

SEC. 3. The Chief of the Washington State Patrol shall appoint a committee to serve in a purely technical advisory capacity to aid in the study and evaluation of proposed regulations concerning safety in the transportation of materials described in section 1 of this act. The technical advisory committee shall consist of five citizens of the state employed in the following designated enterprises: one appointed each from the explosive industry, the petroleum industry, the chemical industry, the trucking industry and a representative appointed by the Washington State Association of Fire Chiefs.

Technical
advisory
committee.

Passed the Senate March 8, 1949.

Passed the House March 6, 1949.

Approved by the Governor March 16, 1949.

CHAPTER 102.

[S. B. 118.]

PROBATE—HOMESTEADS.

AN ACT relating to probate law and procedure; providing for the awarding and setting aside of property of decedent to surviving spouse in lieu of homestead; amending section 103, chapter 156, Laws of 1917, as amended by section 1, chapter 197, Laws of 1945 (sec. 1473, Rem. Rev. Stat., Supp. 1945); and amending section 104, chapter 156, Laws of 1917, as amended by section 1, chapter 198, Laws of 1945 (sec. 1474, Rem. Rev. Stat., Supp. 1945).

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

SECTION 1. Section 103, chapter 156, Laws of 1917, as amended by section 1, chapter 197, Laws of 1945 (sec. 1473, Rem. Rev. Stat., Supp. 1945), is amended to read as follows:

Amendment.

Section 103. If it shall be 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

Set off of
homestead to
surviving
spouse.

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 Four Thousand Dollars (\$4,000.00) 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 of administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse. The property so set off shall include the home and household goods, if any, and such award shall be made by an order of judgment of the Court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates: *Provided*, That no property of the estate shall be awarded or set off, as in this section provided, to a surviving spouse who has feloniously killed the deceased spouse; and *Provided further*, That if it shall appear to the Court, either (1) that 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 (\$5,000.00), or more, that the award in lieu of homestead and exemptions shall lie in the discretion of the Court, and that whether there shall be an award and the amount thereof shall

Award in
discretion of
court under
certain
conditions.

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. Notice of such hearing shall be given by posting a notice in three public places in the county in which the hearing is to be held. Said notice may be posted by the Clerk of the Superior Court of the county in which the hearing is to be held, or may be posted by any person qualified to serve a summons in a civil action. Said notices shall be posted at least ten (10) days prior to the date fixed for the hearing. If there be any minor child or incompetent heir of the decedent, the Court shall appoint a guardian ad litem for such minor child or incompetent heir, who shall appear at the hearing and represent the interest of such minor child or incompetent heir. The order of judgment of the Court making the award or awards provided for in this section shall be conclusive and final, except on appeal and except for fraud. The awards in this section provided shall be in lieu of all homestead provisions of the law and of exemptions. The said property, when set aside as herein provided, shall be exempt from all claims for the payment of any debt of the deceased or of the surviving spouse existing at the time of death, whether such debt be individual or community.

Notice of hearing.

Order or judgment conclusive.

Under this section, the Court shall not award more property than could be awarded under the law in effect at the time of the death of the deceased spouse: *Provided*, That the awards provided for in this section shall not be taken from separate property of the deceased which is otherwise disposed of by will.

Limitation on amount of award.

SEC. 2. Section 104, chapter 156, Laws of 1917, as amended by section 1, chapter 198, Laws of 1945 (sec. 1474, Rem. Rev. Stat., Supp. 1945), is amended to read as follows:

Amendment.

Decree of
set off for
surviving
spouse.

Section 104. In event a homestead has been, or shall be selected in the manner provided by law, whether the selection of such homestead result 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 Four Thousand Dollars (\$4,000.00), 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 such notice as the Court may determine, setting off and awarding such homestead to the survivor, thereby vesting the title thereto in fee simple in the survivor. If the value of the homestead, exclusive of all such liens, be less than Four Thousand Dollars (\$4,000.00), 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 Four Thousand Dollars (\$4,000.00): *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

Value.

Award in
discretion of
court under
certain
conditions.

Thousand Dollars (\$5,000.00), or more, that the award of property in addition to the homestead, where the homestead is of less than Four Thousand Dollars (\$4,000.00) in value, shall lie in the discretion of the Court, and that whether 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. Said decree shall particularly describe the said homestead and other property so awarded, and such homestead and other property so awarded shall not be subject to further administration, and such decree shall be conclusive and final, except on appeal, and except for fraud, and such awards shall be in lieu of all further homestead rights and of all exemptions. The property in addition to the homestead, when set aside as herein provided, shall be exempt from all claims for the payment of any debt of the deceased or of the surviving spouse existing at the time of death, whether such debt be individual or community.

Decree
conclusive.

Under this section, the Court shall not award more property than could be awarded under the law in effect at the time of the death of the deceased spouse: *Provided*, That the awards provided for in this section shall not be taken from separate property of the deceased which is otherwise disposed of by will.

Limitation
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Passed the Senate March 8, 1949.

Passed the House March 6, 1949.

Approved by the Governor March 16, 1949.