

CHAPTER 168.

[Engrossed House Bill No. 138.]

PROBATE LAW AND PROCEDURE.

AN ACT relating to probate law and procedure; amending section 11.04.015, chapter 145, Laws of 1965, as amended by section 1, chapter 55, Laws of 1965 extraordinary session and RCW 11.04.015; amending section 11.04.035, chapter 145, Laws of 1965 and RCW 11.04.035; amending section 11.16.050, chapter 145, Laws of 1965 and RCW 11.16.050; amending section 11.20.020, chapter 145, Laws of 1965 and RCW 11.20.020; amending section 11.20.040, chapter 145, Laws of 1965 and RCW 11.20.040; amending section 11.24.010, chapter 145, Laws of 1965 and RCW 11.24.010; amending section 11.40.010, chapter 145, Laws of 1965 and RCW 11.40.010; amending section 11.44.015, chapter 145, Laws of 1965 and RCW 11.44.015; amending section 11.44.070, chapter 145, Laws of 1965 and RCW 11.44.070; amending section 11.44.080, chapter 145, Laws of 1965 and RCW 11.44.080; amending section 11.52.010, chapter 145, Laws of 1965 and RCW 11.52.010; amending section 11.52.020, chapter 145, Laws of 1965 and RCW 11.52.020; amending section 1, chapter 126, Laws of 1965, section 11.52.050, chapter 145, Laws of 1965 and RCW 11.52.050; amending section 11.80.020, chapter 145, Laws of 1965 and RCW 11.80.020; amending section 11.20.050, chapter 145, Laws of 1965 and RCW 11.20.050; amending section 11.56.110, chapter 145, Laws of 1965 and RCW 11.56.110; adding new sections to chapter 145, Laws of 1965 and to chapters 11.02 and 11.40 RCW; and providing an effective date.

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

Section 1. There is added to chapter 145, Laws of 1965 and to chapter 11.02 RCW a new section to read as follows:

New section.

Upon the death of a decedent, a one-half share of the community property shall be confirmed to the surviving spouse, and the other one-half share shall be subject to testamentary disposition by the decedent, or shall descend as provided in chapter 11.04 RCW. The whole of the community property shall be subject to probate administration for all purposes of this title, including the payment of obligations

Probate—
Community
property
subject to
probate.

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and debts of the community, the award in lieu of homestead, the allowance for family support, and any other matter for which the community property would be responsible or liable if the decedent were living.

RCW 11.04.015 amended.

Sec. 2. Section 11.04.015, chapter 145, Laws of 1965, as amended by section 1, chapter 55, Laws of 1965 extraordinary session and RCW 11.04.015 are each amended to read as follows:

Descent and distribution.

The net estate of a person dying intestate, or that portion thereof with respect to which the person shall have died intestate, shall descend subject to the provisions of RCW 11.04.250 and section 1 of this 1967 amendatory act, and shall be distributed as follows:

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

(a) All of the decedent's share of the net community estate unless there be surviving issue or parents, in which event, the surviving spouse shall take one-half of the decedent's share 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 degree 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 or 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 or by either parent, or by any issue of the parent or parents who survive the intestate, then to the grandparent or grandparents who survive the intestate; if both maternal and paternal grandparents survive the intestate, the maternal grandparent or grandparents shall take one-half and the paternal grandparent or grandparents shall take one-half.

(e) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents or by any grandparent or grandparents, then to those issue of any grandparent or grandparents who survive the intestate; taken as a group, the issue of the maternal grandparent or grandparents shall share equally with the issue of the paternal grandparent or grandparents, also taken as a group; within each such group, all members share equally if they are all in the same degree of kinship to the intestate, or, if some be of unequal degree, then those of more remote degree shall take by representation.

Sec. 3. Section 11.04.035, chapter 145, Laws of 1965 and RCW 11.04.035 are each amended to read as follows:

Kindred of the half blood shall inherit the same share which they would have inherited if they had

RCW 11.04.035
amended.

Probate—
Kindred of the
half blood.

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Kindred of the
half blood.

been of the whole blood, unless the inheritance comes to the intestate by descent, devise, or gift from one of his ancestors, or kindred of such ancestor's blood, in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance; *Provided, however,* That the words "kindred of such ancestor's blood" and "blood of such ancestors" shall be construed to include any child lawfully adopted by one who is in fact of the blood of such ancestors.

RCW 11.16.050
amended.

Sec. 4. Section 11.16.050, chapter 145, Laws of 1965 and RCW 11.16.050 are each amended to read as follows:

Probate—
Venue.

Wills shall be proved and letters testamentary or of administration shall be granted:

(1) In the county of which deceased was a resident at the time of his death.

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

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

RCW 11.20.040
amended.

Sec. 5. Section 11.20.040, chapter 145, Laws of 1965 and RCW 11.20.040 are each amended to read as follows:

Proof of will—
Witnesses.

The subsequent incompetency from whatever cause of one or more of the subscribing witnesses, or their inability to testify in open court or pursuant to commission, or their absence from the state, shall not prevent the probate of the will. In such cases the court shall admit the will to probate upon satisfactory testimony that the handwriting of the testator and of an incompetent or absent subscribing witness is genuine or the court may consider such other

facts and circumstances, if any, as would tend to prove such will.

Sec. 6. Section 11.24.010, chapter 145, Laws of 1965 and RCW 11.24.010 are each amended to read as follows:

RCW 11.24.010 amended.

If any person interested in any will shall appear within four months immediately following the probate or rejection thereof, and by petition to the court having jurisdiction contest the validity of said will, or appear to have the will proven which has been rejected, he shall file a petition containing his objections and exceptions to said will, or to the rejection thereof. Issue shall be made up, tried and determined in said court respecting the competency of the deceased to make a last will and testament, or respecting the execution by a deceased of such last will and testament under restraint or undue influence or fraudulent representations, or for any other cause affecting the validity of such will.

Will contests—
Limitation of
action—Issues.

Sec. 7. Section 11.40.010, chapter 145, Laws of 1965 and RCW 11.40.010 are each amended to read as follows:

RCW 11.40.010 amended.

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

Claims against
estate—Notice
to creditors—
Limitation on
filing claim.

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those provisions included in RCW 11.40.011. Proof by affidavit of the publication of such notice shall be filed with the court by the personal representative. In cases where all the property is awarded to the widow, husband or children as in this title provided, the notice to creditors herein provided for may be omitted.

New section designated 11.40.011.

Sec. 8. There is added to chapter 145, Laws of 1965 and to chapter 11.40 RCW a new section to be designated as RCW 11.40.011, to read as follows:

Claims against estate—Tort claims.

(1) The time limitation provided in RCW 11.40.010 for the serving and filing of claims shall not apply to causes of action against the decedent sounding in tort but such actions shall be barred only upon the expiration of the appropriate statute of limitations.

(2) (a) If the action is commenced prior to the time that the personal representative was discharged, the complaint shall be served on the personal representative, or the attorney for the estate; or

(b) If the action is commenced after the personal representative shall have been discharged, then the claimant as a creditor may cause a new personal representative to be appointed and the estate to be reopened in which case service may be had upon the new personal representative or his attorney of record.

NOTE: See also section 4, chapter 106, Laws of 1967 ex. sess.

RCW 11.44.015 amended.

Sec. 9. Section 11.44.015, chapter 145, Laws of 1965 and RCW 11.44.015 are each amended to read as follows:

Inventory.

Within three months after his appointment, unless a longer time shall be granted by the court, every personal representative shall make and return upon oath into the court a true inventory of all of the property of the estate which shall have come to his possession or knowledge, including a statement

of all encumbrances, liens or other secured charges against any item. Such property shall be classified as follows:

- (1) Real property, by legal description and assessed valuation of land and improvements thereon;
- (2) Stocks and bonds;
- (3) Mortgages, notes, and other written evidences of debt;
- (4) Bank accounts and money;
- (5) Furniture and household goods;
- (6) All other personal property accurately identified, including the decedent's proportionate share in any partnership, but no inventory of the partnership property shall be required of the personal representative.

Sec. 10. Section 11.44.070, chapter 145, Laws of 1965 and RCW 11.44.070 are each amended to read as follows:

RCW 11.44.070 amended.

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 gross value of the assets of the estate actually appraised by him.

Compensation of appraisers.

Sec. 11. Section 11.44.080, chapter 145, Laws of 1965 and RCW 11.44.080 are each amended to read as follows:

RCW 11.44.080 amended.

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:

Dispensing with appraisal.

- (a) Moneys, drafts and checks;
- (b) Bank and savings and loan association accounts;
- (c) Bonds or securities listed on any exchange or having a recognized market value; and an appraisal may be dispensed with, in the discretion

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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.

RCW 11.52.010 amended.

Sec. 12. Section 11.52.010, chapter 145, Laws of 1965 and RCW 11.52.010 are each amended to read as follows:

Family support—Award in lieu of homestead—Amount—Time for filing.

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 the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's or materialmen'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.

RCW 11.52.020 amended.

Sec. 13. Section 11.52.020, chapter 145, Laws of 1965 and RCW 11.52.020 are each amended to read as follows:

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 the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's, or materialmen'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 incompetent heirs of the decedent, the court shall appoint a guardian ad litem for such incompetent heir who shall appear at the hearing and represent the interest of such incompetent heir.

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

Sec. 14. Section 1, chapter 126, Laws of 1965, section 11.52.050, chapter 145, Laws of 1965 and RCW 11.52.050 are each amended to read as follows:

RCW 11.52.050 amended.

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 contract to purchase, mortgage, or mechanic's, laborer's or materialmen'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 appraised value of the

Homestead—Closure of estate—Discharge if personal representative.

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property of the estate, 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.

RCW 11.80.020 amended.

Sec. 15. Section 11.80.020, chapter 145, Laws of 1965 and RCW 11.80.020 are each amended to read as follows:

Estates of absentees—
Inventory and appraisement
—Bond of trustee.

The trustee so appointed shall make, subscribe and file in the office of the clerk of the court an oath for the faithful performance of his duties, and shall, within such time as may be fixed by the judge, prepare and file an inventory of such property, and the judge shall thereupon appoint a disinterested and qualified person to appraise such property, and report his appraisement to the court within such time as the court may fix. Upon the coming in of the inventory and appraisement, the judge shall fix the amount of the bond to be given by the trustee, which bond shall in no case be less than the appraised value of the personal property and the annual rents and profits of the real property, and the trustee shall thereupon file with the clerk of the court a good and sufficient bond in the amount fixed and with surety to be approved by the court, conditioned for the faithful performance of his duties as trustee, and for accounting for such property, its rents, issues, profits, and increase.

Effective date.

Sec. 16. This act shall take effect on July 1, 1967.

RCW 11.20.050 amended.

Sec. 17. Section 11.20.050, chapter 145, Laws of 1965 and RCW 11.20.050 are each amended to read as follows:

Wills—
Recording.

All wills shall be recorded by the clerk after filing, but may be withdrawn on the order of the court.

NOTE: See also section 1, chapter 106, Laws of 1967 ex. sess.

Sec. 18. Section 11.56.110, chapter 145, Laws of 1965 and RCW 11.56.110 are each amended to read as follows:

RCW 11.56.110 amended.

If, at any time before confirmation of any such sale, any person shall file with the clerk of the court a bid on such property in an amount not less than ten percent higher than the bid the acceptance of which was reported by the return of sale and shall deposit with the clerk not less than twenty percent of his bid in the form of cash, money order, cashier's check or certified check made payable to the clerk, to be forfeited to the estate unless such bidder complies with his bid, the bidder whose bid was accepted shall be informed of such increased bid by registered or certified mail addressed to such bidder at any address which may have been given by him at the time of making such bid. Such bidder then shall have a period of five days, not including holidays, in which to make and file a bid better than that of the subsequent bidder. After the expiration of such five-day period the court may refuse to confirm the sale reported in the return of sale and direct a sale to the person making the best bid then on file, indicating which is the best bid, and a sale made pursuant to such direction shall need no further confirmation. Instead of such a direction, the court, upon application of the personal representative, may direct the reception of sealed bids. Thereupon the personal representative shall mail notice by registered or certified mail to all those who have made bids on such property informing them that sealed bids will be received by the clerk of the court within ten days. At the expiration of such period the personal representative, in the presence of the clerk of the court, shall open such bids as shall have been submitted to the clerk within the time stated in the notice (whether by previous bidders or not) and shall file a recommendation of the acceptance of

Sales, exchanges, etc. of estate property. Offer of increased bid—Duty of court.

the bid which he deems best in view of the requirements of the particular estate. The court may thereupon direct a sale to the bidder whose bid is deemed best by the court and a sale made pursuant to such direction shall need no confirmation: *Provided, however,* That the court shall consider the net realization to the estate in determining the best bid.

NOTE: See also section 2, chapter 106, Laws of 1967 ex. sess.

Effective date. Sec. 19. The provisions of this act shall take effect on July 1, 1967.

Passed the House March 9, 1967.

Passed the Senate March 9, 1967.

Approved by the Governor March 21, 1967.

CHAPTER 169.

[Engrossed House Bill No. 369.]

IRRIGATION DISTRICTS.

AN ACT relating to irrigation districts; amending section 22, page 683, Laws of 1889-90, as last amended by section 1, chapter 157, Laws of 1941 and RCW 87.03.260; amending section 24, page 684, Laws of 1889-90, as last amended by section 3, chapter 171, Laws of 1939 and RCW 87.03.270; and adding a new section to chapter 87.03 RCW.

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

RCW 87.03.260 amended.

Section 1. Section 22, page 683, Laws of 1889-90, as last amended by section 1, chapter 157, Laws of 1941, and RCW 87.03.260 are each amended to read as follows:

Irrigation districts. Levies, amount—Special funds—Failure to make levy, procedure.

The board of directors shall in each year before said roll is delivered by the secretary to the respective county treasurers, levy an assessment sufficient to raise the ensuing annual interest on the outstanding bonds, and all payments due or to become due in the ensuing year to the United States or the state of Washington under any contract between the district and the United States or the state of Washington