testator's or testa-
11 trix's name to any will by his or her direction shall subscribe his
12 own name to such will and state that he subscribed the testator's
13 name at his request: PROVIDED, That such signing and statement shall
14 not be required if the testator shall evidence the approval of the sig-
15 nature so made at his request by making his mark on the will.

16 Sec. 11.12.040 REVOCATION OF WILL, HOW EFFECTED. A will, or
17 any part thereof, can be revoked

18 (1) By a written will; or

19 (2) By being burnt, torn, canceled, obliterated or destroyed,
20 with the intent and for the purpose of revoking the same, by the test-
21 ator himself or by another person in his presence and by his direction.
22 If such act is done by any person other than the testator, the direc-
23 tion of the testator and the facts of such injury or destruction must
24 be proved by two witnesses.

25 Sec. 11.12.050 SUBSEQUENT MARRIAGE OF TESTATOR--DIVORCE. If,
26 after making any will, the testator shall marry and the spouse shall
27 be living at the time of the death of the testator, such will shall be
28 deemed revoked as to such spouse, unless provision shall have been made
29 for such survivor by marriage settlement, or unless such survivor be
30 provided for in the will or in such way mentioned therein as to show
31 an intention not to make such provision, and no other evidence to re-
32 but the presumption of revocation shall be received. A divorce, sub-
33 sequent to the making of a will, shall revoke the will as to the

House Amendment to Engrossed Senate Bill No. 6
By Representatives Smith and Uhlman

On page 17, section 11.12.090, beginning on line 27 of the printed and engrossed bills strike all of Sec. 11.12.090 through line 9, page 18, and insert:

"11.12.090 INTESACY AS TO PRETERMITTED CHILDREN. If any person make his last will and die leaving a child or children or descendants of such child or children not named or provided for in such will, although born after the making of such will or the death of the testator, every such testator, as to such child or children not named or provided for, shall be deemed to die intestate, and such child or children or their descendants shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them, and all the other heirs, devisees and legatees shall refund their proportional part."

Adopted 3/10/65

1 divorced spouse.

2 Sec. 11.12.060 AGREEMENT TO CONVEY DOES NOT REVOKE. A bond,
3 covenant, or agreement made for a valuable consideration by a testator
4 to convey any property, devised or bequeathed in any last will previ-
5 ously made, shall not be deemed a revocation of such previous devise
6 or bequest, but such property shall pass by the devise or bequest, sub-
7 ject to the same remedies on such bond, covenant, or agreement, for
8 specific performance or otherwise, against devisees or legatees, as
9 might be had by law against the heirs of the testator or his next of
10 kin, if the same had descended to him.

11 Sec. 11.12.070 DEVISE OR BEQUEATHAL OF PROPERTY SUBJECT TO EN-
12 CUMBRANCE. When any real or personal property subject to a mortgage
13 is specifically devised, the devisee shall take such property so de-
14 vised subject to such mortgage unless the will provides that such mort-
15 gage be otherwise paid. The term "mortgage" as used in this section
16 shall not include a pledge of personal property.

17 A charge or encumbrance upon any real or personal estate for
18 the purpose of securing the payment of money, or the performance of
19 any covenant or agreement, shall not be deemed a revocation of any will
20 relating to the same estate, previously executed. The devises and leg-
21 acies therein contained shall pass and take effect, subject to such
22 charge or encumbrance.

23 Sec. 11.12.080 NO REVIVAL OF WILL BY REVOCATION OF LATER ONE.
24 If, after making any will, the testator shall duly make and execute a
25 second will, the destruction, cancellation, or revocation of such sec-
26 ond will shall not revive the first will.

27 Sec. 11.12.090 INTESTACY AS TO PRETERMITTED CHILDREN. If any
28 person make his last will and die leaving a child or children or de-
29 scendants of such child or children not named or provided for in such
30 will, although born after the making of such will or the death of the
31 testator, every such testator, as to such child or children not named
32 or provided for, shall be deemed to die intestate, and such child or
33 children or their descendants shall receive a share in the estate of

1 the testator equal in value to that which he would have received if the
2 testator had died intestate, unless it appears from the will that such
3 omission was intentional, or unless when the will was executed the
4 testator had one or more children known to him to be living and de-
5 vised substantially all his estate to his surviving spouse; or unless
6 it appears from the will that the intention of the testator was to de-
7 vise to his children equally, in which latter case any child not named
8 in the will shall receive a share in the estate equal in value to that
9 of the other children.

10 Sec. 11.12.110 DEATH OF DEVISEE OR LEGATEE BEFORE TESTATOR.

11 When any estate shall be devised or bequeathed to any child, grand-
12 child, or other relative of the testator, and such devisee or legatee
13 shall die before the testator, having lineal descendants who survive
14 the testator, such descendants shall take the estate, real and person-
15 al, as such devisee or legatee would have done in the case he had sur-
16 vived the testator; if such descendants are all in the same degree of
17 kinship to the predeceased devisee or legatee they shall take equally,
18 or, if of unequal degree, then those of more remote degree shall take
19 by representation with respect to such predeceased devisee or legatee.
20 A spouse is not a relative under the provisions of this section.

21 Sec. 11.12.120 LAPSED LEGACY OR DEVISE--PROCEDURE AND PROOF.

22 Whenever any person having died leaving a will which has been admitted
23 to probate, shall by said will have given, devised or bequeathed unto
24 any person, a legacy or a devise upon the condition that said person
25 survive him, and not otherwise, such legacy or devise shall lapse and
26 fall into the residue of said estate to be distributed according to
27 the residuary clause, if there be one, of said will, and if there be
28 none then according to the laws of descent, unless said legatee or de-
29 visee, as the case may be, or his heirs, personal representative, or
30 someone in behalf of such legatee or devisee, shall appear before the
31 court which is administering said estate within six years from and
32 after the date the said will was admitted to probate, and prove to the
33 satisfaction of the court that the said legatee or devisee, as the

1 case may be, did in fact survive the testator.

2 Sec. 11.12.130 PROCEDURE WHERE LEGATEE OR DEVISEE IS AN ABSEN-
3 TEE. If it shall be made to appear to the satisfaction of said court
4 within the time fixed by RCW 11.12.120 that such legatee or devisee,
5 as the case may be, did in fact survive the testator, but that such
6 legatee, or devisee, is an absentee within the meaning of chapter 11-
7 .80, then and in that event the court shall by appropriate order direct
8 the said legacy or devise to be distributed to a trustee appointed and
9 qualified as provided for in said chapter 11.80.

10 Sec. 11.12.140 ORDER OF COURT DECLARING LAPSE. The personal
11 representative, residuary legatee, or any heir at law of any such es-
12 tate, may by sworn petition call the attention of the court to the
13 fact that the periods of time set forth in RCW 11.12.120 have elapsed,
14 and that such legatee or devisee, his heirs, personal representative,
15 or anyone in his behalf, has not appeared and proved to the satisfac-
16 tion of the court that such legatee or devisee survived the testator,
17 and if it appear from the records of the proceedings in said estate
18 that the allegations of the petition are true, it shall be the duty of
19 the court to enter an appropriate order declaring such legacy or de-
20 vise to have lapsed, and directing its disposition as provided for in
21 RCW 11.12.120.

22 Sec. 11.12.150 PETITION AND NOTICE WHERE LEGATEE OR DEVISEE
23 UNKNOWN. Every personal representative of such an estate shall, with-
24 in two years after the said will has been admitted to probate, file in
25 said probate proceedings a sworn petition which shall set out in de-
26 tail the name and last known address of any such legatee or devisee,
27 the circumstances of his departure from that address, if known; his
28 occupation or business, if known; the fact that the personal represent-
29 ative has been unable to locate him or to ascertain whether or not he
30 survived the testator; and all other facts within the knowledge of the
31 personal representative, which may aid the court in determining the
32 best and most advantageous method to employ in attempting to locate
33 said legatee or devisee. Upon such a petition being filed it shall be

1 the duty of the court, and the court shall have the power, to call be-
2 fore it the personal representative and such witnesses as may be nec-
3 essary, and examine them under oath as to the truth of the allegations
4 in said petition. After the hearing the court may direct such notice
5 to be given as it shall think will most likely come to the attention of
6 said legatee or devisee, or persons who might know him. Such notice
7 shall be given for such a length of time and in such places as the
8 court may order, and shall set forth the fact that a legacy or de-
9 vise, as the case may be, awaits the person therein named, and shall
10 call upon all persons having any knowledge concerning the said person
11 or his whereabouts to notify the court of all the facts within their
12 knowledge concerning said person, within a time therein stated.

13 Sec. 11.12.160 WITNESS AS DEVISEE OR LEGATEE--EFFECT OF, ON
14 WILL. All beneficial devises, legacies, and gifts whatever, made or
15 given in any will to a subscribing witness thereto, shall be void un-
16 less there are two other competent witnesses to the same; but a mere
17 charge on the estate of the testator for the payment of debts shall
18 not prevent his creditors from being competent witnesses to his will.
19 If such witness, to whom any beneficial devise, legacy or gift may
20 have been made or given, would have been entitled to any share in the
21 testator's estate in case the will is not established, then so much of
22 the estate as would have descended or would have been distributed to
23 such witness shall be saved to him as will not exceed the value of the
24 devise or bequest made to him in the will; and he may recover the same
25 from the devisees or legatees named in the will in proportion to and
26 out of the parts devised and bequeathed to him.

27 Sec. 11.12.170 DEVISE OF LAND, WHAT PASSES. Every devise of
28 land in any will shall be construed to convey all the estate of the
29 devisor therein which he could lawfully devise, unless it shall clear-
30 ly appear by the will that he intended to convey a less estate.

31 Sec. 11.12.180 ESTATES FOR LIFE--REMAINDERS. If any person,
32 by last will, devise any real estate to any person for the term of
33 such person's life, such devise vests in the devisee an estate for

1 life, and unless the remainder is specially devised, it shall revert
2 to the heirs at law of the testator.

3 Sec. 11.12.190 WILL TO OPERATE ON AFTER-ACQUIRED PROPERTY.
4 Any estate, right or interest in property acquired by the testator
5 after the making of his will may pass thereby and in like manner as if
6 title thereto was vested in him at the time of making the will, unless
7 the contrary manifestly appears by the will to have been the intention
8 of the testator.

9 Sec. 11.12.200 CONTRIBUTION AMONG DEVISEES AND LEGATEES. When
10 any testator in his last will shall give any chattel or real estate to
11 any person, and the same shall be taken in execution for the payment
12 of the testator's debts, then all the other legatees, devisees and
13 heirs shall refund their proportional part of such loss to such per-
14 son from whom the bequest shall be taken.

15 Sec. 11.12.210 ENFORCEMENT OF CONTRIBUTION. When any devisees,
16 legatees or heirs shall be required to refund any part of the estate
17 received by them, for the purpose of making up the share, devise or
18 legacy of any other devisee, legatee or heir, the court, upon the
19 petition of the person entitled to contribution or distribution of
20 such estate, may order the same to be made and enforce such order.

21 Sec. 11.12.220 NO INTEREST ON DEVISE UNLESS WILL SO PROVIDES.
22 No interest shall be allowed or calculated on any devise contained in
23 any will unless such will expressly provides for such interest.

24 Sec. 11. 12.230 INTENT OF TESTATOR CONTROLLING. All courts
25 and others concerned in the execution of last wills shall have due re-
26 gard to the direction of the will, and the true intent and meaning of
27 the testator, in all matters brought before them.

28 Sec. 11.12.250 DEVISES OR BEQUESTS TO TRUSTS. A devise or be-
29 quest may be made by a will to a trustee or trustees of a trust crea-
30 ted by the testator and/or some other person or persons (including a
31 funded or unfunded life insurance trust, although the trustor has re-
32 served any or all rights of ownership of the insurance contracts) es-
33 tablishe^d by written instrument executed before or concurrently with

1 the execution of such will. Such devise or bequest shall not be in-
2 valid because the trust is amendable or revocable, or both, or be-
3 cause the trust was amended after the execution of the will. Unless
4 the will provides otherwise, the property so devised or bequeathed
5 shall not be deemed to be held under a testamentary trust of the tes-
6 tator but shall become a part of the trust to which it is given to be
7 administered and disposed of in accordance with the provisions of the
8 instrument establishing such trust, including any amendments thereto,
9 made prior to the death of the testator, regardless of whether made be-
10 fore or after the execution of the will. An entire revocation of the
11 trust prior to the testator's death shall invalidate the devise or be-
12 quest.

13 Chapter 11.16

14 JURISDICTION--VENUE--NOTICES

15 Sec. 11.16.050 VENUE. Wills shall be proved and letters tes-
16 tamentary or of administration shall be granted:

17 (1) In the county of which deceased was a resident or had his
18 place of abode at the time of his death.

19 (2) In the county in which he may have died, or in which any
20 part of his estate may be, he not being a resident of the state.

21 (3) In the county in which any part of his estate may be, he
22 having died out of the state, and not having been a resident thereof
23 at the time of his death.

24 Sec. 11.16.060 PROPERTY OF NONRESIDENT IN MORE THAN ONE COUN-
25 TY--JURISDICTION. When the estate of the deceased is in more than one
26 county, he not having been a resident of the state at the time of his
27 death, the superior court of that county in which the application is
28 first made for letters testamentary or of administration shall have
29 exclusive jurisdiction of the settlement of the estate.

30 Sec. 11.16.070 PROCEEDINGS HAD IN COUNTY WHERE LETTERS GRANTED.
31 All orders, settlements, trials and other proceedings, under this ti-
32 tle shall be had or made in the county in which letters testamentary
33 or of administration were granted.

House Amendment to Engrossed Senate Bill No. 6
By Representative Smith

On page 23, section 11.16.081, line 11 of the
printed and engrossed bills after "(c)" strike
"By ordinary mail, or by" and insert "By"
Adopted 3/10/65

1 Sec. 11.16.081 NOTICE. (1) When notice to be given. No no-
2 tice to interested persons need be given except as specifically pro-
3 vided for in this title or as ordered by the court in a particular
4 case.

5 (2) Kinds of notice required. Unless waived and except as
6 otherwise provided by law, all notices required by this title to be
7 served upon any person shall be served either

8 (a) By delivering a copy of the same at least ten days before
9 the hearing to such person personally; or

10 (b) By such publication as the court may direct; or

11 (c) By ordinary mail, or by registered or certified mail re-
12 questing a return receipt signed by addressee only, addressed to such
13 person located in the United States at his address stated in the peti-
14 tion for the hearing, to be posted by depositing in any United States
15 post office in this state at least fourteen days prior to the date set
16 for hearing in said notice; or

17 (d) By any combination of two or more of the above.

18 (3) Service on attorney. If an attorney shall have entered
19 his appearance in writing for any party in any probate proceeding or
20 matter pending in the court, all notices required to be served on the
21 party in such proceeding or matter shall be served on the attorney and
22 such shall be in lieu of service upon the party for whom the attorney
23 appears.

24 Sec. 11.16.082. PROOF OF SERVICE. Proof of service in all
25 cases requiring notice, whether by publication, mailing or otherwise,
26 shall be filed in the cause.

27 Sec. 11.16.083 WAIVER OF NOTICE. Any person legally competent
28 who is interested in any hearing in a probate proceeding may in person
29 or by attorney waive in writing notice of such hearing. A guardian of
30 the estate or a guardian ad litem may make such a waiver on behalf of
31 his incompetent, and a trustee may make such a waiver on behalf of the
32 beneficiary of his trust. A consul or other representative of a for-
33 eign government, whose appearance has been entered as provided by law

1 on behalf of any person residing in a foreign country, may make such
2 waiver of notice on behalf of such person. Any person who submits to
3 the jurisdiction of the court in any hearing shall be deemed to have
4 waived notice thereof.

5 Chapter 11.20

6 CUSTODY, PROOF AND PROBATE OF WILLS

7 Sec. 11.20.010 DUTY OF CUSTODIAN OF WILL--LIABILITY. Any per-
8 son having the custody or control of any will shall, within thirty
9 days after he shall have received knowledge of the death of the tes-
10 tator, deliver said will to the court having jurisdiction or to the
11 person named in the will as executor, and any executor having in his
12 custody or control any will shall within forty days after he received
13 knowledge of the death of the testator deliver the same to the court
14 having jurisdiction. Any person who shall wilfully violate any of the
15 provisions of this section shall be liable to any party aggrieved for
16 the damages which may be sustained by such violation.

17 Sec. 11.20.020 APPLICATION FOR PROBATE--HEARING--ORDER--TESTI-
18 MONY OF WITNESSES REDUCED TO WRITING. Applications for the probate of
19 a will and for letters testamentary, or either, may be made to the
20 judge of the court having jurisdiction and the court may immediately
21 hear the proofs and either probate or reject such will as the testi-
22 mony may justify. Upon such hearing the court shall make and cause to
23 be entered a formal order, either establishing and probating such will
24 or refusing to establish and probate the same, and such order shall be
25 conclusive except in the event of a contest of such will as hereinaf-
26 ter provided. All testimony in support of the will shall be reduced
27 to writing, signed by the witnesses, and certified by the judge of the
28 court.

29 Sec. 11.20.030 COMMISSION TO TAKE TESTIMONY OF WITNESS. If
30 any witness be prevented by sickness from attending at the time any
31 will is produced for probate, or reside out of the state or more than
32 thirty miles from the place where the will is to be proven, such court
33 may issue a commission annexed to such will, and directed to any judge

1 justice of the peace, notary public, or other person authorized to ad-
2 minister an oath, empowering him to take and certify the attestation
3 of such witness.

4 Sec. 11.20.040 PROOF WHERE ONE OR MORE WITNESSES ARE UNABLE OR
5 INCOMPETENT TO TESTIFY. The subsequent incompetency from whatever
6 cause of one or more of the subscribing witnesses or their inability
7 to testify in open court or pursuant to commission, shall not prevent
8 the probate of the will. In such cases the court shall admit the will
9 to probate upon satisfactory testimony that the handwriting of the tes-
10 tator and of an incompetent or absent subscribing witness is genuine
11 or the court may consider such other facts and circumstances, if any,
12 as would tend to prove such will.

13 Sec. 11.20.050 FILING AND RECORDING OF WILLS. All wills shall
14 be recorded in the book kept for that purpose, within thirty days af-
15 ter probate, and the original wills shall be carefully filed with the
16 clerk, but may be withdrawn on the order of the court.

17 Sec. 11.20.060 RECORD OF WILL AS EVIDENCE. The record of any
18 will made, probated and recorded as herein provided, and the exemplifi-
19 cation of such record by the clerk in whose custody the same may be,
20 shall be received as evidence, and shall be as effectual in all cases
21 as the original would be if produced and proven.

22 Sec. 11.20.070 PROOF OF LOST OR DESTROYED WILL. Whenever any
23 will is lost or destroyed, the court may take proof of the execution
24 and validity of such will and establish it, notice to all persons in-
25 terested having been first given. Such proof shall be reduced to writ-
26 ing and signed by the witnesses and filed with the clerk of the court.

27 No will shall be allowed to be proved as a lost or destroyed
28 will unless it is proved to have been in existence at the time of the
29 death of the testator, or is shown to have been destroyed, canceled or
30 mutilated in whole or in part as a result of actual or constructive
31 fraud or in the course of an attempt to change the will in whole or in
32 part, which attempt has failed, or as the result of a mistake of fact,
33 nor unless its provisions are clearly and distinctly proved by at

1 least two witnesses, and when any such will is so established, the pro-
2 visions thereof shall be distinctly stated in the judgment establish-
3 ing it, and such judgment shall be recorded as wills are required to
4 be recorded. Executors of such will or administrators with the will
5 annexed may be appointed by the court in the same manner as is herein
6 provided with reference to original wills presented to the court for
7 probate.

8 Sec. 11.20.080 RESTRAINT OF PERSONAL REPRESENTATIVE DURING
9 PENDENCY OF APPLICATION TO PROVE LOST OR DESTROYED WILL. If, before
10 or during the pendency of an application to prove a lost or destroyed
11 will, letters of administration shall have been granted on the estate
12 of the testator, or letters testamentary of any previous will of the
13 testator shall have been granted, the court shall have authority to
14 restrain the personal representatives so appointed, from any acts or
15 proceedings which would be injurious to the legatees or devisees claim-
16 ing under the lost or destroyed will.

17 Sec. 11.20.090 ADMISSION TO PROBATE OF FOREIGN WILL. Wills
18 probated in any other state or territory of the United States, or in
19 any foreign country or state, shall be admitted to probate in this
20 state on the production of a copy of such will and of the original
21 record of probate thereof, authenticated by the attestation of the
22 clerk of the court in which such probate was made; or if there be no
23 clerk, by the attestation of the judge thereof, and by the seal of such
24 officers, if they have a seal.

25 Sec. 11.20.100 LAWS APPLICABLE TO FOREIGN WILLS. All provi-
26 sions of law relating to the carrying into effect of domestic wills
27 after probate thereof shall, so far as applicable, apply to foreign
28 wills admitted to probate in this state.

29 Chapter 11.24

30 WILL CONTESTS

31 Sec. 11.24.010 CONTEST OF ADMISSION OR REJECTION--LIMITATION
32 OF ACTION--ISSUES. If any person interested in any will shall appear
33 within six months immediately following the probate or rejection

1 thereof, and by petition to the court having jurisdiction contest the
2 validity of said will, or appear to have the will proven which has
3 been rejected, he shall file a petition containing his objections and
4 exceptions to said will, or to the rejection thereof. Issue shall be
5 made up, tried and determined in said court respecting the competency
6 of the deceased to make a last will and testament, or respecting the
7 execution by a deceased of such last will and testament under restraint
8 or undue influence or fraudulent representations, or for any other
9 cause affecting the validity of such will.

10 If no person shall appear within the time aforesaid, the pro-
11 bate or rejection of such will shall be binding and final.

12 Sec. 11.24.020 CITATIONS ON CONTEST. Upon the filing of the
13 petition referred to in RCW 11.24.010, a citation shall be issued to
14 the executors who have taken upon themselves the execution of the will
15 or to the administrators with the will annexed, and to all legatees
16 named in the will residing in the state, or to their guardians if any
17 of them are minors, or their personal representatives if any of them
18 are dead, requiring them to appear before the court, on a day therein
19 specified, to show cause why the petition should not be granted.

20 Sec. 11.24.030 BURDEN OF PROOF. In any such contest proceed-
21 ings the previous order of the court probating, or refusing to pro-
22 bate, such will shall be prima facie evidence of the legality of such
23 will, if probated, or its illegality, if rejected, and the burden of
24 proving the illegality of such will, if probated, or the legality of
25 such will, if rejected by the court, shall rest upon the person con-
26 testing such probation or rejection of the will.

27 Sec. 11.24.040 REVOCATION OF PROBATE. If, upon the trial of
28 said issue, it shall be decided that the will is for any reason invalid,
29 or that it is not sufficiently proved to have been the last will of
30 the testator, the will and probate thereof shall be annulled and re-
31 voked, and thereupon and thereafter the powers of the executor or
32 administrator with the will annexed shall cease, but such executor or
33 administrator shall not be liable for any act done in good faith

1 such manner as the court may determine, unless such applicant show to
2 the satisfaction of the court that there is no surviving spouse or
3 that he or she has in writing waived the right to administer upon such
4 community property.

5 Sec. 11.28.040 PROCEDURE DURING MINORITY OR ABSENCE OF EXECU-
6 TOR. If the executor be a minor or absent from the state, letters of
7 administration with the will annexed shall be granted, during the time
8 of such minority or absence, to some other person unless there be an-
9 other executor who shall accept the trust, in which case the estate
10 shall be administered by such other executor until the disqualifica-
11 tion shall be removed, when such minor, having arrived at full age, or
12 such absentee, having returned, shall be admitted as joint executor
13 with the former, provided a nonresident of this state may qualify as
14 provided in RCW 11.36.010.

15 Sec. 11. 28.050 POWERS OF REMAINING EXECUTORS ON REMOVAL OF
16 ASSOCIATE. When any of the executors named shall not qualify or hav-
17 ing qualified shall become disqualified or be removed, the remaining
18 executor or executors shall have the authority to perform every act
19 and discharge every trust required by the will, and their acts shall
20 be effectual for every purpose.

21 Sec. 11.28.060 ADMINISTRATION WITH WILL ANNEXED ON DEATH OF
22 EXECUTOR. No executor of an executor shall, as such, be authorized to
23 administer upon the estate of the first testator, but on the death of
24 the sole or surviving executor of any last will, letters of administra-
25 tion with the will annexed, on the estate of the first testator left
26 unadministered, shall be issued.

27 Sec. 11. 28.070 AUTHORITY OF ADMINISTRATOR WITH WILL ANNEXED.
28 Administrators with the will annexed shall have the same authority as
29 the executor named in the will would have had, and their acts shall be
30 as effectual for every purpose: PROVIDED, That they shall not lease,
31 mortgage, pledge, exchange, sell or convey any real or personal prop-
32 erty of the estate except under order of the court and pursuant to
33 procedure under existing laws pertaining to the administration of

1 estates in cases of intestacy, unless the powers expressed in the will
2 are directory and not discretionary.

3 Sec. 11.28.090 EXECUTION AND FORM OF LETTERS TESTAMENTARY.

4 Letters testamentary to be issued to executors under the provisions of
5 this chapter shall be signed by the clerk, and issued under the seal
6 of the court, and may be in the following form:

7 State of Washington, county of

8 In the superior court of the county of

9 Whereas, the last will of A B, deceased, was, on the
10 day of, A. D.,, duly exhibited, proven,
11 and recorded in our said superior court; and whereas, it appears in
12 and by said will that C D is appointed executor thereon, and, whereas,
13 said C D has duly qualified, now, therefore, know all men by these
14 presents, that we do hereby authorize the said C D to execute said
15 will according to law.

16 Witness my hand and the seal of said court this
17 day of, A.D. 19.....

18 Sec. 11.28.100 FORM OF LETTERS WITH WILL ANNEXED. Letters of
19 administration with the will annexed shall be in substantially the
20 same form as provided for letters testamentary.

21 Sec. 11.28.110 APPLICATION FOR LETTERS OF ADMINISTRATION. Ap-
22 plication for letters of administration shall be made by petition in
23 writing, signed and verified by the applicant or his attorney, and
24 filed with the court, which petition shall set forth the facts essen-
25 tial to giving the court jurisdiction of the case, and state, if known,
26 the names, ages and residences of the heirs of the deceased and that
27 the deceased died without a will.

28 Sec. 11.28.120 PERSONS ENTITLED TO LETTERS. Administration of
29 the estate of the person dying intestate shall be granted to some one
30 or more of the persons hereinafter mentioned, and they shall be respec-
31 tively entitled in the following order:

32 (1) The surviving husband or wife, or such person as he or she
33 may request to have appointed.

1 (2) The next of kin in the following order: (a) child or child-
2 ren; (b) father or mother; (c) brothers or sisters; (d) grandchildren;
3 (e) nephews or nieces.

4 (3) One or more of the principal creditors.

5 (4) If the persons so entitled shall fail for more than forty
6 days after the death of the intestate to present a petition for let-
7 ters of administration, or if it appear to the satisfaction of the
8 court that there are no relatives or next of kin, as above specified
9 eligible to appointment, or they waive their right, and there are no
10 principal creditor or creditors, or such creditor or creditors waive
11 their right, then the court may appoint any suitable person to adminis-
12 ter such estate.

13 Sec. 11.28.130 HEARING ON PETITION. When a petition for gen-
14 eral letters of administration or for letters of administration with
15 the will annexed shall be filed, the matter shall not be heard for at
16 least ten days thereafter and the clerk shall have authority to fix
17 the time of hearing: PROVIDED, That if the petition be presented by or
18 on behalf of the surviving spouse, the court may at once hear the mat-
19 ter, make appointment, and cause letters of administration to be is-
20 sued: PROVIDED FURTHER, That if there be a surviving spouse, and the
21 petition be presented by anyone other than the surviving spouse prior
22 to forty days after the death of the decedent, notice to the surviving
23 spouse shall be given of the time and place of such hearing at least
24 ten days before the hearing. The surviving spouse may waive notice of
25 hearing in a writing filed in the cause.

26 Sec. 11.28.140 FORM OF LETTERS OF ADMINISTRATION. Letters of
27 administration shall be signed by the clerk, and be under the seal of
28 the court, and may be substantially in the following form:

29 State of Washington, County of
30 Whereas, A.B., late ofon or about the
31 day ofA.D.,died intestate, leaving at the
32 time of his death, property in this state subject to administration:
33 Now, therefore, know all men by these presents, that we do hereby

1 appoint.....administrator upon said estate
2 and whereas said administrator has duly qualified, hereby authorize
3 him to administer the same according to law.

4 Witness my hand and the seal of said court thisday
5 ofA.D., 19.....

6 Sec. 11.28.150 REVOCATION OF LETTERS BY DISCOVERY OF WILL. If
7 after letters of administration are granted a will of the deceased be
8 found and probate thereof be granted, the letters shall be revoked and
9 letters testamentary or of administration with the will annexed, shall
10 be granted.

11 Sec. 11.28.160 CANCELLATION OF LETTERS OF ADMINISTRATION. The
12 court appointing any personal representative shall have authority for
13 any cause deemed sufficient, to cancel and annul such letters and ap-
14 point other personal representatives in the place of those removed.

15 Sec. 11.28.170 OATH OF PERSONAL REPRESENTATIVE. Before let-
16 ters testamentary or of administration are issued, each personal rep-
17 resentative or an officer of a bank or trust company qualified to act
18 as a personal representative, must take and subscribe an oath, before
19 some person authorized to administer oaths, that the duties of the
20 trust as personal representative will be performed according to law,
21 which oath must be filed in the cause and recorded.

22 Sec. 11.28.180 BOND OF PERSONAL REPRESENTATIVE--EXCEPTIONS.
23 Every person to whom letters testamentary or of administration are
24 directed to issue must, before receiving them, execute a bond to the
25 state of Washington, except as hereinafter provided, with such surety,
26 or sureties, as the court may judge sufficient, which bond shall be in
27 a sum to be fixed by the court, and which bond must be conditioned
28 that the personal representative shall faithfully execute the duties
29 of the trust according to law, and such bond shall be approved by the
30 court. The court may at any time and for any reason require the per-
31 sonal representative to give additional bonds, the same to be condi-
32 tioned and to be approved as above provided; or, the court may allow
33 a reduction of the bond upon proper showing. When the petition for

1 letters testamentary or of administration is made by or upon the writ-
2 ten request of the surviving spouse and the court is satisfied from
3 the petition and the evidence introduced at the hearing thereon that
4 the value of the estate does not exceed the exemptions allowed by law
5 to the surviving spouse, the court in its discretion may order that
6 letters testamentary or of administration be issued without bond; and
7 in all other estates where it appears from the petition for letters
8 testamentary or of administration and from the evidence submitted at
9 the hearing thereon that the value of the estate does not exceed five
10 hundred dollars and that the rights of heirs and creditors will not be
11 jeopardized thereby, the court may order that letters testamentary or
12 of administration be issued without bond; and in all cases where a
13 bank or trust company authorized to act as personal representative is
14 appointed as personal representative or acts as personal representative
15 under an appointment as such heretofore made, no bond shall be re-
16 quired.

17 Sec. 11. 28.190 EXAMINATION OF SURETIES--ADDITIONAL SECURITY--
18 COSTS. Before the judge approves any bond required under this chap-
19 ter, and after its approval, he may, of his own motion, or upon the
20 motion of any person interested in the estate, supported by affidavit
21 that the sureties, or some one or more of them, are not worth as much
22 as they have justified to, order a citation to issue, requiring such
23 sureties to appear before him at a designated time and place, to be
24 examined touching their property and its value; and the judge must, at
25 the same time, cause notice to be issued to the personal representa-
26 tive, requiring his appearance on the return of the citation, and on
27 its return he may examine the sureties and such witnesses as may be
28 produced touching the property of the sureties and its value; and if
29 upon such examination he is satisfied that the bond is insufficient he
30 must require sufficient additional security. If the bond and sure-
31 ties are found by the court to be sufficient, the costs incident to
32 such hearing shall be taxed against the party instituting such hear-
33 ing. As a part of such costs the sureties appearing shall be allowed

1 such fees and mileage as witnesses are allowed in civil proceedings:
2 PROVIDED, That when the citation herein referred to is issued on the
3 motion of the court, no costs shall be imposed.

4 Sec. 11.28.200 WAIVER OF BOND BY WILL. When it is expressly
5 provided in the will that no bonds shall be required of the executor,
6 letters testamentary may issue and sale of real estate be made and
7 confirmed without any bond, unless the court for good cause requires
8 one to be executed; but the executor may at any time afterwards, if
9 it appear from any cause necessary or proper, be required to file a
10 bond, as in other cases.

11 Sec. 11.28.210 NEW OR ADDITIONAL BOND. Any person interested
12 may at any time by verified petition to the court, or otherwise, com-
13 plain of the sufficiency of any bond or sureties thereon, and the
14 court may upon such petition, or upon its own motion, and with or with-
15 out hearing upon the matter, require the personal representative to
16 give a new, or additional bond, or bonds, and in all such matters the
17 court may act in its discretion and make such orders and citations as
18 to it may seem right and proper in the premises.

19 Sec. 11. 28.220 PERSONS DISQUALIFIED AS SURETIES. No judge of
20 the superior court, no sheriff, clerk of a court, or deputy of either,
21 and no attorney at law shall be taken as surety on any bond required
22 to be taken in any proceeding in probate.

23 Sec. 11. 28.230 BOND NOT VOID FOR WANT OF FORM--SUCCESSIVE RE-
24 COVERIES. No bond required under the provisions of this chapter, and
25 intended as such bond, shall be void for want of form, recital or con-
26 dition; nor shall the principal or surety on such account be discharged,
27 but all the parties thereto shall be held and bound to the full extent
28 contemplated by the law requiring the same, to the amount specified in
29 such bond. In all actions on such defective bond the plaintiff may
30 state its legal effect in the same manner as though it were a perfect
31 bond. The bond shall not be void upon the first recovery, but may be
32 sued and recovered upon, from time to time, by any person aggrieved in
33 his own name, until the whole penalty is exhausted.

1 Sec. 11.28.235 LIMITATION OF ACTION AGAINST SURETIES. All ac-
2 tions against sureties shall be commenced within six years after the
3 revocation or surrender of letters of administration or death of the
4 principal.

5 Sec. 11.28.237 NOTICE OF APPOINTMENT AS PERSONAL REPRESENTA-
6 TIVE. Within twenty days after his appointment, the personal repre-
7 sentative of the estate of a decedent shall cause written notice of
8 his said appointment, and of the pendency of said probate proceedings,
9 to be mailed to each heir, distributee, and, in addition, in the case
10 of a will, to each person named therein whose names and addresses are
11 known to him, and proof of such mailing shall be made by affidavit and
12 filed in the cause.

13 Sec. 11.28.240 REQUEST FOR SPECIAL NOTICE OF PROCEEDINGS IN
14 PROBATE. At any time after the issuance of letters testamentary or
15 of administration upon the estate of any decedent, any person inter-
16 ested in said estate as heir, devisee, distributee, legatee or credi-
17 tor whose claim has been duly served and filed, or attorney for such
18 heir, devisee, distributee, legatee, or creditor may serve upon the
19 personal representative (or upon the attorney for such personal rep-
20 resentative) and file with the clerk of the court wherein the adminis-
21 tration of such estate is pending, a written request stating that he
22 desires special notice of any or all of the following named matters,
23 steps or proceedings in the administration of said estate, to wit:

- 24 (1) Filing of petitions for sales, leases, exchanges or mort-
25 gages of any property of the estate.
26 (2) Petitions for any order of solvency.
27 (3) Filing of accounts.
28 (4) Filing of petitions for distribution.
29 (5) Petitions by the personal representative for family allow-
30 ances and homesteads.
31 (6) The filing of a declaration of completion.
32 (7) The filing of the inventory.
33 (8) Notice of presentation of personal representative's claim

1 against the estate.

2 (9) Petition to continue a going business.

3 (10) Petition to borrow upon the general credit of the estate.

4 Such requests shall state the post office address of such heir,
5 devisee, distributee, legatee or creditor, or his attorney, and there-
6 after a brief notice of the filing of any of such petitions, accounts,
7 declaration, inventory or claim, except petitions for sale of perish-
8 able property, or other personal property which will incur expense or
9 loss by keeping, shall be addressed to such heir, devisee, distributee,
10 legatee or creditor, or his attorney, at his stated post office address
11 and deposited in the United States post office, with the postage there-
12 on prepaid, at least ten days before the hearing of such petition, ac-
13 count or claim; or personal service of such notices may be made on
14 such heir, devisee, distributee, legatee, or creditor, or attorney, not
15 less than five days before such hearing, and such personal service
16 shall be equivalent to such deposit in the post office, and proof of
17 mailing or of personal service must be filed with the clerk before the
18 hearing of such petition, account or claim. If upon the hearing it
19 shall appear to the satisfaction of the court that the said notice has
20 been regularly given, the court shall so find in its order or judgment,
21 and such judgment shall be final and conclusive.

22 Sec. 11. 28.250 REVOCATION OF LETTERS--CAUSES. Whenever the
23 court has reason to believe that any personal representative has
24 wasted, embezzled, or mismanaged, or is about to waste, or embezzle the
25 property of the estate committed to his charge, or has committed, or
26 is about to commit a fraud upon the estate, or is incompetent to act,
27 or is permanently removed from the state, or has wrongfully neglected
28 the estate, or has neglected to perform any acts as such personal rep-
29 resentative, or for any other cause or reason which to the court ap-
30 pears necessary, it shall have power and authority, after notice and
31 hearing to revoke such letters. The manner of the notice and of the
32 service of the same and of the time of hearing shall be wholly in the
33 discretion of the court, and if the court for any such reasons revokes

1 such letters the powers of such personal representative shall at once
2 cease, and it shall be the duty of the court to immediately appoint
3 some other personal representative, as in this title provided.

4 Sec. 11.28.260 -----PROCEEDINGS IN COURT OR CHAMBERS. The
5 applications and acts authorized by RCW 11.28.250 may be heard and de-
6 termined in court or at chambers. All orders made therein must be en-
7 tered upon the minutes of the court.

8 Sec. 11.28.270 POWERS OF REMAINING PERSONAL REPRESENTATIVES IF
9 LETTERS TO ASSOCIATES REVOKED. If there be more than one personal rep-
10 resentative of an estate, and the letters to part of them be revoked or
11 surrendered, or a part die or in any way become disqualified, those
12 who remain shall perform all the duties required by law.

13 Sec. 11.28.280 ADMINISTRATOR DE BONIS NON. If the personal
14 representative of an estate dies, resigns, or the letters are revoked
15 before the settlement of the estate, letters of administration of the
16 estate remaining unadministered shall be granted to those to whom ad-
17 ministration would have been granted if the original letters had not
18 been obtained, or the person obtaining them had renounced administra-
19 tion, and the administrator de bonis non shall perform like duties and
20 incur like liabilities as the former personal representative, and shall
21 serve as administrator with will annexed de bonis non in the event a
22 will has been admitted to probate.

23 Sec. 11. 28.290 ACCOUNTING ON DEATH, RESIGNATION, OR REVOCATION
24 TION OF LETTERS. If any personal representative resign, or his let-
25 ters be revoked, or he die, he or his representatives shall account
26 for, pay, and deliver to his successor or to the surviving or remain-
27 ing personal representatives, all money and property of every kind,
28 and all rights, credits, deeds, evidences of debt, and papers of every
29 kind, of the deceased, at such time and in such manner as the court
30 shall order on final settlement with such personal representative or
31 his legal representatives.

32 Sec. 11. 28.300 PROCEEDINGS AGAINST DELINQUENT PERSONAL REPRE-
33 SENTATIVE. The succeeding administrator, or remaining personal

1 representative may proceed by law against any delinquent former per-
2 sonal representative, or his personal representatives, or the sureties
3 of either, or against any other person possessed of any part of the
4 estate.

5 Chapter 11.32

6 SPECIAL ADMINISTRATORS

7 Sec. 11.32.010 APPOINTMENT OF. When, by reason of an action
8 concerning the proof of a will, or from any other cause, there shall be
9 a delay in granting letters testamentary or of administration, the
10 judge may, in his discretion, appoint a special administrator (other
11 than one of the parties) to collect and preserve the effects of the
12 deceased; and in case of an appeal from the decree appointing such
13 special administrator, he shall, nevertheless, proceed in the execu-
14 tion of his trust until he shall be otherwise ordered by the appellate
15 court.

16 Sec. 11.32.020 BOND. Every such administrator shall, before
17 entering on the duties of his trust, give bond, with sufficient surety
18 or sureties, in such sum as the judge shall order, payable to the state
19 of Washington, with conditions as required of an executor or in other
20 cases of administration: PROVIDED, That in all cases where a bank or
21 trust company authorized to act as administrator is appointed special
22 administrator or acts as special administrator under an appointment as
23 such heretofore made, no bond shall be required.

24 Sec. 11.32.030 POWERS AND DUTIES. Such special administrator
25 shall collect all the goods, chattels, money, effects, and debts of
26 the deceased, and preserve the same for the personal representative
27 who shall thereafter be appointed; and for that purpose may commence
28 and maintain suits as an administrator, and may also sell such perish-
29 able and other goods as the court shall order sold, and make family
30 allowances under the order of the court. The appointment may be for
31 a specified time, to perform duties respecting specific property, or
32 to perform particular acts, as stated in the order of appointment.
33 Such special administrator shall be allowed such compensation for his

1 appointed by will. But no trust company or national bank shall be en-
2 titled to qualify as such executor or guardian under any will hereafter
3 drawn by it, or its agents or employees, and no salaried attorney of
4 any such company shall be allowed any attorney fee for probating any
5 such will, or in relation to the administration or settlement of any
6 such estate, and no part of any attorney fee shall inure, directly or
7 indirectly, to the benefit of any trust company or national bank. And
8 when any person to whom letters testamentary or of administration have
9 been issued becomes disqualified to act because of becoming of unsound
10 mind, or being convicted of any crime or misdemeanor involving moral
11 turpitude, the court having jurisdiction shall revoke his or her let-
12 ters. A nonresident may be appointed to act as personal representa-
13 tive if he shall appoint an agent, who is a resident of the county
14 where such estate is being probated, or, who is an attorney of record
15 of the estate, upon whom service of all papers may be made; such ap-
16 pointment to be made in writing and filed by the clerk with other pa-
17 pers of such estate; and, unless bond has been waived as provided by
18 RCW 11.28.200, such nonresident personal representative shall file a
19 bond to be approved by the court.

20 Chapter 11.40

21 CLAIMS AGAINST ESTATE

22 Sec. 11.40.010 NOTICE TO CREDITORS--LIMITATION ON FILING

23 CLAIMS. Every personal representative shall, immediately after his
24 appointment, cause to be published in a legal newspaper published in
25 the county in which the estate is being administered, a notice that he
26 has been appointed and has qualified as such personal representative,
27 and therewith a notice to the creditors of the deceased, requiring all
28 persons having claims against the deceased to serve the same on the
29 personal representative or his attorney of record, and file with the
30 clerk of the court, together with proof of such service, within four
31 months after the date of the first publication of such notice. Such
32 notice shall be published once in each week for three successive weeks.
33 If a claim be not filed within the time aforesaid, it shall be barred.

1 Proof by affidavit of the publication of such notice shall be filed
2 with the court: PROVIDED, HOWEVER, In cases where all the property
3 is awarded to the widow, husband or children as in this title provid-
4 ed, the notice to creditors herein provided for may be omitted.

5 Sec. 11.40.020 AFFIDAVIT OF CLAIMANT. Every claim served
6 and filed as above provided shall be supported by the affidavit of
7 the claimant that the amount is justly due, that no payments have
8 been made thereon, and that there are no offsets to the same to the
9 knowledge of the claimant.

10 Sec. 11.40.030 ALLOWANCE OR REJECTION OF CLAIMS--FAILURE TO
11 ACT. When a claim, accompanied by the affidavit required in RCW
12 11.40.020 has been served and filed, it shall be the duty of the per-
13 sonal representative to indorse thereon his allowance or rejection,
14 with the day and date thereof. If he allow the claim, it shall be
15 presented to the judge of the court, who shall in the same manner
16 indorse on it his allowance or rejection, or he may by order allow
17 or reject the claim. If the personal representative reject the claim
18 in whole or in part, he shall notify the claimant forthwith of said
19 rejection and file in the office of the clerk an affidavit showing
20 such notification and the date thereof. Such notification shall be
21 by personal service or registered or certified mail and shall state
22 that the holder of the rejected claim must bring suit in the proper
23 court against the personal representative within thirty days after
24 notification of the rejection, otherwise the claim shall be forever
25 barred.

26 If the personal representative shall neglect for the period of
27 sixty days after service upon him or his attorney to act upon any such
28 claim, the claimant may take the matter up before the court and the
29 court may require the personal representative to act on such claim and
30 in its discretion may impose costs and attorney's fees.

31 Sec. 11.40.040 EFFECT OF ALLOWANCE. Every claim which has
32 been allowed by the personal representative and the said judge, shall
33 be ranked among the acknowledged debts of the estate to be paid in the

1 course of administration.

2 Sec. 11.40.050 JUDGE AS CREDITOR OF ESTATE. Any judge of a court
3 may present a claim against the estate of any decedent for allowance;
4 and if the personal representative allows such claim, he shall, in writ-
5 ing, designate some other judge of the superior court, who shall have the
6 same power to allow or reject it as he would have, had letters issued in
7 his court; and the claimant shall have, in the event of his claim being
8 rejected, all the rights incident to any other creditor against the estate.

9 Sec. 11.40.060 SUIT ON REJECTED CLAIM. When a claim is reject-
10 ed by either the personal representative or the court, the holder must
11 bring suit in the proper court against the personal representative
12 within thirty days after notification of the rejection, otherwise the
13 claim shall be forever barred.

14 Sec. 11.40.070 OUTLAWED CLAIMS. No claim shall be allowed by
15 the personal representative or court which is barred by the statute of
16 limitations.

17 Sec. 11.40.080 CLAIMS MUST BE PRESENTED. No holder of any
18 claim against a decedent shall maintain an action thereon, unless the
19 claim shall have been first presented as herein provided.

20 Sec. 11.40.090 LIMITATION TOLLED BY VACANCY. The time during
21 which there shall be a vacancy in the administration shall not be in-
22 cluded in any limitations herein prescribed.

23 Sec. 11.40.100 ACTION PENDING AT DEATH OF TESTATOR--SUBSTITU-
24 TION. If any action be pending against the testator or intestate at
25 the time of his death, the plaintiff shall within ninety days after
26 first publication of notice to creditors, serve on the personal rep-
27 resentative a motion to have such personal representative, as such,
28 substituted as defendant in such action, and, upon the hearing of such
29 motion, such personal representative shall be so substituted, unless,
30 at or prior to such hearing, the claim of plaintiff, together with
31 costs, be allowed by the personal representative and court. After the
32 substitution of such personal representative, the court shall proceed
33 to hear and determine the action as in other civil cases.

1 Sec. 11.40.110 PARTIAL ALLOWANCE OF CLAIM. Whenever any claim
2 shall have been filed and presented to a personal representative and
3 the court, and a part thereof shall be allowed, the amount of such al-
4 lowance shall be stated in the indorsement. If the creditor shall re-
5 fuse to accept the amount so allowed in satisfaction of his claim, he
6 shall recover no costs in any action he may bring against the personal
7 representative unless he shall recover a greater amount than that of-
8 fered to be allowed, exclusive of interest and costs.

9 Sec. 11.40.120 EFFECT OF JUDGMENT AGAINST PERSONAL REPRESENTA-
10 TIVE. The effect of any judgment rendered against any personal repre-
11 sentative shall be only to establish the amount of the judgment as an
12 allowed claim.

13 Sec. 11.40.130 JUDGMENT AGAINST DECEDENT--PAYMENT. When any
14 judgment has been rendered against the testator or intestate in his
15 lifetime, no execution shall issue thereon after his death, but it
16 shall be presented to the personal representative, as any other claim,
17 but need not be supported by the affidavit of the claimant, and if
18 justly due and unsatisfied, shall be paid in due course of administra-
19 tion: PROVIDED, HOWEVER, That if it be a lien on any property of the
20 deceased, the same may be sold for the satisfaction thereof, and the
21 officer making the sale shall account to the personal representative
22 for any surplus in his hands.

23 Sec. 11.40.140 CLAIM OF PERSONAL REPRESENTATIVE. If the per-
24 sonal representative is himself a creditor of the testator or intes-
25 tate, his claim, duly authenticated by affidavit, shall be filed and
26 presented for allowance or rejection to the judge of the court, and
27 its allowance by the judge shall be sufficient evidence of its correct-
28 ness. This section shall apply to nonintervention and all other wills.

29 Sec. 11.40.150 NOTICE TO CREDITORS WHEN PERSONAL REPRESENTA-
30 TIVE RESIGNS, DIES, OR IS REMOVED. In case of resignation, death or
31 removal for any cause of any personal representative, and the appoint-
32 ment of another or others, after notice has been given by publication
33 as required by RCW 11.40.010, by such personal representative first

1 appointed, to persons to file their claims against the decedent, it
2 shall be the duty of the successor or personal representative to cause
3 notice of such resignation, death or removal and such new appointment
4 to be published two successive weeks in a legal newspaper published in
5 the county in which the estate is being administered, but the time be-
6 tween the resignation, death or removal and such publication shall be
7 added to the time within which claims shall be filed as fixed by the
8 published notice to creditors unless such time shall have expired be-
9 fore such resignation or removal or death: PROVIDED, HOWEVER, That no
10 such notice shall be required if the period for filing claims was ful-
11 ly expired during the time that the former personal representative was
12 qualified.

13 Chapter 11.44

14 INVENTORY AND APPRAISEMENT

15 Sec. 11.44.015 INVENTORY. Within three months after his ap-
16 pointment, unless a longer time shall be granted by the court, every
17 personal representative shall make and return upon oath into the court
18 a true inventory of all of the property of the estate which shall have
19 come to his possession or knowledge, including a statement of all en-
20 cumbrances, liens or other secured charges against any item. Such
21 property shall be classified as follows:

- 22 (1) Real property, by legal description and assessed valuation
23 of land and improvements thereon;
24 (2) Corporation stock;
25 (3) Mortgages, bonds, notes and other written evidences of
26 debt;
27 (4) Bank accounts and money;
28 (5) Furniture and household goods;
29 (6) All other personal property accurately identified, in-
30 cluding the decedent's proportionate share in any partnership, but no
31 inventory of the partnership property shall be required of the person-
32 al representative.

33 Sec. 11.44.025 ADDITIONAL INVENTORY. Whenever any property

Engrossed Senate Bill No. 6
By Free Conference Committee

In the House amendment to Engrossed Senate Bill No. 6 by Representative Brachtenbach to page 45 of the printed and engrossed bills, after "by him" on line 6 of Sec. 11.44.070, strike all of the material down to and including "fees" on line 2, page 2 of the amendment.

Adopted March 11, 1965

House Amendment to Engrossed Senate Bill No. 6
By Representative Brachtenbach

Beginning on page 45, line 19 of the printed and engrossed bills strike all of Sections 11.44.055, 11.44.065, 11.44.070 and 11.44.080 and insert the following:

"Sec. 11.44.055. APPOINTMENT OF APPRAISER. The personal representative shall apply to the court for the appointment of a suitable disinterested person to appraise the property inventoried and the court shall appoint such appraiser.

If any part of the estate shall be in a county other than that in which the letters are issued, an appraiser residing in that county may be appointed or the same appraiser may act.

Sec. 11.44.060. The value of the estate and effects of deceased persons determined under the probate law shall be the value for appraisement and inheritance tax purposes, except where the same estate is valued for federal estate tax purposes, and the valuation is adjusted according to federal appraisement in accordance with RCW 83.40-.040.

Sec. 11.44.065. DUTIES OF APPRAISER. The appraiser shall determine and state in figures opposite each item contained in the inventory the fair net value thereof, as of the date of decedent's death, after deducting the encumbrances, liens and other secured charges thereon, and shall deliver such inventory and appraisement, certified by him under oath to the personal representative within thirty days following his appointment, unless a longer time shall be granted by the court.

Sec. 11.44.070. COMPENSATION OF APPRAISER. The appraiser shall receive as compensation for his service an amount as to the court shall seem just and reasonable, but not less than ten dollars nor more than one-tenth of one percent of the assets of the estate actually appraised by him: PROVIDED, That the valuation of moneys, bank and savings and loan association accounts, checks, bonds, and other

ESB No. 6 (cont.)

securities of fixed or readily determinable value shall not be used in computing any appraisal fees.

Sec. 11.44.080. DISPENSING WITH APPRAISEMENT. Where it is shown by the filing of the inventory, or other proof to the satisfaction of the court, that the whole estate consists of personal property of less value than one thousand dollars, exclusive of moneys, drafts, bank and savings and loan association accounts, checks, and of bonds or securities listed with a recognized securities market or exchange, an appraisement may be dispensed with, in the discretion of the court, and the court may accept the verified appraisal of the personal representative in lieu of an appraisal by an appraiser; and in such case the court need not appoint an appraiser or may revoke his appointment if already made."

Adopted 3/9/65

1 not mentioned in the inventory comes to the knowledge of a personal
2 representative, he shall cause the same to be inventoried and appraised
3 within thirty days after the discovery thereof, unless a longer time
4 shall be granted by the court.

5 Sec. 11.44.035 INVENTORY OR APPRAISEMENT MAY BE CONTRADICTED.
6 In an action against the personal representative where his administra-
7 tion of the estate, or any part thereof, is put in issue and the in-
8 ventory of the estate returned by him, or the appraisal thereof is
9 given in evidence, the same may be contradicted or avoided by evidence
10 Any party in interest in the estate may challenge the inventory or ap-
11 praisement at any stage of the probate proceedings.

12 Sec. 11.44.050 FAILURE TO RETURN INVENTORY--REVOCATION OF LET-
13 TERS. If any personal representative shall neglect or refuse to re-
14 turn the inventory within the period prescribed, or within such further
15 time as the court may allow, the court may revoke the letters tes-
16 tamentary or of administration; and the personal representative shall
17 be liable on his bond to any party interested for the injury sustained
18 by the estate through his neglect.

19 Sec. 11.44.055 APPOINTMENT OF APPRAISERS. The personal rep-
20 resentative shall apply to the court for the appointment of three suit-
21 able disinterested persons to appraise the property inventoried, one
22 of whom shall be the nominee of the supervisor of the inheritance tax
23 division of the tax commission of the state of Washington, unless said
24 supervisor waives his right to nominate an appraiser, and the court
25 shall appoint such appraisers.

26 If any part of the estate shall be in a county other than that
27 in which the letters are issued, appraisers residing in that county
28 may be appointed, or the same appraisers may act.

29 Sec. 11.44.065 DUTIES OF APPRAISERS. The appraisers shall de-
30 termine and state in figures opposite each item contained in the in-
31 ventory the fair net value thereof, as of the date of decedent's
32 death, after deducting the encumbrances, liens and other secured
33 charges thereon, and shall deliver such inventory and appraisalment,

1 certified by them under oath to the personal representative within
2 thirty days following their appointment, unless a longer time shall be
3 granted by the court.

4 Sec. 11.44.070 COMPENSATION OF APPRAISERS. The appraisers
5 shall be allowed such reasonable fees, necessary disbursements and ex-
6 penses as may be fixed by the court, which shall be paid by the per-
7 sonal representative as expenses of administration: PROVIDED, HOWEVER,
8 That in all estates appraised at over five thousand dollars, the ap-
9 praiser nominated by the supervisor of the inheritance tax division of
10 the tax commission of the state of Washington shall receive a fee of
11 one-tenth of one percent of the appraised value of the estate and no
12 more: AND PROVIDED FURTHER, That the valuation of moneys, drafts, bank
13 and savings and loan association accounts, checks, and of bonds or
14 securities listed with a recognized securities market or exchange
15 shall not be used in computing any appraisers fee.

16 Sec. 11.44.080 DISPENSING WITH APPRAISEMENT. Where it is
17 shown by the filing of the inventory, or other proof to the satisfac-
18 tion of the court, that the whole estate consists of personal proper-
19 ty of less value than one thousand dollars, exclusive of moneys, drafts
20 bank and savings and loan association accounts, checks, and of bonds
21 or securities listed with a recognized securities market or exchange,
22 an appraisal may be dispensed with in the discretion of the court
23 and the court may accept the verified appraisal of the personal repre-
24 sentative in lieu of an appraisal by appraisers; and in such case the
25 court need not appoint appraisers or may revoke their appointment if
26 already made.

27 Sec. 11.44.085 CLAIMS AGAINST PERSONAL REPRESENTATIVE TO BE
28 INCLUDED. The naming or the appointment of any person as personal
29 representative shall not operate as a discharge from any just claim
30 which the testator or intestate had against the personal representa-
31 tive, but the claim shall be included in the inventory and the person-
32 al representative shall be liable to the same extent as he would have
33 been had he not been appointed personal representative.

Senate Committee Amendment to Senate Bill No. 6
By Judiciary Committee

On page 46, Section 11.44.070, line 12, after
"more" strike all of the material down to and
including "fee" on line 15.

Adopted March 5, 1965

1 specifically authorizing a personal representative to continue any
2 business of decedent, and his estate is solvent, or a will providing
3 that the personal representative liquidate any business of decedent,
4 this section shall not apply.

5 The order shall specify:

6 (1) The extent of the authority of the personal representative
7 to incur liabilities;

8 (2) The period of time during which he may operate the busi-
9 ness;

10 (3) Any additional provisions or restrictions which the court
11 may, at its discretion, include.

12 Any interested person may for good cause require the personal
13 representative to show cause why the authority granted him should not
14 be limited or terminated. The order to show cause shall set forth the
15 manner of service thereof and the time and place of hearing thereon.

16 Sec. 11.48.030 CHARGEABLE WITH WHOLE ESTATE. Every personal
17 representative shall be chargeable in his accounts with the whole es-
18 tate of the deceased which may come into his possession. He shall not
19 be responsible for loss or decrease or destruction of any of the prop-
20 erty or effects of the estate, without his fault.

21 Sec. 11.48.040 NOT CHARGEABLE ON SPECIAL PROMISE TO PAY DECE-
22 DENT'S DEBTS UNLESS IN WRITING. No personal representative shall be
23 chargeable upon any special promise to answer damages, or to pay the
24 debts of the testator or intestate out of his own estate, unless the
25 agreement for that purpose, or some memorandum or note thereof, is in
26 writing and signed by such personal representative, or by some other
27 person by him thereunto specially authorized.

28 Sec. 11.48.050 ALLOWANCE OF NECESSARY EXPENSES. He shall be
29 allowed all necessary expenses in the care, management and settlement
30 of the estate.

31 Sec. 11.48.060 MAY RECOVER FOR EMBEZZLED OR ALIENATED PROPERTY
32 OF DECEDENT. If any person, before the granting of letters testamen-
33 tary or of administration, shall embezzle or alienate any of the

1 moneys, goods, chattels, or effects of any deceased person, he shall
2 stand chargeable, and be liable to the personal representative of the
3 estate, in the value of the property so embezzled or alienated, togeth-
4 er with any damage occasioned thereby, to be recovered for the benefit
5 of the estate.

6 Sec. 11.48.070 CONCEALED OR EMBEZZLED PROPERTY--PROCEEDINGS
7 FOR DISCOVERY. The court shall have authority to bring before it any
8 person or persons suspected of having in his possession or having con-
9 cealed, embezzled, conveyed or disposed of any of the property of the
10 estate of decedents or incompetents subject to administration under
11 this title, or who has in his possession or within his knowledge any
12 conveyances, bonds, contracts, or other writings which contain evi-
13 dence of or may tend to establish the right, title, interest or claim
14 of the deceased in and to any property. If such person be not in the
15 county in which the letters were granted, he may be cited and examined
16 either before the court of the county where found or before the court
17 issuing the order of citation, and if he be found innocent of the
18 charges he shall be entitled to recover costs of the estate, which
19 costs shall be fees and mileage of witnesses, statutory attorney's
20 fees, and such per diem and mileage for the person so charged as al-
21 lowed to witnesses in civil proceedings. Such party may be brought
22 before the court by means of citation such as the court may choose to
23 issue, and if he refuse to answer such interrogatories as may be put
24 to him touching such matters, the court may commithim to the county
25 jail, there to remain until he shall be willing to make such answers.

26 Sec. 11.48.080 UNCOLLECTIBLE DEBTS, LIABILITY FOR--PURCHASE OF
27 CLAIMS BY PERSONAL REPRESENTATIVE. No personal representative shall
28 be accountable for any debts due the estate, if it shall appear that
29 they remain uncollected without his fault. No personal representative
30 shall purchase any claim against the estate he represents, but the
31 personal representative may make application to the court for permis-
32 sion to purchase certain claims, and if it appears to the court to be
33 for the benefit of the estate that such purchase shall be made, the

1 court may make an order allowing such claims and directing that the
2 same may be purchased by the personal representative under such terms
3 as the court shall order, and such claims shall thereafter be paid as
4 are other claims, but the personal representative shall not profit
5 thereby.

6 Sec. 11.48.090 ACTIONS FOR RECOVERY OF PROPERTY AND ON CON-
7 TRACT. Actions for the recovery of any property or for the possession
8 thereof, and all actions founded upon contracts, may be maintained by
9 and against personal representatives in all cases in which the same
10 might have been maintained by and against their respective testators
11 or intestates.

12 Sec. 11.48.120 ACTION ON BOND OF PREVIOUS PERSONAL REPRESENTA-
13 TIVE. Any personal representative may in his own name, for the bene-
14 fit of all parties interested in the estate, maintain actions on the
15 bond of a former personal representative of the same estate.

16 Sec. 11.48.130 COMPROMISE OF CLAIMS. The court shall have
17 power to authorize the personal representative to compromise and com-
18 pound any claim owing the estate.

19 Sec. 11.48.140 RECOVERY OF DECEDENT'S FRAUDULENT CONVEYANCES.
20 When there shall be a deficiency of assets in the hands of a personal
21 representative, and when the deceased shall in his lifetime have con-
22 veyed any real estate, or any rights, or interest therein, with in-
23 tent to defraud his creditors or to avoid any right, duty or debt of
24 any person, or shall have so conveyed such estate, which deeds or con-
25 veyances by law are void as against creditors, the personal represent-
26 ative may, and it shall be his duty to, commence and prosecute to
27 final judgment any proper action for the recovery of the same, and
28 may recover for the benefit of the creditors all such real estate so
29 fraudulently conveyed, and may also, for the benefit of the creditors,
30 sue and recover all goods, chattels, rights and credits which may have
31 been so fraudulently conveyed by the deceased in his lifetime, what-
32 ever may have been the manner of such fraudulent conveyance.

33 Sec. 11.48.150 SEVERAL PERSONAL REPRESENTATIVES CONSIDERED AS

1 ONE. In an action against several personal representatives, they shall
2 all be considered as one person representing their testator or intes-
3 tate, and judgment may be given and execution issued against all of
4 them who are defendants in the action.

5 Sec. 11.48.160 DEFAULT JUDGMENT NOT EVIDENCE OF ASSETS--EXCEP-
6 TION. When a judgment is given against a personal representative for
7 want of answer, such judgment is not to be deemed evidence of assets
8 in his hands, unless it appear that the complaint alleged assets and
9 that the notice was served upon him.

10 Sec. 11.48.180 LIABILITY OF EXECUTOR DE SON TORT. No person
11 is liable to an action as executor of his own wrong for having taken,
12 received or interfered with the property of a deceased person, but is
13 responsible to the personal representatives of such deceased person for
14 the value of all property so taken or received, and for all injury
15 caused by his interference with the estate of the deceased.

16 Sec. 11.48.190 EXECUTOR OF EXECUTOR MAY NOT SUE FOR ESTATE OF
17 FIRST TESTATOR. An executor of an executor has no authority as such
18 to commence or maintain an action or proceeding relating to the estate
19 of the testator of the first executor, or to take any charge or con-
20 trol thereof.

21 Sec. 11.48.200 ARREST AND ATTACHMENT, WHEN, AUTHORIZED. In an
22 action against a personal representative as such, the remedies of ar-
23 rest and attachment shall not be allowed on account of the acts of his
24 testator or intestate, but for his own acts as such personal represent-
25 ative, such remedies shall be allowed for the same causes in the man-
26 ner and with like effect as in actions at law generally.

27 Sec. 11.48.210 COMPENSATION--ATTORNEY'S FEE. If testator by
28 will makes provision for the compensation of his personal representa-
29 tive, that shall be taken as his full compensation unless he files in
30 the court a written instrument renouncing all claim for the compensa-
31 tion provided by the will before qualifying as personal representative.
32 The personal representative, when no compensation is provided in the
33 will, or when he renounces all claim to the compensation provided in

1 the will, shall be allowed such compensation for his services as the
2 court shall deem just and reasonable. Additional compensation may be
3 allowed for his services as attorney and for other services not re-
4 quired of a personal representative. An attorney performing services
5 for the estate at the instance of the personal representative shall
6 have such compensation therefor out of the estate as the court shall
7 deem just and reasonable. Such compensation may be allowed at the
8 final account; but at any time during administration a personal repre-
9 sentative or his attorney may apply to the court for an allowance upon
10 the compensation of the personal representative and upon attorney's
11 fees. If the court finds that the personal representative has failed
12 to discharge his duties as such in any respect, it may deny him any
13 compensation whatsoever or may reduce the compensation which would
14 otherwise be allowed.

15 Chapter 11.52

16 PROVISIONS FOR FAMILY SUPPORT

17 Sec. 11.52.010 AWARD IN LIEU OF HOMESTEAD--AMOUNT--TIME FOR
18 FILING PETITION. If it is made to appear to the satisfaction of the
19 court that no homestead has been claimed in the manner provided by law,
20 either prior or subsequent to the death of the person whose estate is
21 being administered, then the court, after hearing and upon being satis-
22 fied that the funeral expenses, expenses of last sickness and of ad-
23 ministration have been paid or provided for, and upon petition for
24 that purpose, shall award and set off to the surviving spouse, if any,
25 property of the estate, either community or separate, not exceeding
26 the value of ten thousand dollars at the time of death, exclusive of
27 general taxes and special assessments which were liens at the time of
28 the death of the deceased spouse, and exclusive of any mortgage or
29 mechanic's, laborer's or materialmen's or vendor's liens upon the
30 property so set off, and exclusive of funeral expenses, expenses of
31 last sickness and administration, which expenses may be deducted from
32 the gross value in determining the value to be set off to the surviv-
33 ing spouse; provided that the court shall have no jurisdiction to make

1 such award unless the petition therefor is filed with the clerk within
2 six years from the date of the death of the person whose estate is be-
3 ing administered.

4 Sec. 11.52.012 AWARD--EFFECT--CONDITIONS UNDER WHICH AWARD MAY
5 BE DENIED OR REDUCED. Such award shall be made by an order or judg-
6 ment of the court and shall vest the absolute title, and thereafter
7 there shall be no further administration upon such portion of the es-
8 tate so set off, but the remainder of the estate shall be settled as
9 other estates: PROVIDED, That no property of the estate shall be award-
10 ed or set off, as in RCW 11.52.010 through 11.52.024 provided, to a
11 surviving spouse who has feloniously killed the deceased spouse: PRO-
12 VIDED FURTHER, That if it shall appear to the court, either (1) that
13 there are minor or incompetent children of the deceased by a former
14 marriage or by adoption prior to decedent's marriage to petitioner, or
15 (2) that the petitioning surviving spouse has abandoned his or her mi-
16 nor children or wilfully and wrongfully failed to provide for them, or
17 (3) if such surviving spouse or minor children are entitled to receive
18 property including insurance by reason of the death of the deceased
19 spouse in the sum of ten thousand dollars, or more, then the award in
20 lieu of homestead and exemptions shall lie in the discretion of the
21 court, and that whether there shall be an award and the amount thereof
22 shall be determined by the court, who shall enter such decree as shall
23 be just and equitable but not in excess of the award provided herein.

24 Sec. 11.52.014 AWARD--NOTICE OF HEARING--APPOINTMENT OF GUARD-
25 IAN AD LITEM FOR INCOMPETENTS. Notice of such hearing shall be given
26 in the manner prescribed in RCW 11.76.040. If there be any incompe-
27 tent heir of the decedent, the court shall appoint a guardian ad litem
28 for such incompetent heir, who shall appear at the hearing and repre-
29 sent the interest of such incompetent heir.

30 Sec. 11.52.016 AWARD--FINALITY--IS IN LIEU--EXEMPT FROM DEBTS
31 --WHICH LAW APPLIES. The order of judgment of the court making the
32 award or awards provided for in RCW 11.52.010 through 11.52.024 shall
33 be conclusive and final, except on appeal and except for fraud. The

1 awards in RCW 11.52.010 through 11.52.024 provided shall be in lieu of
2 all homestead provisions of the law and of exemptions. The said prop-
3 erty, when set aside as herein provided, shall be exempt from all
4 claims for the payment of any debt of the deceased or of the surviving
5 spouse existing at the time of death, whether such debt be individual
6 or community. Under RCW 11.52.010 through 11.52.024, the court shall
7 not award more property than could be awarded under the law in effect
8 at the time of the death of the deceased spouse.

9 Sec. 11.52.020 HOMESTEAD MAY BE AWARDED TO SURVIVOR--APPOINT-
10 MENT OF GUARDIAN AD LITEM. In event a homestead has been, or shall be
11 selected in the manner provided by law, whether the selection of such
12 homestead results in vesting the complete or partial title in the sur-
13 vivor, it shall be the duty of the court, upon petition of any person
14 interested, and upon being satisfied that the value thereof does not
15 exceed ten thousand dollars at the time of the death, exclusive of
16 general taxes and special assessments which were liens at the time of
17 the death of the deceased and exclusive of mortgages, mechanic's, la-
18 borer's, materialmen's or vendor's liens thereon, and exclusive of
19 funeral expenses, expenses of last sickness and of administration,
20 which expenses may be deducted from the gross value in determining the
21 value to be set off to the surviving spouse, to enter a decree, upon
22 notice as provided in RCW 11.52.014 or upon longer notice if the court
23 so orders, setting off and awarding such homestead to the survivor,
24 thereby vesting the title thereto in fee simple in the survivor: PRO-
25 VIDED, That if there be any incompetent heirs of the decedent, the
26 court shall appoint a guardian ad litem for such incompetent heir who
27 shall appear at the hearing and represent the interest of such incom-
28 petent heir.

29 Sec. 11.52.022 AWARD IN ADDITION TO HOMESTEAD--CONDITIONS UN-
30 DER WHICH SUCH AWARD MAY BE DENIED OR REDUCED. If the value of the
31 homestead, exclusive of all such liens, be less than ten thousand dol-
32 lars, the court, upon being satisfied that the funeral expenses, ex-
33 penses of last sickness and of administration, have been paid or

1 provided for, shall set off and award additional property, either sep-
2 arate or community, in lieu of such deficiency, so that the value of
3 the homestead, exclusive of all such liens and expenses when added to
4 the value of the other property awarded, exclusive of all such liens
5 and expenses shall equal ten thousand dollars: PROVIDED, That if it
6 shall appear to the court, either (1) there are incompetent children
7 of the deceased by a former marriage or by adoption prior to decedent's
8 marriage to petitioner, or (2) that the petitioning surviving spouse
9 has abandoned his or her minor children or wilfully and wrongfully
10 failed to provide for them, or (3) if such surviving spouse or incom-
11 petent children are entitled to receive property including insurance
12 by reason of the death of the deceased spouse in the sum of ten thou-
13 sand dollars, or more, then the award of property in addition to the
14 homestead, where the homestead is of less than ten thousand dollars
15 in value, shall lie in the discretion of the court, and that whether
16 there shall be an award in addition to the homestead and the amount
17 thereof shall be determined by the court, who shall enter such decree
18 as shall be just and equitable, but not in excess of the award provid-
19 ed herein.

20 Sec. 11.52.024 HOMESTEAD AND ADDITIONAL AWARD--FINALITY--IS IN
21 LIEU--EXEMPT FROM DEBTS--WHICH LAW APPLIES. Said decree shall parti-
22 cularly describe the said homestead and other property so awarded, and
23 such homestead and other property so awarded shall not be subject to
24 further administration, and such decree shall be conclusive and final,
25 except on appeal, and except for fraud, and such awards shall be in
26 lieu of all further homestead rights and of all exemptions. The prop-
27 erty in addition to the homestead, when set aside as herein provided,
28 shall be exempt from all claims for the payment of any debt of de-
29 ceased or of the surviving spouse existing at the time of death, wheth-
30 er such debt be individual or community. Under RCW 11.52.010 through
31 11.52.024, the court shall not award more property than could be a-
32 warded under the law in effect at the time of the death of the de-
33 ceased spouse.

Senate Committee Amendment to Senate Bill No. 6
By Judiciary Committee

On page 56, section 11.52.050, line 17, after "SENTATIVE." strike all of the material down to and including "representative." on line 21 and insert "If it is made to appear to the court that the amount of funeral expenses, expenses of last illness, expenses of administration, general taxes and special assessments which were liens at the time of the death of the deceased spouse together with the unpaid balance of any mortgage or mechanic's, laborer's or materialmen's, or vendor's liens upon the property to be set off under the provisions of RCW 11.52.010 through 11.52.024 together with the amount of the award to be made by the court under the provisions of RCW 11.52.010 through 11.52.040 shall be equal to the gross value of the decedent's estate subject to probate, then the court at the time of making such award shall enter its judgment setting aside all of the property of the estate, subject to the aforementioned charges, to the petitioner, shall order the estate closed, discharge the executor or administrator and exonerate the executor's or administrator's bond."

Adopted March 5, 1965

1 this chapter for the sale of such property shall apply so far as may
2 be.

3 Sec. 11.56.010 AUTHORITY TO SELL, LEASE OR MORTGAGE. The
4 court may order real or personal property sold, leased or mortgaged
5 for the purposes hereinafter mentioned but no sale, lease or mortgage
6 of any property of an estate shall be made except under an order of
7 the court, unless otherwise provided by law.

8 Sec. 11.56.015 PRIORITY. In determining what property of the
9 estate shall be sold, mortgaged or leased for any purpose provided by
10 RCW 11.56.020 and 11.56.030, there shall be no priority as between real
11 and personal property, except as provided by will, if any.

12 Sec. 11.56.020 SALE, LEASE OR MORTGAGE OF PERSONAL PROPERTY.
13 The court may at any time order any personal property, including for
14 purposes of this section a vendor's interest in a contract for the
15 sale of real estate, of the estate sold for the preservation of such
16 property or for the payment of the debts of the estate or the expenses
17 of administration or for the purpose of discharging any obligation of
18 the estate or for any other reason which may to the court seem right
19 and proper, and such order may be made either upon or without petition
20 therefor, and such sales may be either at public or private sale or by
21 negotiation and with or without notice of such sale, as the court may
22 determine, and upon such terms and conditions as the court may decide
23 upon. No notice of petition for sale of any personal property need be
24 given, except as provided in RCW 11.28.240, unless the court expressly
25 orders such notice.

26 Where personal property is sold prior to appraisement, the sale
27 price shall be deemed the value for appraisal. Personal property may
28 be mortgaged, pledged or leased for the same reasons and purposes, and
29 in the same manner as is hereinafter provided for real property.

30 Sec. 11.56.030 SALE, LEASE OR MORTGAGE OF REAL ESTATE--PETI-
31 TION--NOTICE--HEARING. Whenever it shall appear to the satisfaction
32 of the court that any portion or all of the real property should be
33 sold, mortgaged or leased for the purpose of raising money to pay the

1 debts and obligations of the estate, and the expenses of administra-
2 tion, inheritance and federal death tax or for the support of the fam-
3 ily, to make distribution, or for such other purposes as the court may
4 deem right and proper, the court may order the sale, lease or mortgage
5 of such portion of the property as appears to the court necessary for
6 the purpose aforesaid. It shall be the duty of the personal represent-
7 ative to present a petition to the court giving a description of all
8 the property of the estate and its character, the amount of the debts,
9 expenses and obligations of the estate and such other things as will
10 tend to assist the court in determining the necessity for the sale,
11 lease or mortgage and the amount thereof. Unless the court shall by
12 order expressly so provide, no notice of the hearing of such petition
13 for sale, lease or mortgage need be given, except as provided in RCW
14 11.28.240 hereof; if, however, the court should order notice of such
15 hearing, it shall determine upon the kind, character and time thereof.
16 At the hearing of such petition the court may have brought before it
17 such testimony or information as it may see fit to receive, for the
18 purpose of determining whether it should order any of the property of
19 the estate sold, leased or mortgaged. The absence of any allegation
20 in the petition shall not deprive the court of jurisdiction to order
21 said sale, lease or mortgage, and the court may, if it see fit, order
22 such sale, lease or mortgage without any petition having been previous-
23 ly presented.

24 Sec. 11.56.040 ORDER DIRECTING MORTGAGE. If the court should
25 determine that it is necessary or proper, for any of the said purposes
26 to mortgage any or all of said property, it may make an order direct-
27 ing the personal representative to mortgage such thereof as it may de-
28 termine upon, and such order shall contain the terms and conditions of
29 such transaction and authorize the personal representative to execute
30 and deliver his note or notes and secure the same by mortgage, and
31 thereafter it shall be the duty of such personal representative to com-
32 ply with such order. The personal representative shall not deliver
33 any such note, mortgage or other evidence of indebtedness until he has

1 first presented same to the court and obtained its approval of the
2 form. Every mortgage so made and approved shall be effectual to mort-
3 gage and encumber all the right, title and interest of the said es-
4 tate in the property described therein at the time of the death of the
5 said decedent, or acquired by his estate, and no irregularity in the
6 proceedings shall impair or invalidate any mortgage given under such
7 order of the court and approved by it.

8 Sec. 11.56.045 ORDER DIRECTING LEASE. If the court should de-
9 termine that it is necessary or proper, for any of the said purposes
10 to lease any or all of said property, it may make an order directing
11 the personal representative to lease such thereof as it may determine
12 upon, and such order shall contain the terms and conditions of such
13 transaction and authorize the personal representative to execute the
14 lease and thereafter it shall be the duty of the personal represent-
15 ative to comply with such order. The personal representative shall
16 not execute such lease until he has first presented the same to the
17 court and obtained its approval of the form.

18 Sec. 11.56.050 ORDER DIRECTING SALE. If the court should de-
19 termine that it is necessary to sell any or all of the real estate for
20 the purposes mentioned in this title, then it may make and cause to be
21 entered an order directing the personal representative to sell so much
22 of the real estate as the court may determine necessary for the pur-
23 poses aforesaid. Such order shall give a particular description of
24 the property to be sold and the terms of such sale and shall provide
25 whether such property shall be sold at public or private sale, or by
26 negotiation. The court shall order sold that part of the real estate
27 which is generally devised, rather than any part which may have been
28 specifically devised, but the court may, if it appears necessary, sell
29 any or all of the real estate so devised. After the giving of such
30 order it shall be the duty of the personal representative to sell such
31 real estate in accordance with the order of the court and as in this
32 title provided with reference to the public or private sales of real
33 estate.

1 Sec. 11.56.060 PUBLIC SALES--NOTICE. When real property is
2 directed to be sold by public sale, notice of the time and place of
3 such sale shall be published in a legal newspaper of the county in
4 which the estate is being administered, once each week for three suc-
5 cessive weeks before such sale, in which notices the property ordered
6 sold shall be described with proper certainty: PROVIDED, That where
7 real property is located in a county other than the county in which
8 the estate is being administered, publication shall also be made in
9 a legal newspaper of that county. At the time and place named in such
10 notices for the said sale, the personal representative shall proceed
11 to sell the property upon the terms and conditions ordered by the
12 court, and to the highest and best bidder. All sales of real estate
13 at public sale shall be made at the front door of the court house of
14 the county in which the lands are, unless the court shall by order
15 otherwise direct.

16 Sec. 11.56.070 POSTPONEMENT, ADJOURNMENT OF SALE--NOTICE. The
17 personal representative, should he deem it for the best interests of
18 all concerned, may postpone such sale to a time fixed but not to ex-
19 ceed twenty days, and such postponement shall be made by proclamation
20 of the personal representative at the time and place first appointed
21 for the sale; if there be an adjournment of such sale for more than
22 three days, then it shall be the duty of the personal representative
23 to cause a notice of such adjournment to be published in a legal news-
24 paper in the county in which notice was published as provided in RCW
25 11.56.060, in addition to making such proclamation.

26 Sec. 11.56.080 PRIVATE SALES OF REALTY--NOTICE--BIDS. When a
27 sale of real property is ordered to be made at private sale, notice of
28 the same must be published in a legal newspaper of the county in which
29 the estate is being administered, once a week for at least two succes-
30 sive weeks before the day on or after which the sale is to be made, in
31 which the lands and tenements to be sold must be described with com-
32 mon certainty: PROVIDED, That where real property is located in a
33 county other than the county in which the estate is being administered;

1 publication shall also be made in a legal newspaper of that county.
2 The notice must state the day on or after which the sale will be made
3 and the place where offers or bids will be received. The day last re-
4 ferred to must be at least fifteen days from the first publication of
5 notice and the sale must not be made before that day, but if made,
6 must be made within twelve months thereafter. The bids or offers must
7 be in writing, and may be left at the place designated in the notice
8 or delivered to the personal representative personally, or may be
9 filed in the office of the clerk of the court to which the return of
10 sale must be made, at any time after the first publication of the no-
11 tice and before the making of the sale. If it be shown that it will
12 be for the best interest of the estate the court or judge may, by an
13 order, shorten the time of notice, which shall not, however, be less
14 than one week, and may provide that the sale may be made on or after
15 a day less than fifteen, but not less than eight days from the first
16 publication of the notice of sale, and the sale may be made to corre-
17 spond with such order.

18 Sec. 11.56.090 MINIMUM PRICE--PRIVATE SALE--SALE BY NEGOTIATION
19 --REAPPRAISEMENT. No sale of real estate at private sale or sale by
20 negotiation shall be confirmed by the court unless the gross sum of-
21 ferred is at least ninety percent of the appraised value thereof, nor
22 unless such real estate shall have been appraised within one year im-
23 mediately prior to such sale. If it has not been so appraised, or if
24 the court is satisfied that the appraisement is too high or too low,
25 appraisers may be appointed, and they must make an appraisement there-
26 of in the same manner as in the case of the original appraisement of
27 the estate, and which appraisement may be made at any time before the
28 sale or the confirmation thereof.

29 Sec. 11.56.100 CONFIRMATION OF SALE--APPROVAL--RESALE. The
30 personal representative making any sale of real estate, either at pub-
31 lic or private sale, or sale by negotiation shall within ten days af-
32 ter making such sale file with the clerk of the court his return of
33 such sale, the same being duly verified. In the case of a sale by

1 negotiation the personal representative shall publish a notice in one
2 issue of a legal newspaper of the county in which the estate is being
3 administered; such notice shall include the legal description of the
4 property sold, the selling price and the date after which the sale can
5 be confirmed: PROVIDED, That such confirmation date shall be at least
6 ten days after such notice is published. At any time after the expir-
7 ation of ten days from the publication of such notice, in the case of
8 sale by negotiation, and at any time after the expiration of ten days
9 from the filing of such return, in the case of public or private sale
10 the court may approve and confirm such sale and direct proper instru-
11 ments of transfer to be executed and delivered. But if the court shall
12 be of the opinion that the proceedings were unfair, or that the sum
13 obtained was disproportionate to the value of the property sold, or
14 if made at private sale or sale by negotiation that it did not sell
15 for at least ninety percent of the appraised value as in RCW 11.56.090
16 provided, and that a sum exceeding said bid by at least ten percent
17 exclusive of the expense of a new sale, may be obtained, the court may
18 refuse to approve or confirm such sale and may order a resale. On a
19 resale, notice shall be given and the sale shall be conducted in all
20 respects as though no previous sale had been made.

21 Sec. 11.56.110 OFFER OF INCREASED BID--DUTY OF COURT. If, at
22 any time before confirmation of any such sale, any person shall file
23 with the clerk of the court a bid on such property in an amount not
24 less than ten percent higher than the bid the acceptance of which was
25 reported by the return of sale and shall deposit with the clerk not
26 less than twenty percent of his bid, to be forfeited to the estate un-
27 less such bidder complies with his bid, the bidder whose bid was ac-
28 cepted shall be informed of such increased bid by registered or certi-
29 fied mail addressed to such bidder at any address which may have been
30 given by him at the time of making such bid. Such bidder then shall
31 have a period of five days, not including holidays, in which to make
32 and file a bid better than that of the subsequent bidder. After the
33 expiration of such five-day period the court may refuse to confirm the

1 sale reported in the return of sale and direct a sale to the person
2 making the best bid then on file, indicating which is the best bid,
3 and a sale made pursuant to such direction shall need no further con-
4 firmation. Instead of such a direction, the court, upon application
5 of the personal representative, may direct the reception of sealed
6 bids. Thereupon the personal representative shall mail notice by reg-
7 istered or certified mail to all those who have made bids on such prop-
8 erty informing them that sealed bids will be received by the clerk of
9 the court within ten days. At the expiration of such period the per-
10 sonal representative, in the presence of the clerk of the court, shall
11 open such bids as shall have been submitted to the clerk within the
12 time stated in the notice (whether by previous bidders or not) and
13 shall file a recommendation of the acceptance of the bid which he deems
14 best in view of the requirements of the particular estate. The court
15 may thereupon direct a sale to the bidder whose bid is deemed best by
16 the court and a sale made pursuant to such direction shall need no
17 confirmation: PROVIDED, HOWEVER, That the court shall consider the
18 net realization to the estate in determining the best bid.

19 Sec. 11.56.115 EFFECT OF CONFIRMATION. No petition or allega-
20 tion thereof for the sale of real estate shall be considered jurisdic-
21 tional, and confirmation by the court of any sale shall be absolutely
22 conclusive as to the regularity of all proceedings leading up to and in-
23 cluding such sale, and no instrument of conveyance of real estate made
24 after confirmation of sale by the court shall be open to attack upon
25 any grounds whatsoever except for fraud, and the confirmation by the
26 court of any such sale shall be conclusive proof that all statutory
27 provisions and all orders of the court with reference to such sale
28 have been complied with.

29 Sec. 11.56.120 CONVEYANCE AFTER CONFIRMATION OF SALE. Upon
30 the confirmation of any such sale the court shall direct the personal
31 representative to make, execute and deliver instruments conveying the
32 title to the person to whom such property may be sold, and such instru-
33 ments of conveyance shall be deemed to convey all the estate, rights

1 and interests of the testator or intestate at the death of the deceased
2 and any interest acquired by the estate.

3 Sec. 11.56.140 SALE, LEASE OR MORTGAGE OF REALTY TO PAY LEGACY.

4 When a testator shall have given any legacy by will that is effectual
5 to charge real estate, and his goods, chattels, rights and credits
6 shall be insufficient to pay such legacy, together with the debts and
7 charges of administration, the personal representative, with the will
8 annexed, may obtain an order to sell, mortgage or lease his real es-
9 tate for that purpose in the same manner and upon the same terms and
10 conditions as prescribed in this chapter in case of a sale, mortgage
11 or lease for the payments of the debts.

12 Sec. 11.56.150 APPROPRIATION TO PAY DEBTS AND EXPENSES. If
13 the provision made by the will or the estate appropriated be not suf-
14 ficient to pay the debts and expenses of administration and family ex-
15 penses, such part of the estate as shall not have been disposed of by
16 the will, if any, shall be appropriated for that purpose, according
17 to the provisions of this chapter.

18 Sec. 11.56.160 LIABILITY OF DEVISEES AND LEGATEES FOR DEBTS
19 AND EXPENSES. The estate, real and personal, given by the will to any
20 legatees or devisees, shall be held liable for the payment of the
21 debts, the expenses of administration and allowances to the family, in
22 proportion to the value or amount of the several devises or legacies,
23 if there shall not be other sufficient estate, except that specific
24 devises or legacies may be exempted, if it appear to the court neces-
25 sary to carry into effect the intention of the testator.

26 Sec. 11.56.170 CONTRIBUTION AMONG DEVISEES AND LEGATEES. When
27 the estate given by any will has been sold for the payment of debts
28 and expenses, all the devisees and legatees shall be liable to contri-
29 bute, according to their respective interests, to any devisee or lega-
30 tee from whom the estate devised to him may be taken for the payments
31 of the debts or expenses; and the court, when distribution is made,
32 shall by decree for that purpose, settle the amount of the several
33 liabilities and decree how much each person shall contribute.

1 Sec. 11.56.180 SALE OF DECEDENT'S CONTRACT INTEREST IN LAND.

2 If the deceased person at the time of his death was possessed of a
3 contract for the purchase of lands, his interest in such lands under
4 such contract may be sold on the application of his personal represent-
5 ative in the same manner as if he died seized of such lands; and the
6 same proceedings may be had for that purpose as are prescribed in this
7 title in respect to lands of which he died seized, except as herein-
8 after provided.

9 Sec. 11.56.210 ASSIGNMENT OF DECEDENT'S CONTRACT. Upon the
10 confirmation of such sale, the personal representative shall execute
11 to the purchaser an assignment of the contract and deed, which shall
12 vest in the purchaser, his heirs and assigns, all the right, title and
13 interest of the persons entitled to the interest of the deceased in
14 the land sold at the time of the sale, and such purchaser shall have
15 the same rights and remedies against the vendor of such lands as the
16 deceased would have had if living.

17 Sec. 11.56.220 REDEMPTION OF DECEDENT'S MORTGAGED ESTATE. If
18 any person die having mortgaged any real or personal estate, and shall
19 not have devised the same, or provided for any redemption thereof by
20 will, the court, upon the application of any person interested, may
21 order the personal representative to redeem the estate out of the as-
22 sets, if it should appear to the satisfaction of the court that such
23 redemption would be beneficial to the estate and not injurious to
24 creditors.

25 Sec. 11.56.230 SALE OR MORTGAGE TO EFFECT REDEMPTION. If it
26 shall be made to appear to the satisfaction of the court that it will
27 be to the interest of the estate of any deceased person to sell or
28 mortgage other personal estate or to sell or mortgage other real es-
29 tate of the decedent than that mortgaged by him to redeem the property
30 so mortgaged, the court may order the sale or mortgaging of any per-
31 sonal estate, or the sale or mortgaging of any real estate of the de-
32 cedent which it may deem expedient to be sold or mortgaged for such
33 purpose, which sale or mortgaging shall be conducted in all respects

1 as other sales or mortgages of like property ordered by the court.

2 Sec. 11.56.240 SALE OF MORTGAGED PROPERTY IF REDEMPTION INEX-
3 PEDIENT. If such redemption be not deemed expedient, the court shall
4 order such property to be sold at public or private sale, which sale
5 shall be with the same notice and conducted in the same manner as re-
6 quired in other cases of real estate or personal property provided for
7 in this title, and shall be sold subject to such mortgage, and the per-
8 sonal representative shall thereupon execute a conveyance thereof to
9 the purchaser, which conveyance shall be effectual to convey to the
10 purchaser all the right, title, and interest which the deceased had in
11 the property, and the purchase money, after paying the expenses of the
12 sale, shall be applied to the residue in due course of administration.

13 Sec. 11.56.250 SALES DIRECTED BY WILL. When property is di-
14 rected by will to be sold, or authority is given in the will to sell
15 property, the executor may sell any property of the estate without the
16 order of the court, and without any notice, and it shall not be nec-
17 essary under such circumstances to make any application to the court
18 with reference to such sales or have the same confirmed by the court.

19 Sec. 11.56.265 BROKERS FEE AND CLOSING EXPENSES--SALE, MORT-
20 GAGE OR LEASE. In connection with the sale, mortgage or lease of prop-
21 erty, the court may authorize the personal representative to pay, out
22 of the proceeds realized therefrom or out of the estate, the customary
23 and reasonable auctioneer's and broker's fees and any necessary expen-
24 ses for abstracting, title insurance, survey, revenue stamps and other
25 necessary costs and expenses in connection therewith.

26 Sec. 11.56.280 BORROWING ON GENERAL CREDIT OF ESTATE--PETITION
27 --NOTICE--HEARING. Whenever it shall appear to the satisfaction of
28 the court that money is needed to pay debts of the estate, expenses of
29 administration, inheritance tax, or estate tax, the court may by order
30 authorize the personal representative to borrow such money, on the
31 general credit of the estate, as appears to the court necessary for
32 the purposes aforesaid. The time for repayment, rate of interest and
33 form of note authorized shall be as specified by the court in its

1 order. The money borrowed pursuant thereto shall be an obligation of
2 the estate repayable with the same priority as unsecured claims filed
3 against the estate. It shall be the duty of the personal representa-
4 tive to present a petition to the court giving a description of all
5 the property of the estate and its character, the amount of the debts,
6 expenses and tax obligations and such other things as will tend to as-
7 sist the court in determining the necessity for the borrowing and the
8 amount thereof. Unless the court shall by order expressly so provide,
9 no notice of the hearing of such petition need be given, except to
10 persons who have requested notice under the provisions of RCW 11.28-
11 .240; if, however, the court should order notice of such hearing, it
12 shall determine upon the kind, character and time thereof. At the
13 hearing of such petition the court may have brought before it such
14 testimony or information as it may see fit to receive, for the fore-
15 going purpose. The absence of any allegation in the petition shall
16 not deprive the court of jurisdiction to authorize such borrowing.

17 Chapter 11.60

18 PERFORMANCE OF DECEDENT'S CONTRACTS

19 Sec. 11.60.010 ORDER FOR PERFORMANCE ON APPLICATION OF PERSON-
20 AL REPRESENTATIVE. If any person, who is bound by contract, in writ-
21 ing, shall die before performing said contract, the superior court of
22 the county in which the estate is being administered, may upon appli-
23 cation of the personal representative, without notice, make an order
24 authorizing and directing the personal representative to perform such
25 contract.

26 Sec. 11.60.020 PETITION, NOTICE AND HEARING WHEN PERSONAL REP-
27 RESENTATIVE FAILS TO MAKE APPLICATION. If the personal representative
28 fails to make such application, then any person claiming to be entitled
29 to such performance under such contract, may present a petition set-
30 ting forth the facts upon which such claim is predicated. Notice of
31 hearing shall be in accordance with the provisions of RCW 11.16.081.

32 Sec. 11.60.030 HEARING. At the time appointed for such hear-
33 ing, or at such other time as the same may be adjourned to, upon proof

1 of service of the notice as provided in RCW 11.16.081, the court shall
2 proceed to a hearing and determine the matter.

3 Sec. 11.60.040 CONVEYANCE OF REAL PROPERTY--EFFECT. In the
4 case of real property, a conveyance executed under the provisions of
5 this title shall so refer to the order authorizing the conveyance that
6 the same may be readily found, but need not recite the record in the
7 case generally, and the conveyance made in pursuance of such order
8 shall pass to the grantee all the estate, right, title and interest
9 contracted to be conveyed by the deceased, as fully as if the contract-
10 ing party himself were still living and executed the conveyance in pur-
11 suance of such contract.

12 Sec. 11.60.060 PROCEDURE ON DEATH OF PERSON ENTITLED TO PER-
13 FORMANCE. If the person entitled to performance shall die before the
14 commencement of the proceedings according to the provisions of this
15 title or before the completion of performance, any person who would
16 have been entitled to the performance under him, as heir, devisee, or
17 otherwise, in case the performance had been made according to the
18 terms of the contract, or the personal representative of such deceased
19 person, for the benefit of persons entitled, may commence such proceed-
20 ings, or prosecute the same if already commenced; and the performance
21 shall inure to the persons who would have been entitled to it, or to
22 the personal representative for their benefit.

23 Chapter 11.64

24 PARTNERSHIP PROPERTY

25 Sec. 11.64.002 INVENTORY AND APPRAISEMENT ON DEATH OF PARTNER
26 --FILING. Within thirty days after the death of a partner the surviv-
27 ing partner or partners shall file a verified inventory of the assets
28 of the partnership in the superior court in which letters testamentary
29 or of administration are issued on the estate of the decedent, or, if
30 no letters are issued, in the court of the county of which the dece-
31 dent was resident at the time of his death. The inventory shall state
32 the value of the assets as shown by the books of the partnership and a
33 list of the liabilities of the partnership. If letters testamentary

1 or of administration have been issued on the estate of the decedent,
2 the surviving partner or partners shall cause the assets of the part-
3 nership to be appraised in like manner as the individual property of a
4 deceased person, which appraisal shall include the value of the assets
5 of the partnership and a list of the liabilities. The appraisers ap-
6 pointed by the court under RCW 11.44 055 to appraise the property of
7 the deceased partner may appraise the partnership property, and the sur-
8 viving partner or partners shall file the inventory and appraisal with
9 the court in which the estate of the deceased partner is being adminis-
10 tered: PROVIDED, That if the surviving partner or partners cannot pre-
11 pare an inventory within thirty days after the death of the decedent,
12 the court may, on application made within said thirty day period and
13 for good cause shown, grant an extension of time not to exceed an ad-
14 ditional three months, within which time such inventory may be filed.

15 Sec. 11.64.008 SURVIVING PARTNER MAY CONTINUE IN POSSESSION--
16 ACCOUNTING. The surviving partner or partners may continue in posses-
17 sion of the partnership estate, pay its debts, and settle its business,
18 and shall account to the personal representative of the decedent and
19 shall pay over such balances as may, from time to time, be payable to
20 him. Upon the verified petition of the personal representative, or on
21 its own motion, the court, whenever it appears necessary, may order
22 the surviving partner or partners to account to said court.

23 Sec. 11.64.016 SECURITY MAY BE REQUIRED. If the surviving
24 partner or partners commit waste, or if it appears to the court that it
25 is for the best interest of the estate of the decedent, such court may
26 order the surviving partner or partners to give security for the faith-
27 ful settlement of the partnership affairs and the payment to the per-
28 sonal representative of any amount due the estate.

29 Sec. 11.64.022 FAILURE TO FILE INVENTORY, APPRAISAL, ETC.--
30 SHOW CAUSE--RECEIVER. If the surviving partner or partners fail or
31 refuse to file the inventory, list of liabilities or appraisal, or if
32 it appears proper to order the surviving partner or partners to ac-
33 count to the court or to file a bond, said court shall order a citation

1 to issue requiring the surviving partner or partners to appear and
2 show cause why they have not filed an inventory, list of liabilities
3 or appraisal or why they should not account to the court or file a
4 bond. The citation shall be served not less than ten days before the
5 return day designated therein. If the surviving partner or partners
6 neglect or refuse to file an inventory, list of liabilities or apprais-
7 al, or fail to account to the court or to file a bond, after they have
8 been directed to do so, they may be punished for a contempt or the
9 court may commit them to jail until they comply with the order of the
10 court. Where the surviving partner or partners fail to file a bond
11 after being ordered to do so by the court, the court may also appoint
12 a receiver of the partnership estate with like powers and duties of
13 receivers in equity, and order the costs and expenses of the proceed-
14 ings to be paid out of the partnership estate or out of the estate of
15 the decedent, or by the surviving partner or partners personally, or
16 partly by each of the parties.

17 Sec. 11.64.030 SURVIVOR MAY PURCHASE DECEASED'S INTEREST--PRO-
18 TECTION AGAINST PARTNERSHIP LIABILITIES. The surviving partner or the
19 surviving partners jointly, shall have the right at any time to peti-
20 tion the court to purchase the interests of a deceased partner in the
21 partnership. Upon such petition being presented the court shall, in
22 such manner as it sees fit, learn and by order fix the value of the
23 interest of the deceased over and above all partnership debts and obli-
24 gations, and the terms and conditions upon which the surviving partner
25 or partners may purchase, and thereafter the surviving partner or part-
26 ners shall have the preference right for such length of time as the
27 court may fix, to purchase the interest of the deceased partner at the
28 price and upon the terms and conditions fixed by the court. If any
29 such surviving partner be also the personal representative of the es-
30 tate of the deceased partner, such fact shall not affect his right to
31 purchase, or to join with the other surviving partners to purchase
32 such interest in the manner hereinbefore provided.

33 The court shall make such orders in connection with such sale

1 to be entered a decree finding and adjudging that all debts have been
2 paid, finding and adjudging also the heirs and those entitled to take
3 under the will and distributing the property to the persons entitled
4 thereto. Such decree shall be made after notice given as provided for
5 like decrees in the estates of persons dying intestate. If no appli-
6 cation for a final decree is filed, the executor shall, when the ad-
7 ministration of the estate has been completed, file a written declara-
8 tion to that effect, and thereupon his powers shall cease.

9 The obtaining of any interim order by the executor of a nonin-
10 tervention will shall not be deemed to be a waiver of the noninterven-
11 tion powers of such executor.

12 Sec. 11.68.020 EXECUTOR OF NONINTERVENTION WILL MAY DECLINE.
13 In all cases, if the party named in such will as executor declines to
14 execute the trust or dies or is otherwise disabled for any cause from
15 acting as such executor, letters testamentary or of administration
16 shall issue and the estate be settled as in other cases.

17 Sec. 11.68.030 PROCEDURE WHEN EXECUTOR RECREANT TO TRUST. If
18 the person named in the will fails to execute the trust faithfully and
19 to take care and promote the interest of all parties, then, upon peti-
20 tion of a creditor of the estate, or of any of the heirs, or of any
21 person on behalf of any minor heir, the court shall cite such person
22 to appear before it, and if, upon hearing of the petition it appears
23 that the trust in such will is not faithfully discharged, and that the
24 parties interested, or any of them, have been or are about to be dam-
25 aged by the doings of the executor, then, in the discretion of the
26 court, administration may be had and required as is required in the
27 administration of estates, and in all such cases the costs of the ci-
28 tation and hearing shall be charged against the party failing and neg-
29 lecting to execute the trust as required in the will.

30 Sec. 11.68.040 POWERS OF EXECUTOR UNDER NONINTERVENTION WILL--
31 PRESUMPTION OF NECESSITY. Executors acting under nonintervention wills
32 may, if the estate has been adjudged solvent, mortgage, lease, sell,
33 exchange, and convey the real and personal property of the testator,

1 and borrow money on the general credit of the estate, without an or-
2 der of the court for that purpose and without notice, approval, or
3 confirmation, and in all other respects administer and settle the es-
4 tate without the intervention of the court. The other party to any
5 such transaction and his successors in interest shall be entitled to
6 have it conclusively presumed that such transaction is necessary for
7 the administration of the estate.

8 Chapter 11.72

9 DISTRIBUTION BEFORE SETTLEMENT

10 Sec. 11.72.002 DELIVERY OF SPECIFIC PROPERTY TO DISTRIBUTE
11 BEFORE FINAL DECREE. Upon application of the personal representative,
12 with or without notice as the court may direct, the court may order
13 the personal representative to deliver to any distributee who consents
14 to it, possession of any specific real or personal property to which
15 he is entitled under the terms of the will or by intestacy, provided
16 that other distributees and claimants are not prejudiced thereby. The
17 court may at any time prior to the decree of final distribution order
18 him to return such property to the personal representative, if it is
19 for the best interests of the estate. The court may require the dis-
20 tributee to give security for such return.

21 Sec. 11.72.006 PARTIAL DISTRIBUTION--DISTRIBUTION OF PART OF
22 ESTATE. After the expiration of the time limited for the filing of
23 claims and before final settlement of the accounts of the personal
24 representative, a partial distribution may be decreed, with notice to
25 interested persons, as the court may direct. Such distribution shall
26 be as conclusive as a decree of final distribution with respect to the
27 estate distributed except to the extent that other distributees and
28 claimants are deprived of the fair share or amount which they would
29 otherwise receive on final distribution. Before a partial distribution
30 is so decreed, the court may require that security be given for the
31 return of the property so distributed to the extent necessary to satis-
32 fy any distributees and claimants who may be prejudiced as aforesaid
33 by the distribution. In the event of a request for a partial

1 distribution asked by a person other than the personal representative
2 of the estate, the costs of such proceedings and a reasonable allow-
3 ance for attorneys fees shall be assessed against the applicant or ap-
4 plicants for the benefit of the estate.

5 Chapter 11.76

6 SETTLEMENT OF ESTATES

7 Sec. 11.76.010 REPORT OF PERSONAL REPRESENTATIVE--CONTENTS--
8 INTERIM REPORTS. Not less frequently than annually from the date of
9 qualification, unless a final report has theretofore been rendered, the
10 personal representative shall make, verify by his oath, and file with
11 the clerk of the court a report of the affairs of the estate. Such
12 report shall contain a statement of the claims filed and allowed and
13 all those rejected, and if it be necessary to sell, mortgage, lease or
14 exchange any property for the purpose of paying debts or settling any
15 obligations against the estate or expenses of administration or allow-
16 ance to the family, he may in such report set out the facts showing
17 such necessity and ask for such sale, mortgage, lease or exchange; such
18 report shall likewise state the amount of property, real and personal,
19 which has come into his hands, and give a detailed statement of all
20 sums collected by him, and of all sums paid out, and it shall state
21 such other things and matters as may be proper or necessary to give
22 the court full information regarding any transactions by him done or
23 which should be done. Such personal representative may at any time,
24 however, make, verify, and file any reports which in his judgment
25 would be proper or which the court may order to be made.

26 Sec. 11.76.020 NOTICE OF HEARING--SETTLEMENT OF REPORT. It
27 shall not be necessary for the personal representative to give any no-
28 tice of the hearing of any report prior to the final report, except as
29 in RCW 11.28.240 provided, but the court may require notice of the
30 hearing of any such report.

31 Sec. 11.76.030 FINAL REPORT AND PETITION FOR DISTRIBUTION--
32 CONTENTS. When the estate shall be ready to be closed, such personal
33 representative shall make, verify and file with the court his final

1 report and petition for distribution. Such final report and petition
2 shall, among other things, show that the estate is ready to be settled
3 and shall show any moneys collected since the previous report, and any
4 property which may have come into the hands of the personal represent-
5 ative since his previous report, and debts paid, and generally the con-
6 dition of the estate at that time. It shall likewise set out the names
7 and addresses, as nearly as may be, of all the legatees and devisees
8 in the event there shall have been a will, and the names and addresses
9 as nearly as may be, of all the heirs who may be entitled to share in
10 such estate, and shall give a particular description of all the prop-
11 erty of the estate remaining undisposed of, and shall set out such
12 other matters as may tend to inform the court of the condition of the
13 estate, and it may ask the court for a settlement of the estate and
14 distribution of property and the discharge of the personal representa-
15 tive. If the personal representative has been discharged without hav-
16 ing legally closed the estate, without having legally obtained an ad-
17 judication as to the heirs, or without having legally procured a de-
18 cree of distribution or final settlement the court may in its discre-
19 tion upon petition of any person interested, cause all such steps to be
20 taken in such estate as were omitted or defective.

21 Sec. 11.76.040 TIME AND PLACE OF HEARING--NOTICES. When such
22 final report and petition for distribution, or either, has been filed,
23 the court, or the clerk of the court, shall fix a day for hearing it
24 which must be at least twenty days subsequent to the day of the pub-
25 lication as hereinafter provided. Notice of the time and place fixed
26 for the hearing shall be given by the personal representative by pub-
27 lishing a notice thereof in a legal newspaper published in the county
28 for one publication at least twenty days preceding the time fixed for
29 the hearing. It shall state in substance that a final report and
30 petition for distribution have, or either thereof has, been filed with
31 the clerk of the court, and that the court is asked to settle such re-
32 port, distribute the property to the heirs or persons entitled thereto,
33 and discharge the personal representative, and it shall give the time

1 and place fixed for the hearing of such final report and petition and
2 shall be signed by the personal representative or the clerk of the
3 court.

4 Whenever a final report and petition for distribution, or
5 either, shall have been filed in the estate of a decedent and a day
6 fixed for the hearing of the same, the personal representative of such
7 estate shall, not less than twenty days before the hearing, cause to
8 be mailed a copy of the notice of the time and place fixed for hearing
9 to each heir, distributee, and, in addition, in the case of a will, to
10 each person named therein, whose names and addresses are known to him,
11 and proof of such mailing shall be made by affidavit and filed at or
12 before the hearing.

13 Sec. 11.76.050 HEARING ON FINAL REPORT--DECREE OF DISTRIBUTION.
14 Upon the date fixed for the hearing of such final report and petition
15 for distribution, or either thereof, or any day to which such hearing
16 may have been adjourned by the court, if the court be satisfied that
17 the notice of the time and place of hearing has been given as provided
18 herein, it may proceed to the hearing aforesaid. Any person interested
19 may file objections to the said report and petition for distribution,
20 or may appear at the time and place fixed for the hearing thereof and
21 present his objections thereto. The court may take such testimony as
22 to it appears proper or necessary to determine whether the estate is
23 ready to be settled, and whether the transactions of the personal rep-
24 resentative should be approved, and to determine who are the legatees
25 or heirs or persons entitled to have the property distributed to them,
26 and the court shall, if it approves such report, and finds the estate
27 ready to be closed, cause to be entered a decree approving such report
28 find and adjudge the persons entitled to the remainder of the estate,
29 and that all debts have been paid, and by such decree shall distribute
30 the real and personal property to those entitled to the same. Upon the
31 production of receipts from the beneficiaries or distributees for their
32 portions of the estate, the court shall, if satisfied with the correct-
33 ness thereof, adjudge the estate closed and discharge the personal

1 representative.

2 The court may, upon such final hearing, partition among the
3 persons entitled thereto, the estate held in common and undivided, and
4 designate and distribute their respective shares; or assign the whole
5 or any part of said estate to one or more of the persons entitled to
6 share therein. The person or persons to whom said estate is assigned
7 shall pay or secure to the other parties interested in said estate
8 their just proportion of the value thereof as determined by the court
9 from the appraisal, or from any other evidence which the court may
10 require.

11 If it shall appear to the court at or prior to any final hear-
12 ing that the estate cannot be fairly divided, then the whole or any
13 part of said estate may be sold or mortgaged in the manner provided by
14 law for the sale or mortgaging of property by personal representatives
15 and the proceeds thereof distributed to the persons entitled thereto
16 as provided in the final decree.

17 The court shall have the authority to make partition, distribu-
18 tion and settlement of all estates in any manner which to the court
19 seems right and proper, to the end that such estates may be adminis-
20 tered and distributed to the persons entitled thereto. No estate shall
21 be partitioned, nor sale thereof made where partition is impracticable
22 except upon a hearing before the court and the court shall fix the
23 values of the several pieces or parcels to be partitioned at the time
24 of making such order of partition or sale; and may order the property
25 sold and the proceeds distributed, or may order partition and distri-
26 bute the several pieces or parcels, subject to such charges or burdens
27 as shall be proper and equitable.

28 The provisions of this section shall be concurrent with and not
29 in derogation of other statutes as to partition of property or sale.

30 Sec. 11.76.060 CONTINUANCE TO CITE IN SURETIES ON BOND WHEN
31 ACCOUNT INCORRECT. If, at any hearing upon any report of any personal
32 representative, it shall appear to the court before which said pro-
33 ceeding is pending that said personal representative has not fully

1 accounted to the beneficiaries of his trust and that said report
2 should not be approved as rendered, the court may continue said hear-
3 ing to a day certain and may cite the surety upon the bond of said
4 personal representative to appear upon the date fixed in said citation
5 and show cause why the account should not be disapproved and judgment
6 entered for any deficiency against said personal representative and
7 the surety upon his bond. Said citation shall be personally served
8 upon said surety in the manner provided by law for the service of sum-
9 mons in civil actions and shall be served not less than twenty days
10 previous to said hearing. At said hearing any interested party, in-
11 cluding the surety so cited, shall have the right to introduce any
12 evidence which shall be material to the matter before the court. If,
13 at said hearing, the report of said personal representative shall not
14 be approved and the court shall find that said personal representative
15 is indebted to the beneficiary of his trust in any amount, the court
16 may thereupon enter final judgment against said personal representative
17 and the surety upon his bond, which judgment shall be enforceable in
18 the same manner and to the same extent as judgments in ordinary civil
19 actions.

20 Sec. 11.76.070 ATTORNEY'S FEE TO CONTESTANT OF ERRONEOUS AC-
21 COUNT OR REPORT. If, in any probate or guardianship proceeding, any
22 personal representative shall fail or neglect to report to the court
23 concerning his trust and any beneficiary or other interested party
24 shall be reasonably required to employ legal counsel to institute le-
25 gal proceedings to compel an accounting, or if an erroneous account or
26 report shall be rendered by any personal representative and any bene-
27 ficiary of said trust or other interested party shall be reasonably
28 required to employ legal counsel to resist said account or report as
29 rendered, and upon a hearing an accounting shall be ordered, or the
30 account as rendered shall not be approved, and the said personal rep-
31 resentative shall be charged with further liability, the court before
32 which said proceeding is pending may, in its discretion, in addition
33 to statutory costs, enter judgment for reasonable attorney's fees in

1 favor of the person or persons instituting said proceedings and against
2 said personal representative, and in the event that the surety or
3 sureties upon the bond of said personal representative be made a party
4 to said proceeding, then jointly against said surety and said person-
5 al representative, which judgment shall be enforced in the same manner
6 and to the same extent as judgments in ordinary civil actions.

7 Sec. 11.76.080 REPRESENTATION OF INCOMPETENT BY GUARDIAN AD
8 LITEM. If there be any incompetent or person under disability inter-
9 ested in the estate who has no legally appointed guardian, the court
10 shall appoint some disinterested person, as guardian ad litem, to
11 represent such incompetent or person under disability, with reference
12 to any petition or proceeding in which the incompetent or person under
13 disability may have an interest, who, on behalf of the incompetent or
14 person under disability, may contest the same as any other person
15 interested might contest it, and who shall be allowed by the court
16 reasonable compensation for his services.

17 Sec. 11.76.090 DISTRIBUTION OF FIVE HUNDRED DOLLARS OR LESS TO
18 MINOR. When a decree of distribution is made by the court in adminis-
19 tration upon a decedent's estate and distribution is ordered to a per-
20 son under the age of twenty-one years, of a sum of five hundred dol-
21 lars or less, the court, in such order of distribution, shall order
22 the same paid to the clerk of the court wherein administration of such
23 estate is pending, and the same shall be paid by the clerk, for the
24 use and as the property of said minor, to the person named in said
25 order of distribution to receive the same, without requiring bond or
26 appointment of any guardian.

27 Sec. 11.76.095 DISTRIBUTION OF ESTATES TO MINORS. When a
28 decree of distribution is made by the court in administration upon a
29 decedent's estate or when distribution is made by an executor under a
30 nonintervention will and distribution is ordered under such decree or
31 authorized under such nonintervention will to a person under the age
32 of twenty-one years, and the value of such property or money is five
33 thousand dollars or less and there is no general guardian of the

1 incompetent, the court may require that

2 (1) the money be deposited in a bank or trust company or be
3 invested in an account in an insured savings and loan association for
4 the benefit of the incompetent subject to withdrawal only upon the
5 order of the court in the original probate proceeding, or

6 (2) in all other cases a general guardian shall be appointed
7 and qualify and the money or other property be paid or delivered to
8 such guardian prior to the discharge of the personal representative in
9 the original probate proceeding.

10 This section shall not bar distribution under RCW 11.76.090.

11 Sec. 11.76.100 RECEIPTS FOR EXPENSES TO BE PRODUCED BY PERSON-
12 AL REPRESENTATIVE. In rendering his accounts or reports the personal
13 representative shall produce receipts or canceled checks for the ex-
14 penses and charges which he shall have paid, which receipts shall be
15 filed and remain in court; however, he may be allowed any item of ex-
16 penditure, not exceeding twenty dollars, for which no receipt is pro-
17 duced, if such item be supported by his own oath, but such allowances
18 without receipts shall not exceed the sum of three hundred dollars in
19 any one estate.

20 Sec. 11.76.110 ORDER OF PAYMENT OF DEBTS. After payment of
21 costs of administration the debts of the estate shall be paid in the
22 following order:

23 (1) Funeral expenses in such amount as the court shall order.

24 (2) Expenses of the last sickness, in such amount as the court
25 shall order.

26 (3) Wages due for labor performed within sixty days immediately
27 preceding the death of decedent.

28 (4) Debts having preference by the laws of the United States.

29 (5) Taxes, or any debts or dues owing to the state.

30 (6) Judgments rendered against the deceased in his lifetime
31 which are liens upon real estate on which executions might have been
32 issued at the time of his death, and debts secured by mortgages in
33 the order of their priority.

1 (7) All other demands against the estate.

2 Sec. 11.76.120 LIMITATION ON PREFERENCE TO MORTGAGE OR JUDG-
3 MENT. The preference given in RCW 11.76.110 to a mortgage or judgment
4 shall only extend to the proceeds of the property subject to the lien
5 of such mortgage or judgment.

6 Sec. 11.76.130 EXPENSE OF MONUMENT. Personal representatives
7 of the estate of any deceased person are hereby authorized to expend a
8 reasonable amount out of the estate of the decedent to erect a monu-
9 ment or tombstone suitable to mark the grave or crypt of the said de-
10 cedent, and the expense thereof shall be paid as the funeral expenses
11 are paid.

12 Sec. 11.76.140 ALLOWANCE OF CLAIMS MUST PRECEDE PAYMENT. No
13 claim against the estate shall be paid until the same shall first have
14 been allowed by both the personal representative and the court.

15 Sec. 11.76.150 PAYMENT OF CLAIMS WHERE ESTATE INSUFFICIENT.
16 If the estate shall be insufficient to pay the debts of any class, each
17 creditor shall be paid in proportion to his claim, and no other credi-
18 tor of any lower class shall receive any payment until all those of
19 the preceding class shall have been fully paid.

20 Sec. 11.76.160 LIABILITY OF PERSONAL REPRESENTATIVE. Whenever
21 a decree shall have been made by the court for the payment of credi-
22 tors, the personal representative shall be personally liable to each
23 creditor for his claim or the dividend thereon, except when his inabil-
24 ity to make the payment thereof from the property of the estate shall
25 result without fault upon his part. The personal representative shall
26 likewise be liable on his bond to each creditor.

27 Sec. 11.76.170 ACTION ON CLAIM NOT ACTED ON--CONTRIBUTION. If,
28 after the accounts of the personal representative have been settled
29 and the property distributed, it shall appear that there is a creditor
30 or creditors whose claim or claims have been duly filed and not paid
31 or disallowed, the said claim or claims shall not be a lien upon any of
32 the property distributed, but the said creditor or creditors shall
33 have a cause of action against the personal representative and his

1 bond, for such an amount as such creditor or creditors would have been
2 entitled to receive had the said claim been duly allowed and paid, and
3 shall also have a cause of action against the distributees and credi-
4 tors for a contribution from them in proportion to the amount which
5 they have received. If the personal representative or his sureties
6 be required to make any payment in this section provided for, he or
7 they shall have a right of action against said distributees and credi-
8 tors to compel them to contribute their just share.

9 Sec. 11.76.180 ORDER MATURING CLAIM NOT DUE. If there be any
10 claim not due the court may in its discretion, after hearing upon such
11 notice as may be determined by it, mature such claim and direct that
12 the same be paid in the due course of the administration.

13 Sec. 11.76.190 PROCEDURE ON CONTINGENT AND DISPUTED CLAIMS.
14 If there be any contingent or disputed claim against the estate, the
15 amount thereof, or such part thereof as the holder would be entitled
16 to, if the claim were established or absolute, shall be paid into the
17 court, where it shall remain to be paid over to the party when he shall
18 become entitled thereto; or if he fail to establish his claim, to be
19 paid over or distributed as the circumstances of the case may require.

20 Sec. 11.76.200 AGENT FOR NONRESIDENT DISTRIBUTE. When any es-
21 tate has been or is about to be distributed by decree of the court as
22 provided in this chapter, to any person who has not been located, the
23 court shall appoint an agent for the purpose of representing the in-
24 terests of such person and of taking possession and charge of said
25 estate for the benefit of such absentee person: PROVIDED, That no
26 public official may be appointed as agent under this section.

27 Sec. 11.76.210 AGENT'S BOND. Such agent shall make, subscribe
28 and file an oath for the faithful performance of his duties, and shall
29 give a bond to the state, to be approved by the court, conditioned
30 faithfully to manage and account for such estate, before he shall be
31 authorized to receive any property of said estate.

32 Sec. 11.76.220 SALE OF UNCLAIMED ESTATE--REMITTANCE OF PRO-
33 CEEDS TO TAX COMMISSION. If the estate remains in the hands of the

1 agent unclaimed for three years, any property not in the form of cash
2 shall be sold under order of the court, and all funds, after deducting
3 a reasonable sum for expenses and services of the agent, to be fixed
4 by the court, shall be paid into the county treasury. The county
5 treasurer shall issue triplicate receipts therefor, one of which shall
6 be filed with the county auditor, one with the court, and one with the
7 tax commission. If the funds remain in the county treasury unclaimed
8 for a period of four years and ninety days, the county treasurer shall
9 forthwith remit them to the tax commission for deposit in the state
10 treasury in the fund in which escheats and forfeitures are by law re-
11 quired to be deposited.

12 Sec. 11.76.230 LIABILITY OF AGENT. The agent shall be liable
13 on his bond for the care and preservation of the estate while in his
14 hands, and for the payment of the funds to the county treasury, and
15 may be sued thereon by any person interested including the state.

16 Sec. 11.76.240 CLAIMANT TO PROCEEDS OF SALE. During the time
17 the estate is held by the agent, or within four years after it is de-
18 livered to the county treasury, claim may be made thereto only by the
19 absentee person or his legal representative, excepting that if it
20 clearly appears that such person died prior to the decedent in whose
21 estate distribution was made to him, but leaving lineal descendants
22 surviving, such lineal descendants may claim. If any claim to the es-
23 tate is made during the period specified above, the claimant shall
24 forthwith notify the tax commission in writing of such claim. The
25 court, being first satisfied as to the right of such person to the es-
26 tate, and after the filing of a clearance from the tax commission, shall
27 order the agent, or the county treasurer, as the case may be, to
28 forthwith deliver the estate, or the proceeds thereof, if sold, to
29 such person.

30 Sec. 11.76.243 HEIRS MAY INSTITUTE PROBATE PROCEEDINGS IF NO
31 CLAIMANT APPEARS. If no person appears to claim the estate within
32 four years after it is delivered to the county treasury, as provided
33 by RCW 11.76.240, any heirs of the absentee person may institute

1 TRUSTEE. Whenever it shall be made to appear by petition to any judge
2 of the superior court of any county that there is property in such
3 county, either real or personal, that requires care and attention, or
4 is in such a condition that it is a menace to the public health, safe-
5 ty or welfare, or that the custodian of such property appointed by the
6 owner thereof is either unable or unwilling to continue longer in the
7 care and custody thereof, and that the owner of such property has ab-
8 sented himself from the county and that his whereabouts is unknown and
9 cannot with reasonable diligence be ascertained, which petition shall
10 state the name of the absent owner, his approximate age, his last
11 known place of residence, the circumstances under which he left and
12 the place to which he was going, if known, his business or occupation
13 and his physical appearance and habits so far as known, the judge to
14 whom such petition is presented shall set a time for hearing such pe-
15 tition not less than six weeks from the date of filing, and shall by
16 order direct that a notice of such hearing be published for three suc-
17 cessive weeks in a legal newspaper published in the county where such
18 petition is filed and in such other counties and states as will in the
19 judgment of the court be most likely to come to the attention of the
20 absentee or of persons who may know his whereabouts, which notice shall
21 state the object of the petition and the date of hearing, and set
22 forth such facts and circumstances as in the judgment of the court
23 will aid in identifying the absentee, and shall contain a request that
24 all persons having knowledge concerning the absentee shall advise the
25 court of the facts: PROVIDED, HOWEVER, That the court may, upon the
26 filing of said petition, appoint a temporary trustee, who shall have
27 the powers, duties and qualifications of a special administrator.

28 If it shall appear at such hearing that the whereabouts of the
29 absentee is unknown, but there is reason to believe that upon further
30 investigation and inquiry he may be found, the judge may continue the
31 hearing and order such inquiry and advertisement as will in his dis-
32 cretion be liable to disclose the whereabouts of the absentee, but
33 when it shall appear to the judge at such hearing or any adjournment

1 thereof that the whereabouts of the absentee cannot be ascertained, he
2 shall appoint a suitable person resident of the county as trustee of
3 such property, taking into consideration the character of the property
4 and the fitness of such trustee to care for the same, preferring in
5 such appointment the husband or wife of the absentee to his presumptive
6 heirs, the presumptive heirs to kin more remote, the kin to strangers,
7 and creditors to those who are not otherwise interested, provided they
8 are fit persons to have the care and custody of the particular proper-
9 ty in question and will accept the appointment and qualify as herein-
10 after provided.

11 Sec. 11.80.020 INVENTORY AND APPRAISEMENT--BOND OF TRUSTEE.

12 The trustee so appointed shall make, subscribe and file in the office
13 of the clerk of the court an oath for the faithful performance of his
14 duties, and shall, within such time as may be fixed by the judge, pre-
15 pare and file an inventory of such property, and the judge shall there-
16 upon appoint three disinterested and qualified persons to appraise
17 such property, and report their appraisement to the court within such
18 time as the court may fix. Upon the coming in of the inventory and
19 appraisement, the judge shall fix the amount of the bond to be given
20 by the trustee, which bond shall in no case be less than the appraised
21 value of the personal property and the annual rents and profits of the
22 real property, and the trustee shall thereupon file with the clerk of
23 the court a good and sufficient bond in the amount fixed and with sure-
24 ty to be approved by the court, conditioned for the faithful perform-
25 ance of his duties as trustee, and for accounting for such property,
26 its rents, issues, profits and increase.

27 Sec. 11.80.030 REPORTS OF TRUSTEE. The trustee shall, at the
28 expiration of one year from the date of his appointment and annually
29 thereafter and at such times as the court may direct, make and file a
30 report and account of his trusteeship, setting forth specifically the
31 amounts received and expended and the conditions of the property.

32 Sec. 11.80.040 SALE OF PROPERTY--APPLICATION OF PROCEEDS AND
33 INCOME. If necessary to pay debts against the absentee which have

1 been duly approved and allowed in the same form and manner as provided
2 for the approving and allowing of claims against the estate of a de-
3 ceased person or for such other purpose as the court may deem proper
4 for the preservation of the estate, the trustee may sell, lease or
5 mortgage real or personal property of the estate under order of the
6 court so to do, which order shall specify the particular property af-
7 fected and the method, whether by public sale, private sale or by ne-
8 gotiation, and the terms thereof, and the trustee shall hold the pro-
9 ceeds of such sale, after deducting the necessary expenses thereof,
10 subject to the order of the court. The trustee is authorized and em-
11 powered to, by order of the court, expend the proceeds received from
12 the sale of such property, and also the rents, issues and profits ac-
13 cruing therefrom in the care, maintenance and upkeep of the property,
14 so long as the trusteeship shall continue, and the trustee shall re-
15 ceive out of such property such compensation for his services and
16 those of his attorney as may be fixed by the court. The notices and
17 procedures in conducting sales, leases and mortgages hereunder shall
18 be as provided in chapter 11.56 RCW .

19 Sec. 11.80.050 ALLOWANCE FOR SUPPORT OF DEPENDENTS--SALE OF
20 PROPERTY. Whenever a petition is filed in said estate from which it
21 appears to the satisfaction of the court that the owner of such prop-
22 erty left a husband or wife, child or children, dependent upon such
23 absentee for support or upon the property in the estate of such ab-
24 sentee, either in whole or in part, the court shall hold a hearing on
25 said petition, after such notice as the court may direct, and upon
26 such hearing shall enter such order as it deems advisable and may or-
27 der an allowance to be paid out of any of the property of such estate,
28 either community or separate, as the court shall deem reasonable and
29 necessary for the support and maintenance of such dependent or depen-
30 dents, pending the return of the absentee, or until such time as the
31 property of said estate may be provisionally distributed to the pre-
32 sumptive heirs or to the devisees and legatees. Such allowance shall
33 be paid by the trustee to such persons and in such manner and at such

1 periods of time as the court may direct. For the purpose of carrying
2 out the provisions of this section the court may direct the sale of any
3 of the property of the estate, either real or personal, in accordance
4 with the provisions of RCW 11.80.040.

5 Sec. 11.80.055 CONTINUATION OF ABSENTEE'S BUSINESS--PERFORMANCE
6 OF ABSENTEE'S CONTRACTS. Upon a showing of advantage to the estate of
7 the absentee, the court may authorize the trustee to continue any busi-
8 ness of the absentee in accordance with the provisions of RCW 11.48-
9 .025. The trustee may also obtain an order allowing the performance
10 of the absentee's contracts in accordance with the provisions of chap-
11 ter 11.60 RCW.

12 Sec. 11.80.060 REMOVAL OR RESIGNATION OF TRUSTEE--FINAL AC-
13 COUNT. The court shall have the power to remove or to accept the res-
14 ignation of such trustee and appoint another in his stead. At the
15 termination of his trust, as hereinafter provided or in case of his
16 resignation or removal, the trustee shall file a final account, which
17 account shall be settled in the manner provided by law for settling
18 the final accounts of personal representatives.

19 Sec. 11.80.070 PERIOD OF TRUSTEESHIP. Such trusteeship shall
20 continue until such time as the owner of such property shall return or
21 shall appoint a duly authorized agent or attorney in fact to care for
22 such property, or until such time as the property shall be provision-
23 ally distributed to the presumptive heirs, or to the devisees and leg-
24 atees of the absentee as hereinafter provided, or until such time as
25 the property shall escheat to the state as hereinafter provided.

26 Sec. 11.80.080 PROVISIONAL DISTRIBUTION--NOTICE OF HEARING--
27 WILL. Whenever the owner of such property shall have been absent
28 from the county for the space of five years and his whereabouts are
29 unknown and cannot with reasonable diligence be ascertained, his pre-
30 sumptive heirs at law may apply to the court for an order of provi-
31 sional distribution of such property, and to be let into provisional
32 possession thereof: PROVIDED, That such provisional distribution may
33 be made at any time prior to the expiration of five years, when it

1 shall be made to appear to the satisfaction of the court that there
2 are strong presumptions that the absentee is dead; and in determining
3 the question of presumptive death, the court shall take into consider-
4 ation the habits of the absentee, the motives of and the circumstan-
5 ces surrounding the absence, and the reasons which may have prevented
6 the absentee from being heard of.

7 Notice of hearing upon application for provisional distribution
8 shall be published in like manner as notices for the appointment of
9 trustees are published.

10 If the absentee left a will in the possession of any person
11 such person shall present such will at the time of hearing of the ap-
12 plication for provisional distribution and if it shall be made to ap-
13 pear to the court that the absentee has left a will and the person in
14 possession thereof shall fail to present it, a citation shall issue
15 requiring him so to do, and such will shall be opened, read, proven,
16 filed and recorded in the case, as are the wills of decedents.

17 Sec. 11.80.090 HEARING--DISTRIBUTION--BOND OF DISTRIBUTEES. If
18 it shall appear to the satisfaction of the court upon the hearing of
19 the application for provisional distribution that the absentee has
20 been absent and his whereabouts unknown for the space of five years,
21 or there are strong presumptions that he is dead, the court shall en-
22 ter an order directing that the property in the hands of the trustee
23 shall be provisionally distributed to the presumptive heirs, or to the
24 devisees and legatees under the will, as the case may be, upon condi-
25 tion that such heirs, devisees and legatees respectively give and file
26 in the court bonds with good and sufficient surety to be approved by
27 the court, conditioned for the return of or accounting for the proper-
28 ty provisionally distributed in case the absentee shall return and de-
29 mand the same, which bonds shall be respectively in twice the amount
30 of the value of the personal property distributed, and in ten times
31 the amount of estimated annual rents, issues and profits of any real
32 property so provisionally distributed.

33 Sec. 11.80.100 FINAL DISTRIBUTION--NOTICE OF HEARING--DECREE.

1 unlawful killing of any other person.

2 (2) "Decedent" shall mean any person whose life is so taken.

3 (3) "Property" shall include any real and personal property
4 and any right or interest therein.

5 Sec. 11.84.020 SLAYER NOT TO BENEFIT FROM DEATH. No slayer
6 shall in any way acquire any property or receive any benefit as the
7 result of the death of the decedent, but such property shall pass as
8 provided in the sections following.

9 Sec. 11.84.030 SLAYER DEEMED TO PREDECEASE DECEDENT. The slayer
10 shall be deemed to have predeceased the decedent as to property
11 which would have passed from the decedent or his estate to the slayer
12 under the statutes of descent and distribution or have been acquired
13 by statutory right as surviving spouse or under any agreement made with
14 the decedent under the provisions of RCW 26.16.120 as it now exists or
15 is hereafter amended.

16 Sec. 11.84.040 DISTRIBUTION OF DECEDENT'S PROPERTY. Property
17 which would have passed to or for the benefit of the slayer by devise
18 or legacy from the decedent shall be distributed as if he had prede-
19 ceased the decedent.

20 Sec. 11.84.050 DISTRIBUTION OF PROPERTY HELD JOINTLY WITH
21 SLAYER. (1) One-half of any property held by the slayer and the de-
22 cedent as joint tenants, joint owners or joint obligees shall pass
23 upon the death of the decedent to his estate, and the other half shall
24 pass to his estate upon the death of the slayer, unless the slayer
25 obtains a separation or severance of the property or a decree granting
26 partition.

27 (2) As to property held jointly by three or more persons, in-
28 cluding the slayer and the decedent, any enrichment which would have
29 accrued to the slayer as a result of the death of the decedent shall
30 pass to the estate of the decedent. If the slayer becomes the final
31 survivor, one-half of the property shall immediately pass to the es-
32 tate of the decedent and the other half shall pass to his estate upon
33 the death of the slayer, unless the slayer obtains a separation or

1 severance of the property or a decree granting partition.

2 (3) The provisions of this section shall not affect any en-
3 forceable agreement between the parties or any trust arising because
4 a greater proportion of the property has been contributed by one party
5 than by the other.

6 Sec. 11.84.060 REVERSIONS AND VESTED REMAINDERS. Property in
7 which the slayer holds a reversion or vested remainder and would have
8 obtained the right of present possession upon the death of the dece-
9 dent shall pass to the estate of the decedent during the period of the
10 life expectancy of decedent; if he held the particular estate or if
11 the particular estate is held by a third person it shall remain in his
12 hands for such period.

13 Sec. 11.84.070 PROPERTY SUBJECT TO DIVESTMENT, ETC. Any inter-
14 est in property whether vested or not, held by the slayer, subject to
15 be divested, diminished in any way or extinguished, if the decedent
16 survives him or lives to a certain age, shall be held by the slayer
17 during his lifetime or until the decedent would have reached such age,
18 but shall then pass as if the decedent had died immediately thereaf-
19 ter.

20 Sec. 11.84.080 CONTINGENT REMAINDERS AND FUTURE INTERESTS. As
21 to any contingent remainder or executory or other future interest held
22 by the slayer, subject to become vested in him or increased in any way
23 for him upon the condition of the death of the decedent:

24 (1) If the interest would not have become vested or increased
25 if he had predeceased the decedent, he shall be deemed to have so pre-
26 deceased the decedent;

27 (2) In any case the interest shall not be vested or increased
28 during the period of the life expectancy of the decedent.

29 Sec. 11.84.090 PROPERTY APPOINTED--POWERS OF REVOCATION OR
30 APPOINTMENT. (1) Property appointed by the will of the decedent to
31 or for the benefit of the slayer shall be distributed as if the slayer
32 had predeceased the decedent.

33 (2) Property held either presently or in remainder by the

1 slayer, subject to be divested by the exercise by the decedent of a
2 power of revocation or a general power of appointment shall pass to
3 the estate of the decedent, and property so held by the slayer, sub-
4 ject to be divested by the exercise by the decedent of a power of ap-
5 pointment to a particular person or persons or to a class of persons,
6 shall pass to such person or persons, or in equal shares to the mem-
7 bers of such class of persons, exclusive of the slayer.

8 Sec. 11.84.100 INSURANCE PROCEEDS. (1) Insurance proceeds
9 payable to the slayer as the beneficiary or assignee of any policy or
10 certificate of insurance on the life of the decedent, or as the sur-
11 vivor of a joint life policy, shall be paid instead to the estate of
12 the decedent, unless the policy or certificate designate some person
13 other than the slayer or his estate as secondary beneficiary to him
14 and in which case such proceeds shall be paid to such secondary bene-
15 ficiary in accordance with the applicable terms of the policy.

16 (2) If the decedent is beneficiary or assignee of any policy
17 or certificate of insurance on the life of the slayer, the proceeds
18 shall be paid to the estate of the decedent upon the death of the slay-
19 er, unless the policy names some person other than the slayer or his
20 estate as secondary beneficiary, or unless the slayer by naming a new
21 beneficiary or assigning the policy performs an act which would have
22 deprived the decedent of his interest in the policy if he had been
23 living.

24 Sec. 11.84.110 PAYMENT BY INSURANCE COMPANY, BANK, ETC.--NO
25 ADDITIONAL LIABILITY. Any insurance company making payment according
26 to the terms of its policy or any bank or other person performing an
27 obligation for the slayer as one of several joint obligees shall not
28 be subjected to additional liability by the terms of this chapter if
29 such payment or performance is made without written notice, at its
30 home office or at an individual's home or business address, of the
31 killing by a slayer.

32 Sec. 11.84.120 RIGHTS OF PERSONS WITHOUT NOTICE DEALING WITH
33 SLAYER. The provisions of this chapter shall not affect the rights of

1 any person who, before the interests of the slayer have been adjudi-
2 cated, purchases or has agreed to purchase, from the slayer for value
3 and without notice property which the slayer would have acquired ex-
4 cept for the terms of this chapter, but all proceeds received by the
5 slayer from such sale shall be held by him in trust for the persons
6 entitled to the property under the provisions of this chapter, and
7 the slayer shall also be liable both for any portion of such proceeds
8 which he may have dissipated and for any difference between the actual
9 value of the property and the amount of such proceeds.

10 Sec. 11.84.130 RECORD OF CONVICTION AS EVIDENCE AGAINST CLAIM-
11 ANT OF PROPERTY. The record of his conviction of having participated
12 in the wilful and unlawful killing of the decedent shall be admissible
13 in evidence against a claimant of property in any civil action arising
14 under this chapter.

15 Sec. 11.84.900 CHAPTER NOT TO BE CONSTRUED AS PENAL. This
16 chapter shall not be considered penal in nature, but shall be construed
17 broadly in order to effect the policy of this state that no person
18 shall be allowed to profit by his own wrong, wherever committed.

19 Chapter 11.88

20 GUARDIANSHIP--APPOINTMENT, QUALIFICATION,

21 REMOVAL OF GUARDIANS

22 Sec. 11.88.010 AUTHORITY TO APPOINT. The superior court of
23 each county shall have power to appoint guardians for the persons and
24 estates, or either thereof, of incompetent persons resident of the
25 county, and guardians for the estates of all such persons who are non-
26 residents of the state but who have property in such county needing
27 care and attention.

28 An "incompetent" is any person who is either

- 29 (1) Under the age of majority, as defined in RCW 11.92.010, or
30 (2) Incapable by reason of insanity; mental illness, imbecil-
31 ity, idiocy, senility, habitual drunkenness, excessive use of drugs,
32 or other mental incapacity, of either managing his property or caring
33 for himself or both.

1 Sec. 11.88.020 QUALIFICATIONS. Any suitable person over the
2 age of twenty-one years, or any parent under the age of twenty-one
3 years may, if not otherwise disqualified, be appointed guardian of
4 the person and/or the estate of an incompetent; any trust company
5 regularly organized under the laws of this state and national banks
6 when authorized so to do may act as guardian of the estate of an in-
7 competent. No person is qualified to serve as a domiciliary guardian
8 who is

9 (1) under twenty-one years of age except as otherwise provided
10 herein;

11 (2) of unsound mind;

12 (3) convicted of a felony or of a misdemeanor involving moral
13 turpitude;

14 (4) a nonresident of this state who has not appointed a resi-
15 dent agent to accept service of process in all actions or proceedings
16 with respect to the estate and caused such appointment to be filed
17 with the court;

18 (5) a corporation not authorized to act as a fiduciary in the
19 state;

20 (6) a person whom the court finds unsuitable.

21 Sec. 11.88.030 PETITION--CONTENTS. Any interested person may
22 file a petition for the appointment of himself or some other qualified
23 person as guardian of an incompetent. Such petition shall state:

24 (1) The name, age, residence and post office address of the
25 incompetent;

26 (2) The nature of his incapacity in accordance with RCW 11.88-
27 .010;

28 (3) The approximate value and description of his property, in-
29 cluding any compensation, pension, insurance or allowance to which he
30 may be entitled;

31 (4) Whether there is, in any state, a guardian for the person
32 or estate of the incompetent;

33 (5) The residence and post office address of the person whom

1 petitioner asks to be appointed guardian;

2 (6) The names and addresses, so far as known or can be reason-
3 ably ascertained, of the persons most closely related by blood or mar-
4 riage to the incompetent;

5 (7) The name and address of the person or institution having
6 the care and custody of the incompetent;

7 (8) The reason why the appointment of a guardian is sought and
8 the interest of the petitioner in the appointment, and whether the
9 appointment is sought as guardian of the person, the estate, or both.

10 Sec. 11.88.040 NOTICE AND HEARING, WHEN REQUIRED--SERVICE.

11 Before appointing a guardian, notice of a hearing, to be held not less
12 than ten days after service thereof, shall be given by registered or
13 certified mail requesting a return receipt signed by the addressee
14 only, or by personal service in the manner provided for services of
15 summons, to the following:

16 (1) The incompetent or minor, if over fourteen years of age;

17 (2) A parent, if the incompetent is a minor, and the spouse
18 of the incompetent, if any;

19 (3) Any other person who has been appointed as guardian, or
20 the person having the care and custody of the incompetent, if any.

21 No notice need be given to those persons named in subsections (2) and

22 (3) of this section if they have signed the petition for the appoint-
23 ment of the guardian or have waived notice of the hearing. If the pe-

24 tition is by a parent asking for his appointment as guardian of a
25 minor child under the age of fourteen years, or if the petition be ac-

26 companied by the written consent of a minor of the age of fourteen
27 years or upward, consenting to the appointment of the guardian asked

28 for, or if the petition be by a nonresident guardian of any minor,
29 then the court may appoint the guardian without notice of the hearing.

30 The court for good cause may reduce the number of days of notice, but
31 in every case, at least three days notice shall be given. It shall

32 not be necessary that the person for whom guardianship is sought shall
33 be represented by a guardian ad litem in the proceedings.

1 Sec. 11.88.080 TESTAMENTARY GUARDIANS. When either parent is
2 deceased, the surviving parent of any minor child may, by his last will
3 in writing appoint a guardian or guardians of the person, or of the
4 estate or both, of his minor child, whether born at the time of making
5 such will or afterwards, to continue during the minority of such child
6 or for any less time, and every such testamentary guardian of the es-
7 tate of such child shall give bond in like manner and with like condi-
8 tions as required by RCW 11.88.100 and RCW 11.88.110, and he shall
9 have the same powers and perform the same duties with regard to the
10 person and estate of the minor as a guardian appointed as aforesaid.

11 Sec. 11.88.090 GUARDIAN AD LITEM. Nothing contained in RCW
12 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060
13 through 11.92.120, 11.92.170 and 11.92.180 shall affect or impair the
14 power of any court to appoint a guardian to defend the interests of
15 any incompetent person interested in any suit or matter pending there-
16 in, or to commence and prosecute any suit in his behalf.

17 Sec. 11.88.100 OATH AND BOND OF GUARDIAN. Before letters of
18 guardianship are issued, each guardian shall take and subscribe an
19 oath and, unless dispensed with by order of the court as provided in
20 RCW 11.88.105, file a bond, with sureties to be approved by the court,
21 payable to the state, in such sum as the court may fix, taking into
22 account the character of the assets on hand or anticipated and the in-
23 come to be received and disbursements to be made, and such bond shall
24 be conditioned substantially as follows:

25 The condition of this obligation is such, that if the above
26 bound A.B., who has been appointed guardian for C.D., shall faithfully
27 discharge the office and trust of such guardian according to law and
28 shall render a fair and just account of his guardianship to the supe-
29 rior court of the county of , from time to
30 time as he shall thereto be required by such court, and comply with
31 all orders of the court, lawfully made, relative to the goods, chat-
32 tels, moneys, care, management, and education of such incompetent per-
33 son, or his or her property, and render and pay to such incompetent

1 person all moneys, goods, chattels, title papers, and effects which
2 may come into the hands or possession of such guardian, at such time
3 and in such manner as the court may order or adjudge, then this obli-
4 gation shall be void, otherwise to be and remain in full force and ef-
5 fect.

6 The bond shall be for the use of the incompetent person, and
7 shall not become void upon the first recovery, but may be put in suit
8 from time to time against all or any one of the obligors, in the name
9 and for the use and benefit of any person entitled by the breach there-
10 of, until the whole penalty is recovered thereon. The court may re-
11 quire an additional bond whenever for any reason it appears to the
12 court that an additional bond should be given.

13 Sec. 11.88.105 REDUCTION IN AMOUNT OF BOND. In cases where
14 all or a portion of the estate consisting of cash or securities or
15 both, has been placed in possession of savings and loan associations
16 or banks, trust companies, escrow corporations, or other corporations
17 approved by the court and a receipt is filed by the guardian in court
18 therefor stating that such corporations hold the same subject to order
19 of court then in such case the court may in its discretion dispense
20 with the giving of a bond or reduce the same by the amount of such de-
21 posits of cash or securities, and may order that no further reports by
22 said guardian be required until such time as the guardian desires to
23 withdraw such funds or change the investment thereof.

24 Sec. 11.88.107 WHEN BOND MAY BE DISPENSED WITH. In all cases
25 where a bank or trust company, authorized to act as guardian, is ap-
26 pointed as guardian, or acts as guardian under an appointment as such
27 heretofore made, no bond shall be required.

28 Sec. 11.88.110 LAW ON EXECUTORS' AND ADMINISTRATORS' BONDS
29 APPLICABLE. All the provisions of this title relative to bonds given
30 by executors and administrators shall apply to bonds given by guard-
31 ians.

32 Sec. 11.88.120 PROCEDURE ON REMOVAL OR DEATH OF GUARDIAN+-DE-
33 LIVERY OF ESTATE TO SUCCESSOR. The court in all cases shall have

House Amendment to Engrossed Senate Bill No. 6
By Representative Brachtenbach

On page 99, section 11.88.140, line 30 of the printed and engrossed bills, strike lines 30 and 31 and insert

"(a) Upon the attainment of full and legal age, as defined in RCW 11.92.010, of any person defined as an incompetent pursuant to RCW 11.88.010 solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding."

Adopted 3/9/65

1 power to remove guardians for good and sufficient reasons, which shall
2 be entered of record, and to appoint others in their place or in the
3 place of those who may die, who shall give bond and security for the
4 faithful discharge of their duties as prescribed in RCW 11.88.100; and
5 when any guardian shall be removed or die, and a successor be appoint-
6 ed, the court shall have power to compel such guardian removed to de-
7 liver up to such successor all goods, chattels, moneys, title papers,
8 or other effects belonging to such incompetent person, which may be in
9 the possession of such guardian so removed, or of the personal repre-
10 sentatives of a deceased guardian, or in the possession of any other
11 person or persons, and upon failure, to commit the party offending to
12 prison, until he complies with the order of the court.

13 Sec. 11.88.130 TRANSFER OF JURISDICTION AND VENUE. The court
14 of any county having jurisdiction of any guardianship proceeding is
15 authorized to transfer jurisdiction and venue of the guardianship pro-
16 ceeding to the court of any other county of the state upon application
17 of the guardian and such notice to an incompetent or other interested
18 party as the court may require. Such transfers of guardianship pro-
19 ceedings shall be made to the court of a county wherein either the
20 guardian or incompetent resides, as the court may deem appropriate, at
21 the time of making application for such transfer. The original order
22 providing for any such transfer shall be retained as a permanent re-
23 cord by the clerk of the court in which such order is entered, and a
24 certified copy thereof together with the original file in such guard-
25 ianship proceeding and a certified transcript of all record entries up
26 to and including the order for such change shall be transmitted to the
27 clerk of the court to which such proceeding is transferred.

28 Sec. 11.88.140 TERMINATION OF GUARDIANSHIP. (1) Termination
29 without court order. A guardianship is terminated

30 (a) By the incompetent's becoming of full and legal age as de-
31 fined in RCW 11.92.010, RCW 26.28.020 to the contrary notwithstanding.

32 (b) By an adjudication of competency.

33 (c) By the death of the incompetent .

1 (2) Termination on court order. A guardianship may be termi-
2 nated by court order after such notice as the court may require

3 (a) If the guardianship is of the estate and the estate is
4 exhausted;

5 (b) If the guardianship is no longer necessary for any other
6 reason.

7 (3) Effect of termination. When a guardianship terminates
8 otherwise than by the death of the incompetent, the powers of the
9 guardian cease, except that a guardian of the estate may make disburse-
10 ments for claims that are or may be allowed by the court, for liabili-
11 ties already properly incurred for the estate or for the incompetent,
12 and for expenses of administration. When a guardianship terminates by
13 death of the incompetent, the guardian of the estate may proceed under
14 RCW 11.88.150, but the rights of all creditors against the incompe-
15 tent's estate shall be determined by the law of decedents' estates.

16 Sec. 11.88.150 ADMINISTRATION OF DECEASED INCOMPETENT'S
17 ESTATE. Upon the death of an incompetent intestate the guardian of
18 his estate has power under the letters issued to him and subject to
19 the direction of the court to administer the estate as the estate of
20 the deceased incompetent without further letters unless within forty
21 days after death of the incompetent a petition is filed for letters of
22 administration or for letters testamentary and the petition is granted.
23 If the guardian elects to administer the estate under his letters of
24 guardianship, he shall petition the court for an order transferring
25 the guardianship proceeding to a probate proceeding, and upon court
26 approval, a new file shall be opened, captioned in the deceased in-
27 competent's name, containing a copy of said order of transfer. The
28 guardian shall then be authorized to continue administration of the
29 estate without the necessity for any further petition or hearing. No-
30 tice to creditors and other persons interested in the estate shall be
31 published and may be combined with the notice of the guardian's final
32 account. This notice shall be published in the manner provided in
33 RCW 11.40.010, once each week for three successive weeks, with proof

Senate Committee Amendment to Senate Bill No. 6
By Judiciary Committee

On page 100, section 11.88.150, line 26, after "approval," strike all of the material down to and including "transfer" on line 27 and insert "the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which is assigned to the guardianship proceeding"

Adopted Mar. 5, 1965

1 by affidavit of the publication of such notice to be filed with the
2 court. All claims which are not filed within four months after first
3 publication shall be barred against the estate. Upon the hearing, the
4 account may be allowed and the balance distributed to the persons en-
5 titled thereto, after the payment of such claims as may be allowed.
6 Liability on the guardian's bond shall continue until exonerated on
7 settlement of his account, and may apply to the complete administra-
8 tion of the estate of the deceased incompetent with the consent of the
9 surety. If letters of administration or letters testamentary are
10 granted upon petition filed within forty days after the death of the
11 incompetent, the personal representative shall supersede the guardian
12 in the administration of the estate and the estate shall be adminis-
13 tered as a decedent's estate as provided in this title, including the
14 publication of notice to creditors and other interested persons and
15 the barring of creditors claims.

16 Chapter 11.92

17 GUARDIANSHIP--POWERS AND DUTIES OF GUARDIAN

18 Sec. 11.92.010 GUARDIANS UNDER COURT CONTROL. LEGAL AGE.

19 Guardians herein provided for shall at all times be under the general
20 direction and control of the court making the appointment. For the
21 purposes of chapters 11.88 and 11.92 RCW, all persons shall be of full
22 and legal age when they shall be twenty-one years old.

23 Sec. 11.92.035 CLAIMS. (1) Duty of guardian to pay. A

24 guardian of the estate is under a duty to pay from the estate all just
25 claims against the estate of his incompetent, whether they constitute
26 liabilities of the incompetent which arose prior to the guardianship
27 or liabilities properly incurred by the guardian for the benefit of
28 the incompetent or his estate and whether arising in contract or in
29 tort or otherwise, upon allowance of the claim by the court or upon
30 approval of the court in a settlement of the guardian's accounts. The
31 duty of the guardian to pay from the estate shall not preclude his
32 personal liability for his own contracts and acts made and performed
33 on behalf of the estate as it exists according to the common law. If

1 it appears that the estate is likely to be exhausted before all exist-
2 ing claims are paid, preference shall be given to prior claims for the
3 care, maintenance and education of the incompetent and of his depen-
4 dents and existing claims for expenses of administration over other
5 claims.

6 (2) Claims may be presented. Any person having a claim against
7 the estate of an incompetent, or against the guardian of his estate as
8 such, may file a written claim with the court for determination at any
9 time before it is barred by the statute of limitations, and, upon
10 proof thereof, procure an order for its allowance and payment from the
11 estate. Any action against the guardian of the estate as such shall
12 be deemed a claim duly filed.

13 Sec. 11.92.040 DUTIES OF GUARDIAN IN GENERAL. It shall be the
14 duty of the guardian

15 (1) To make out and file within three months after his appoint-
16 ment a verified inventory of all the property of the incompetent which
17 shall come to his possession or knowledge, including a statement of
18 all encumbrances, liens, and other secured charges on any item.

19 (2) Unless otherwise directed by the court, to file with the
20 court annually within thirty days after the anniversary date of his
21 appointment, and also within thirty days after termination of his ap-
22 pointment, a written verified account of his administration.

23 (3) If he is a guardian of the person, to care for and main-
24 tain the incompetent, and if the incompetent is a minor, to see that
25 the incompetent is properly trained and educated and that the incompe-
26 tent has the opportunity to learn a trade, occupation or profession.
27 The guardian of the person may be required to report the condition of
28 his incompetent to the court, at regular intervals or otherwise as the
29 court may direct.

30 (4) If he is a guardian of the estate, to protect and preserve
31 it, to apply it as provided in this chapter, to account for it faith-
32 fully, to perform all of the duties required of him by law, and at the
33 termination of the guardianship, to deliver the assets of the incompetent

1 to the persons entitled thereto. Except as provided to the contrary
2 herein, the court may authorize a guardian to do anything that a trust-
3 tee can do under the provisions of RCW 30.99.070 for periods not ex-
4 ceeding one year from the date of the order.

5 (5) To invest and reinvest the property of the incompetent in
6 accordance with the rules applicable to investment of trust estates by
7 trustees as provided in chapter 30.24 RCW, except that:

8 (a) No investments shall be made without prior order of the
9 court in any property other than unconditional interest bearing obli-
10 gations of this state or of the United States and in obligations the
11 interest and principal of which are unconditionally guaranteed by the
12 United States, and in share accounts or deposits which are insured by
13 an agency of the United States government. Such prior order of the
14 court may authorize specific investments, or, in the discretion of the
15 court, may authorize the guardian during a period of not exceeding one
16 year following the date of the order to invest and reinvest as provid-
17 ed in chapter 30.24 RCW without further order of the court.

18 (b) If it is for the best interests of the incompetent that a
19 specific property be used by the incompetent rather than sold and the
20 proceeds invested, the court may so order.

21 (6) To apply to the court for an order authorizing any dis-
22 bursement on behalf of the incompetent; provided, however, that the
23 guardian of the estate, or the person, department, bureau, agency or
24 charitable organization having the care and custody of an incompetent,
25 may apply to the court for an order directing the guardian of the es-
26 tate to pay to the person, department, bureau, agency or charitable
27 organization having the care and custody of an incompetent, or if the
28 guardian of the estate has the care and custody of the incompetent,
29 directing the guardian of the estate to apply an amount weekly, month-
30 ly, quarterly, semi-annually or annually, as the court may direct, to
31 be expended in the care, maintenance and education of the incompetent
32 and of his dependents. In proper cases, the court may order payment of
33 amounts directly to the incompetent for his maintenance or incidental

1 expenses. The amounts authorized under this section may be decreased
2 or increased from time to time by direction of the court. If payments
3 are made to another under such order of the court, the guardian of the
4 estate is not bound to see to the application thereof.

5 Sec. 11.92.050 INTERMEDIATE ACCOUNTS--HEARING--ORDER. Upon
6 the filing of any intermediate guardianship account required by stat-
7 ute, or of any intermediate account required by court rule or order,
8 the guardian may petition the court for an order settling his account
9 with regard to any and all receipts, expenditures and investments made
10 and acts done by the guardian to the date of said interim report. Up-
11 on such petition being filed, the court may in its discretion, where
12 the size or condition of the estate warrants it, set a date for the
13 hearing of such petition and require the service of the petition and
14 a notice of such hearing as provided in RCW 11.88.040; and, in the
15 event such a hearing be ordered, the court shall also appoint a guard-
16 ian ad litem, whose duty it shall be to investigate the report of the
17 guardian of the estate and to advise the court thereon at said hearing,
18 in writing. At such hearing on said report of the guardian, if the
19 court be satisfied that the actions of the guardian have been proper,
20 and that the guardian has in all respects discharged his trust with re-
21 lation to such receipts, expenditures, investments, and acts, then, in
22 such event, the court shall enter an order approving such account, and
23 such order shall be final and binding upon the incompetent, subject
24 only to the right of appeal as upon a final order; provided that at
25 the time of final account of said guardian or within one year after
26 said incompetent attains his majority any such interim account may be
27 challenged by said incompetent on the ground of fraud.

28 Sec. 11.92.053 SETTLEMENT OF ESTATE UPON TERMINATION OTHER
29 THAN BY DEATH INTESTATE. Within ninety days after the termination of
30 a guardianship for any reason other than the death of the incompetent
31 intestate, the guardian of the estate shall petition the court for an
32 order settling his account as filed in accordance with RCW 11.92.040
33 (2) with regard to any and all receipts, expenditures and investments

1 made and acts done by the guardian to the date of said termination.
2 Upon such petition being filed, the court shall set a date for the
3 hearing of such petition after notice has been given in accordance
4 with RCW 11.88.040. Any person interested may file objections to
5 such petition or may appear at the time and place fixed for the hear-
6 ing thereof and present his objections thereto. The court may take
7 such testimony as it deems proper or necessary to determine whether an
8 order settling the account should be issued and the transactions of
9 the guardian be approved.

10 At such hearing on said petition of the guardian, if the court
11 be satisfied that the actions of the guardian have been proper, and
12 that the guardian has in all respects discharged his trust with rela-
13 tion to such receipts, expenditures, investments, and acts, then, in
14 such event, the court shall enter an order approving such account, and
15 such order shall be final and binding upon the incompetent, subject
16 only to the right of appeal as upon a final order: PROVIDED, That with-
17 in one year after said incompetent attains his majority any such ac-
18 count may be challenged by said incompetent on the ground of fraud.

19 Sec. 11.92.056 CITATION OF SURETY ON BOND. If, at any hearing
20 upon a petition to settle the account of any guardian, it shall appear
21 to the court that said guardian has not fully accounted or that said
22 account should not be settled, the court may continue said hearing to
23 a day certain and may cite the surety or sureties upon the bond of
24 said guardian to appear upon the date fixed in said citation and show
25 cause why the account should not be disapproved and judgment entered
26 for any deficiency against said guardian and the surety or sureties
27 upon his or her bond. Said citation shall be personally served upon
28 said surety or sureties in the manner provided by law for the service
29 of summons in civil actions and shall be served not less than twenty
30 days previous to said hearing. At said hearing any interested party,
31 including the surety so cited, shall have the right to introduce any
32 evidence which shall be material to the matter before the court. If,
33 at said hearing, the final account of said guardian shall not be

1 approved and the court shall find that said guardian is indebted to
2 the incompetent in any amount, said court may thereupon enter final
3 judgment against said guardian and the surety or sureties upon his or
4 her bond, which judgment shall be enforceable in the same manner and
5 to the same extent as judgments in ordinary civil actions.

6 Sec. 11.92.060 GUARDIAN TO REPRESENT INCOMPETENT--COMPROMISE
7 OF CLAIMS. (1) Guardian may sue and be sued. When there is a guard-
8 ian of the estate, all actions between the incompetent or the guardian
9 and third persons in which it is sought to charge or benefit the es-
10 tate of the incompetent shall be prosecuted by or against the guardian
11 of the estate as such. He shall represent the interests of the in-
12 competent in the action and all process shall be served on him.

13 (2) Joinder, amendment and substitution. When the guardian of
14 the estate is under personal liability for his own contracts and acts
15 made and performed on behalf of the estate he may be sued both as
16 guardian and in his personal capacity in the same action. Misnomer or
17 the bringing of the action by or against the incompetent shall not be
18 grounds for dismissal of the action and leave to amend or substitute
19 shall be freely granted. If an action was commenced by or against the
20 incompetent before the appointment of a guardian of his estate, such
21 guardian when appointed may be substituted as a party for the incompe-
22 tent. If the appointment of the guardian of the estate is terminated,
23 his successor may be substituted; if the incompetent dies, his person-
24 al representative may be substituted; if the incompetent becomes com-
25 petent, he may be substituted.

26 (3) Garnishment, attachment and execution. When there is a
27 guardian of the estate, the property and rights of action of the in-
28 competent shall not be subject to garnishment or attachment, except
29 for the foreclosure of a mortgage or other lien, and execution shall
30 not issue to obtain satisfaction of any judgment against the incompe-
31 tent or the guardian of his estate as such.

32 (4) Compromise by guardian. Whenever it is proposed to com-
33 promise or settle any claim by or against the incompetent or the

1 guardian as such, whether arising as a result of personal injury or
2 otherwise, and whether arising before or after appointment of a guard-
3 ian, the court on petition of the guardian of the estate, if satisfied
4 that such compromise or settlement will be for the best interests of
5 the incompetent, may enter an order authorizing the settlement or com-
6 promise to be made.

7 Sec. 11.92.090 SALE, EXCHANGE, LEASE, OR MORTGAGE OF PROPERTY.
8 Whenever it shall appear to the satisfaction of a court by the peti-
9 tion of any guardian, that it is necessary or proper to sell, exchange,
10 lease, mortgage, or grant an easement, license or similar interest in
11 any of the real or personal property of the estate of such incompetent
12 for the purpose of paying debts or for the care, support and education
13 of such incompetent, or to redeem any property of such incompetent's
14 estate covered by mortgage or other lien, or for the purpose of making
15 any investments, or for any other purpose which to the court may seem
16 right and proper, the court may make an order directing such sale, ex-
17 change, lease, mortgage, or grant of easement, license or similar in-
18 terest of such part or parts of the real or personal property as shall
19 to the court seem proper.

20 Sec. 11.92.100 PETITION--CONTENTS. Such application shall be
21 by petition, verified by the oath of the guardian, and shall substan-
22 tially set forth:

23 (1) The value and character of all personal estate belonging
24 to such incompetent that has come to the knowledge or possession of
25 such guardian.

26 (2) The disposition of such personal estate.

27 (3) The amount and condition of the incompetent's personal es-
28 tate, if any, dependent upon the settlement of any estate, or the ex-
29 ecution of any trust.

30 (4) The annual income of the real estate of the incompetent.

31 (5) The amount of rent received and the application thereof.

32 (6) The proposed manner of reinvesting the proceeds of the
33 sale, if asked for that purpose.

1 (7) Each item of indebtedness, or the amount and character of
2 the lien, if the sale is prayed for the liquidation thereof.

3 (8) The age of the incompetent, where and with whom residing.

4 (9) All other facts connected with the estate and condition of
5 the incompetent necessary to enable the court to fully understand the
6 same. If there is no personal estate belonging to such incompetent in
7 possession or expectancy, and none has come into the hands of such
8 guardian, and no rents have been received, the fact shall be stated in
9 the application.

10 Sec. 11.92.110 LAW GOVERNING SALES OF REAL ESTATE. The order
11 directing the sale of any of the real property of the estate of such
12 incompetent shall specify the particular property affected and the
13 method, whether by public or private sale or by negotiation, and terms
14 thereof, and with regard to the procedure and notices to be employed
15 in conducting such sale, the provisions of RCW 11.56.060, 11.56.070,
16 11.56.080, and 11.56.110 shall be followed unless the court otherwise
17 directs.

18 Sec. 11.92.115 RETURN AND CONFIRMATION OF SALE. The guardian
19 making any sale of real estate, either at public or private sale or
20 sale by negotiation, shall within ten days after making such sale file
21 with the clerk of the court his return of such sale, the same being duly
22 verified. At any time after the expiration of ten days from the fil-
23 ing of such return, the court may, without notice, approve and confirm
24 such sale and direct proper instruments of transfer to be executed and
25 delivered. Upon the confirmation of any such sale, the court shall
26 direct the guardian to make, execute and deliver instruments conveying
27 the title to the person to whom such property may be sold and such
28 instruments of conveyance shall be deemed to convey all the estate,
29 rights and interest of the incompetent and of his estate. In the case
30 of a sale by negotiation the guardian shall publish a notice in one
31 issue of a legal newspaper published in the county in which the estate
32 is being administered; the substance of such notice shall include the
33 legal description of the property sold, the selling price and the date

1 after which the sale may be confirmed: PROVIDED, That such confirma-
2 tion date shall be at least ten days after such notice is published.

3 Sec. 11.92.120 CONFIRMATION CONCLUSIVE. No sale by any guard-
4 ian of real or personal property shall be void or be set aside or be
5 attacked because of any irregularities whatsoever, and none of the
6 steps leading up to such sale or the confirmation thereof shall be
7 jurisdictional, and the confirmation by the court of any such sale shall
8 be conclusive as to the regularity and legality of such sale or sales,
9 and the passing of title after confirmation by the court shall vest an
10 absolute title in the purchaser, and such instrument of transfer may
11 not be attacked for any purpose or any reason, except for fraud.

12 Sec. 11.92.125 BROKER'S FEE AND CLOSING EXPENSES--SALE, EX-
13 CHANGE, MORTGAGE OR LEASE OF REAL ESTATE. In connection with the sale,
14 exchange, mortgage, lease or grant of easement or license in any prop-
15 erty, the court may authorize the personal representative to pay, out
16 of the proceeds realized therefrom or out of the estate, the customary
17 and reasonable auctioneer's and broker's fees and any necessary expen-
18 ses for abstracting title insurance, survey, revenue stamps and other
19 necessary costs and expenses in connection therewith.

20 Sec. 11.92.130 PERFORMANCE OF CONTRACTS. If any person who is
21 bound by contract in writing to perform shall become incompetent be-
22 fore making the performance, the court having jurisdiction of the
23 guardianship of such property may, upon application of the guardian of
24 such incompetent person, or upon application of the person claiming to
25 be entitled to the performance, make an order authorizing and direct-
26 ing the guardian to perform such contract. The application and the
27 proceedings, shall, as nearly as may be, be the same as provided in
28 chapter 11.60 RCW.

29 Sec. 11.92.150 REQUEST FOR SPECIAL NOTICE OF PROCEEDINGS.
30 At any time after the issuance of letters of guardianship in the
31 estate of any incompetent person, any person interested in
32 said estate, or in such incompetent person, or any relative of
33 such incompetent person, or any authorized representative of any

1 agency, bureau, or department of the United States government
2 from or through which any compensation, insurance, pension or
3 other benefit is being paid, or is payable, may serve upon such
4 guardian, or upon the attorney for such guardian, and file with
5 the clerk of the court wherein the administration of such guardian-
6 ship estate is pending, a written request stating that special written
7 notice is desired of any or all of the following matters, steps or
8 proceedings in the administration of such estate:

9 (1) Filing of petition for sales, exchanges, leases, mort-
10 gages, or grants of easements, licenses or similar interests in any
11 property of the estate.

12 (2) Filing of all intermediate or final accountings or account-
13 ings of any nature whatsoever.

14 (3) Petitions by the guardian for family allowances or allow-
15 ances for the incompetent or any other allowance of every nature from
16 the funds of the estate.

17 (4) Petitions for the investment of the funds of the estate.

18 Such request for special written notice shall designate the
19 name, address and post office address of the person upon whom such no-
20 tice is to be served and no service shall be required under this sec-
21 tion and RCW 11.92.160 other than in accordance with such designation
22 unless and until a new designation shall have been made.

23 When any account, petition, or proceeding is filed in such
24 estate of which special written notice is requested as herein provided
25 the court shall fix a time for hearing thereon which shall allow at
26 least ten days for service of such notice before such hearing; and no-
27 tice of such hearing shall be served upon the person designated in
28 such written request at least ten days before the date fixed for such
29 hearing. The service may be made by leaving a copy with the person
30 designated, or his authorized representative, or by mailing through
31 the United States mail, with postage prepaid to the person and place
32 designated.

33 Sec. 11.92.160 CITATION FOR FAILURE TO FILE ACCOUNT OR REPORT.

1 Whenever any request for special written notice is served as provided
2 in this section and RCW 11.92.150, the person making such request may,
3 upon failure of any guardian for any incompetent person, to file any
4 account or report required by law, petition the court administering
5 such estate for a citation requiring such guardian to file such report
6 or account, or to show cause for failure to do so, and thereupon the
7 court shall issue such citation and hold a hearing thereon and enter
8 such order as is required by the law and the facts.

9 Sec. 11.92.170 REMOVAL OF PROPERTY OF NONRESIDENT INCOMPETENT.
10 Whenever it is made to appear that it would be in the best interests of
11 the incompetent, the court may order the transfer of property in this
12 state to a guardian of the estate of the incompetent appointed in an-
13 other jurisdiction.

14 Sec. 11.92.180 COMPENSATION AND EXPENSES OF GUARDIAN--ATTOR-
15 NEY'S FEE. A guardian shall be allowed such compensation for his
16 services as guardian as the court shall deem just and reasonable. Ad-
17 ditional compensation may be allowed for his necessary services as at-
18 torney and for other necessary services not required of a guardian.
19 He may also be allowed compensation for necessary expenses in the ad-
20 ministration of his trust, including reasonable attorney's fees if the
21 employment of an attorney for the particular purpose is necessary. In
22 all cases, compensation of the guardian and his expenses including
23 attorney's fees shall be fixed by the court and may be allowed at any
24 annual or final accounting; but at any time during the administration
25 of the estate, the guardian or his attorney may apply to the court for
26 an allowance upon the compensation or necessary expenses of the guard-
27 ian and for attorney's fees for services already performed. If the
28 court finds that the guardian has failed to discharge his duties as
29 such in any respect, it may deny him any compensation whatsoever or
30 may reduce the compensation which would otherwise be allowed.

31 Sec. 11.92.185 CONCEALED OR EMBEZZLED PROPERTY--PROCEEDINGS
32 FOR DISCOVERY. The court shall have authority to bring before it, in
33 the manner prescribed by RCW 11.48.070, any person or persons suspected

1 of having in his possession or having concealed, embezzled, conveyed
2 or disposed of any of the property of the estate of incompetents sub-
3 ject to administration under this title.

4 Chapter 11.96

5 APPEALS

6 Sec. 11.96.010 APPEALS TO SUPREME COURT. Any interested party
7 may appeal to the supreme court from any final order, judgment or de-
8 cree of the court, and such appeals shall be in the manner and way
9 provided by law for appeals in civil actions.

10 Chapter 11.98

11 TRUSTS

12 Sec. 11.98.010 VIOLATION OF RULE AGAINST PERPETUITIES BY IN-
13 STRUMENT--PERIODS DURING WHICH TRUST NOT INVALID. If any provision
14 of an instrument creating a trust shall violate the rule against per-
15 petuities, neither such provision nor any other provisions of the
16 trust shall thereby be rendered invalid during any of the following
17 periods:

18 (1) The twenty-one years following the effective date of the
19 instrument.

20 (2) The period measured by any life or lives in being or con-
21 ceived at the effective date of the instrument if by the terms of the
22 instrument the trust is to continue for such life or lives.

23 (3) The period measured by any portion of any life or lives
24 in being or conceived at the effective date of the instrument if by
25 the terms of the instrument the trust is to continue for such portion
26 of such life or lives; and

27 (4) The twenty-one years following the expiration of the pe-
28 riods specified in (2) and (3) above.

29 Sec. 11.98.020 DISTRIBUTION OF ASSETS AND VESTING OF INTEREST
30 DURING PERIOD TRUST NOT INVALID. If, during any period in which an
31 instrument creating a trust or any provision thereof is not to be
32 rendered invalid by the rule against perpetuities, any of the trust
33 assets should by the terms of the instrument become distributable or

House Amendments to Engrossed Senate Bill No. 6
By Representative Brachtenbach

On page 113, Section 11.99.010, line 25 of the printed bill being line 23 of the engrossed bill after the amended date "July, 1967" and before the period insert: "; except that sections 11.44.055, 11.44.065, 11.44.070 and 11.44.080 shall take effect on July 1, 1965, and the repeal of the following acts or parts of acts as listed in section 11.99.015 shall also take effect on July 1, 1965, to wit: In subsection (10), section 1444, Code of 1881; in subsection (47), section 95, chapter 156, Laws of 1917; in subsection (48), section 1, chapter 23, Laws of 1919; in subsection (64), section 1, chapter 112, Laws of 1929, in subsection (66), section 123, chapter 180, Laws of 1935; in subsection (71), section 8, chapter 202, Laws of 1939; and in subsection (111), section 83.16.040, chapter 15, Laws of 1961"

Adopted 3/9/65

On page 113, section 11.99.010, line 26 of the printed bill before "procedures" strike "The" and insert "Except as above provided the" being line 23 of the engrossed bill before "pro-"

Adopted 3/9/65

Senate Committee Amendment to Senate Bill No. 6
By Judiciary Committee

On page 113, section 11.99.010, line 25, after "day of" strike "January, 1966" and insert "July, 1967"

1 any beneficial interest therein should by the terms of the instrument
2 become vested, such assets shall be distributed and such beneficial
3 interest shall validly vest in accordance with the instrument.

4 Sec. 11.98.030 DISTRIBUTION OF ASSETS AT EXPIRATION OF PERIOD.

5 If, at the expiration of any period in which an instrument creating a
6 trust or any provision thereof is not to be rendered invalid by the
7 rule against perpetuities, any of the trust assets have not by the
8 terms of the trust instrument become distributable or vested, then
9 such assets shall be then distributed as the superior court having
10 jurisdiction shall direct, giving effect to the general intent of the
11 creator of the trust.

12 Sec. 11.98.040 EFFECTIVE DATE OF CREATION OF TRUST. For the
13 purposes of this chapter the effective date of an instrument purport-
14 ing to create an irrevocable inter vivos trust shall be its date of
15 delivery, and the effective date of an instrument purporting to create
16 either a revocable inter vivos trust or a testamentary trust shall be
17 the date of the trustor's or testator's death.

18 Sec. 11.98.050 APPLICATION OF CHAPTER. The provisions here-
19 of shall be applicable to any instrument purporting to create a trust
20 which has an effective date subsequent to the effective date of this
21 chapter.

22 Chapter 11.99

23 CONSTRUCTION

24 Sec. 11.99.010 EFFECTIVE DATE OF TITLE. This title shall take
25 effect and be in force on and after the first day of January, 1966.
26 The procedures herein prescribed shall govern all proceedings in pro-
27 bate brought after the effective date of the title and, also, all
28 further procedure and proceedings in probate then pending, except to
29 the extent that in the opinion of the court their application in par-
30 ticular proceedings or part thereof would not be feasible or would
31 work injustice, in which event the former procedure shall apply.

32 Sec. 11.99.013 TITLE, CHAPTER, SECTION HEADINGS NOT PART OF
33 LAW. Title headings, chapter headings, and section or subsection

1 headings, as used in this title do not constitute any part of the law.

2 Sec. 11.99.015 REPEAL. The following acts or parts of acts
3 are repealed:

4 (1) Sections 1 and 2 page 53, Laws of 1875 entitled AN ACT In
5 relation to the duties of probate judges.

6 (2) Sections 1 through 18, pages 53 through 59, Laws of 1875.

7 (3) Section 1, page 127, Laws of 1875.

8 (4) Sections 626 through 637, chapter 49, page 130, Laws of
9 1877.

10 (5) Sections 721 through 729, chapter LVIII, page 145, Laws of
11 1877.

12 (6) Sections 1 and 2, page 284, Laws of 1877.

13 (7) Sections 12 and 13, pages 78 and 79, Laws of 1879.

14 (8) Sections 623 through 634, chapter LII, Code of 1881.

15 (9) Sections 717 through 724, chapter LXI, Code of 1881.

16 (10) Sections 1297 through 1666, chapter XCV through CXI, Code
17 of 1881.

18 (11) Sections 1667 through 1670, chapter CXII, Code of 1881.

19 (12) Sections 1678 through 1680, chapter CXIV, Code of 1881.

20 (13) Sections 1681 through 1686, chapter CXV, Laws of 1881.

21 (14) Section 2138, chapter CLV, Code of 1881.

22 (15) Sections 2411, 2412 and 2414, chapter CLXXXIII, Laws of
23 1881.

24 (16) Sections 3302 through 3315, chapter CCLIII, Laws of 1881.

25 (17) Sections 3316 and 3317, chapter CCLIV, Code of 1881.

26 (18) Section 1, page 29, Laws of 1883.

27 (19) Sections 1 through 4, page 57, Laws of 1883.

28 (20) Sections 1 through 3, page 165, Laws of 1885 entitled
29 AN ACT To abolish the right of survivorship in estates held in joint
30 tenancy.

31 (21) Sections 1 through 3, pages 170 and 177, Laws of 1885.

32 (22) Chapter 99, page 185, Laws of 1887.

33 (23) Chapter 100, page 186, Laws of 1887.

- 1 (24) Chapter 101, p 187, Laws of 1887.
- 2 (25) Sections 2 and 3, page 82, Laws of 1889.
- 3 (26) Sections 14 and 15, chapter 54, Laws of 1891.
- 4 (27) Chapter 86, Laws of 1891.
- 5 (28) Sections 1 through 49, chapter 155, Laws of 1891.
- 6 (29) Chapter 32, Laws of 1893.
- 7 (30) Chapter 54, Laws of 1893.
- 8 (31) Sections 1 through 9, chapter 120, Laws of 1893.
- 9 (32) Chapter 42, Laws of 1895.
- 10 (33) Chapter 105, Laws of 1895.
- 11 (34) Chapter 157, Laws of 1895.
- 12 (35) Chapter 22, Laws of 1897.
- 13 (36) Chapter 25, Laws of 1897.
- 14 (37) Chapter 75, Laws of 1897.
- 15 (38) Chapter 98, Laws of 1897.
- 16 (39) Chapter 100, Laws of 1903.
- 17 (40) Chapter 130, Laws of 1903.
- 18 (41) Chapter 17, Laws of 1905.
- 19 (42) Chapter 50, Laws of 1907.
- 20 (43) Chapter 133, Laws of 1907.
- 21 (44) Chapter 118, Laws of 1909.
- 22 (45) Chapter 8, Laws of 1911.
- 23 (46) Chapter 39, Laws of 1915.
- 24 (47) Sections 1, 3 through 56, 58 through 71, and 73 through
25 221, chapter 156, Laws of 1917.
- 26 (48) Chapter 23, Laws of 1919.
- 27 (49) Chapter 31, Laws of 1919.
- 28 (50) Chapter 197, Laws of 1919.
- 29 (51) Chapter 93, Laws of 1921.
- 30 (52) Section 1, chapter 72, Laws of 1923.
- 31 (53) Chapter 113, Laws of 1923.
- 32 (54) Chapter 142, Laws of 1923.
- 33 (55) Chapter 80, Laws of 1925 extraordinary session.

- 1 (56) Chapter 104, Laws of 1925 extraordinary session.
- 2 (57) Chapter 76, Laws of 1927.
- 3 (58) Chapter 91, Laws of 1927.
- 4 (59) Chapter 104, Laws of 1927.
- 5 (60) Chapter 160, Laws of 1927.
- 6 (61) Sections 1 through 3, chapter 170, Laws of 1927.
- 7 (62) Section 1, chapter 185, Laws of 1927.
- 8 (63) Section 1, chapter 21, Laws of 1929.
- 9 (64) Chapter 112, Laws of 1929.
- 10 (65) Chapter 218, Laws of 1929.
- 11 (66) Section 123, chapter 180, Laws of 1935.
- 12 (67) Chapter 28, Laws of 1937.
- 13 (68) Chapter 151, Laws of 1937.
- 14 (69) Chapter 26, Laws of 1939.
- 15 (70) Chapter 132, Laws of 1939.
- 16 (71) Section 8, chapter 202, Laws of 1939.
- 17 (72) Sections 1 and 2, chapter 206, Laws of 1941.
- 18 (73) Chapter 83, Laws of 1941.
- 19 (74) Chapter 14, Laws of 1943.
- 20 (75) Chapter 29, Laws of 1943.
- 21 (76) Chapter 113, Laws of 1943.
- 22 (77) Chapter 193, Laws of 1943.
- 23 (78) Chapter 219, Laws of 1943.
- 24 (79) Chapter 39, Laws of 1945.
- 25 (80) Chapter 41, Laws of 1945.
- 26 (81) Chapter 72, Laws of 1945.
- 27 (82) Chapter 197, Laws of 1945.
- 28 (83) Chapter 198, Laws of 1945.
- 29 (84) Chapter 44, Laws of 1947.
- 30 (85) Chapter 54, Laws of 1947.
- 31 (86) Chapter 145, Laws of 1947.
- 32 (87) Chapter 11, Laws of 1949.
- 33 (88) Chapter 102, Laws of 1949.

House Amendment to Engrossed Senate Bill No. 6
By Representative Brachtenbach

On page 117, section 11.99.015, line 22 of the
printed and engrossed bills, following subsection
"(110)" add a new subsection as follows:
"(111) Section 83.16.040, Chapter 15, Laws of
1961"

Adopted 3/10/65

- 1 (89) Sections 1 through 3, chapter 138, Laws of 1951.
- 2 (90) Sections 1 through 6, chapter 197, Laws of 1951.
- 3 (91) Chapter 242, Laws of 1951.
- 4 (92) Chapter 264, Laws of 1951.
- 5 (93) Section 2, chapter 270, Laws of 1953.
- 6 (94) Chapter 45, Laws of 1955.
- 7 (95) Chapter 98, Laws of 1955.
- 8 (96) Chapter 141, Laws of 1955.
- 9 (97) Chapter 154, Laws of 1955.
- 10 (98) Chapter 205, Laws of 1955.
- 11 (99) Chapter 254, Laws of 1955.
- 12 (100) Chapter 7, Laws of 1955 extraordinary session.
- 13 (101) Chapter 64, Laws of 1957.
- 14 (102) Chapter 125, Laws of 1957.
- 15 (103) Chapter 43, Laws of 1959.
- 16 (104) Chapter 116, Laws of 1959.
- 17 (105) Chapter 146, Laws of 1959.
- 18 (106) Chapter 240, Laws of 1959.
- 19 (107) Chapter 155, Laws of 1961.
- 20 (108) Chapter 43, Laws of 1963.
- 21 (109) Chapter 46, Laws of 1963.
- 22 (110) Chapter 185, Laws of 1963.

23 Sec. 11.99.020 SAVINGS CLAUSE--RIGHTS NOT AFFECTED. No act
24 done in any proceeding commenced before this title takes effect and no
25 accrued right shall be impaired by its provisions. When a right is
26 acquired, extinguished or barred upon the expiration of a prescribed
27 period of time which has commenced to run by the provisions of any
28 statute in force before this title takes effect, such provisions shall
29 remain in force and be deemed a part of this code with respect to such
30 right.

31 Sec. 11.99.030 SEVERABILITY. If any provisions of this title
32 or the application thereof to any person or circumstances is held in-
33 valid, such invalidity shall not affect other provisions or applications

1 of the title which can be given effect without the invalid provision
2 or application, and, to this end, provisions of this title are de-
3 clared to be severable.

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