

CHAPTER 185.

[S. B. 52.]

PROBATE LAW AND PROCEDURE—AWARDS IN LIEU OF HOMESTEAD—HOMESTEAD AND ADDITIONAL AWARDS.

AN ACT relating to awards in lieu of and in addition to homesteads; amending section 2, chapter 264, Laws of 1951, as amended by section 10, chapter 205, Laws of 1955, and RCW 11.52.010; amending section 7, chapter 264, Laws of 1951, as amended by section 11, chapter 205, Laws of 1955, and RCW 11.52.020; and amending section 8, chapter 264, Laws of 1951 and RCW 11.52.022.

Be it enacted by the Legislature of the State of Washington:

RCW 11.52.010 amended.

SECTION 1. Section 2, chapter 264, Laws of 1951, as amended by section 10, chapter 205, Laws of 1955, and RCW 11.52.010 are each amended to read as follows:

Probate. Award in lieu of homestead—Amount—Time for filing petition.

If it is made to appear to the satisfaction of the court that no homestead has been claimed in the manner provided by law, either prior or subsequent to the death of the person whose estate is being administered, then the court, after hearing and upon being satisfied that the funeral expenses, expenses of last sickness and of administration have been paid or provided for, and upon petition for that purpose, shall award and set off to the surviving spouse, if any, property of the estate, either community or separate, not exceeding the value of ten thousand dollars at the time of death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased spouse, and exclusive of any mortgage or mechanic's, laborer's or materialmen's or vendor's liens upon the property so set off, and exclusive of funeral expenses, expenses of last sickness and administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving

spouse; provided that the court shall have no jurisdiction to make such award unless the petition therefor is filed with the clerk within six years from the date of the death of the person whose estate is being administered.

SEC. 2. Section 7, chapter 264, Laws of 1951, as amended by section 11, chapter 205, Laws of 1955, and RCW 11.52.020 are each amended to read as follows:

RCW 11.52.020 amended.

In event a homestead has been, or shall be selected in the manner provided by law, whether the selection of such homestead results in vesting the complete or partial title in the survivor, it shall be the duty of the court, upon petition of any person interested, and upon being satisfied that the value thereof does not exceed ten thousand dollars at the time of the death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased and exclusive of mortgages, mechanic's, laborer's, materialmen's or vendor's liens thereon, and exclusive of funeral expenses, expenses of last sickness and of administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse, to enter a decree, upon notice as provided in RCW 11.52.014 or upon longer notice if the court so orders, setting off and awarding such homestead to the survivor, thereby vesting the title thereto in fee simple in the survivor: *Provided*, That if there be any minor child or incompetent heirs of the decedent, the court shall appoint a guardian ad litem for such child or incompetent heir who shall appear at the hearing and represent the interest of such minor child or incompetent heir.

Homestead may be awarded to survivor—Appointment of guardian ad litem.

Proviso.

SEC. 3. Section 8, chapter 264, Laws of 1951 and RCW 11.52.022 are each amended to read as follows:

RCW 11.52.022 amended.

If the value of the homestead, exclusive of all

Probate—
Award in
addition to
homestead—
Conditions
under which
such award
may be denied
or reduced.

Proviso.

such liens, be less than ten thousand dollars, the court, upon being satisfied that the funeral expenses, expenses of last sickness and of administration, have been paid or provided for, shall set off and award additional property, either separate or community, in lieu of such deficiency, so that the value of the homestead, exclusive of all such liens and expenses when added to the value of the other property awarded, exclusive of all such liens and expenses shall equal ten thousand dollars: *Provided*, That if it shall appear to the court, either (1) there are minor or incompetent children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) if such surviving spouse is entitled to receive insurance on the life of the deceased spouse in the sum of five thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than ten thousand dollars in value, shall lie in the discretion of the court, and that where there shall be an award in addition to the homestead and the amount thereof shall be determined by the court, who shall enter such decree as shall be just and equitable, but not in excess of the award provided herein.

Passed the Senate February 15, 1963.

Passed the House March 12, 1963.

Approved by the Governor March 26, 1963.