

to defray the cost of further foreclosure, distress and sale for delinquent taxes without regard to budget limitations.

Passed the House February 13, 1974.
Passed the Senate February 12, 1974.
Approved by the Governor February 19, 1974.
Filed in Office of Secretary of State February 19, 1974.

CHAPTER 117
[Substitute House Bill No. 748]
PROBATE

AN ACT Relating to probate; amending section 11.04.015, chapter 145, Laws of 1965 as last amended by section 2, chapter 168, Laws of 1967 and RCW 11.04.015; amending section 11.12.120, chapter 145, Laws of 1965 and RCW 11.12.120; amending section 11.20.020, chapter 145, Laws of 1965 as amended by section 1, chapter 126, Laws of 1969 ex. sess. and RCW 11.20.020; amending section 11.28.010, chapter 145, Laws of 1965 and RCW 11.28.010; amending section 11.28.070, chapter 145, Laws of 1965 and RCW 11.28.070; section 11.28.110, chapter 145, Laws of 1965 and RCW 11.28.110; amending section 11.28.237, chapter 145, Laws of 1965 as amended by section 2, chapter 70, Laws of 1969 and RCW 11.28.237; amending section 11.28.280, chapter 145, Laws of 1965 and RCW 11.28.280; amending section 11.40.010, chapter 145, Laws of 1965 as amended by section 7, chapter 168, Laws of 1967 and RCW 11.40.010; amending section 11.40.020, chapter 145, Laws of 1965 and RCW 11.40.020; amending section 11.40.030, chapter 145, Laws of 1965 and RCW 11.40.030; amending section 11.40.040, chapter 145, Laws of 1965 and RCW 11.40.040; amending section 11.40.060, chapter 145, Laws of 1965 and RCW 11.40.060; amending section 11.40.100, chapter 145, Laws of 1965 and 11.40.100; amending section 11.40.110, chapter 145, Laws of 1965 and RCW 11.40.110; amending section 11.44.025, chapter 145, Laws of 1965 and RCW 11.44.025; amending section 11.44.070, chapter 145, Laws of 1965 as amended by section 10, chapter 168, Laws of 1967 and RCW 11.44.070; amending section 11.52.010, chapter 145, Laws of 1965 as last amended by section 2, chapter 12, Laws of 1971 ex. sess. and RCW 11.52.010; amending section 11.52.012, chapter 145, Laws of 1965 and RCW 11.52.012; amending section 11.52.020, chapter 145, Laws of 1965 as last amended by section 3, chapter 12, Laws of 1971 ex. sess. and RCW 11.52.020; amending section 11.52.022, chapter 145, Laws of 1965 as amended by section 4, chapter 12, Laws of 1971 ex.

sess. and RCW 11.52.022; amending section 11.68.010, chapter 145, Laws of 1965 as amended by section 1, chapter 19, Laws of 1969 and RCW 11.68.010; amending section 11.68.020, chapter 145, Laws of 1965 and RCW 11.68.020; amending section 11.68.030, chapter 145, Laws of 1965 and RCW 11.68.030; amending section 11.68.040, chapter 145, Laws of 1965 and RCW 11.68.040; amending section 11.76.080, chapter 145, Laws of 1965 as last amended by section 1, chapter 28, Laws of 1971 and RCW 11.76.080; amending section 11.76.090, chapter 145, Laws of 1965 as amended by section 2, chapter 28, Laws of 1971 and RCW 11.76.090; amending section 11.76.095, chapter 145, Laws of 1965 as amended by section 3, chapter 28, Laws of 1971 and RCW 11.76.095; amending section 30.04.260, chapter 33, Laws of 1955 and RCW 30.04.260; amending section 30.20.020, chapter 33, Laws of 1955 as amended by section 2, chapter 280, Laws of 1961 and RCW 30.20.020; amending section 32.12.020, chapter 13, Laws of 1955 as last amended by section 2, chapter 55, Laws of 1969 and RCW 32.12.020; amending section 46, chapter 235, Laws of 1945 as amended by section 6, chapter 246, Laws of 1963 and RCW 33.20.080; amending section 2, chapter 139, Laws of 1939 as amended by section 1, chapter 210, Laws of 1967 and RCW 49.48.120; adding new chapters to Title 11 RCW; adding new sections to chapters 11.28, 11.44, and 11.68 RCW; repealing section 11.28.130, chapter 145, Laws of 1965 and RCW 11.28.130; repealing section 11.28.180, chapter 145, Laws of 1965 and RCW 11.28.180; repealing section 11.28.200, chapter 145, Laws of 1965 and RCW 11.28.200; repealing section 11.40.050, chapter 145, Laws of 1965 and RCW 11.40.050; repealing section 11.44.055, chapter 145, Laws of 1965 and RCW 11.44.055; repealing section 11.44.065, chapter 145, Laws of 1965 and RCW 11.44.065; and repealing section 11.44.080, chapter 145, Laws of 1965, section 11, chapter 168, Laws of 1967 and RCW 11.44.080; and prescribing an effective date.

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

PART I. GENERAL PROVISIONS

NEW SECTION. Section 1. On and after October 1, 1974:

(1) The provisions of this 1974 amendatory act shall apply to any wills of decedents dying thereafter;

(2) The provisions of this 1974 amendatory act shall apply to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because

of infeasibility of application of the procedure of this 1974 amendatory act;

(3) Every personal representative including a person administering an estate of a minor or incompetent holding an appointment on October 1, 1974, continues to hold the appointment, has the powers conferred by this 1974 amendatory act and is subject to the duties imposed with respect to any act occurring or done thereafter;

(4) An act done before October 1, 1974 in any proceeding and any accrued right is not impaired by this 1974 amendatory act. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before October 1, 1974, the provisions shall remain in force with respect to that right;

(5) Any rule of construction or presumption provided in this 1974 amendatory act applies to instruments executed before October 1, 1974 unless there is a clear indication of a contrary intent.

NEW SECTION. Sec. 2. (1) Sections 4 and 5 of this 1974 amendatory act shall constitute a new chapter in Title 11 RCW.

(2) Sections 52 and 53 of this 1974 amendatory act shall constitute a new chapter in Title 11 RCW.

(3) Part headings employed in this 1974 amendatory act do not constitute any part of the law and shall not be codified by the code reviser and shall not become a part of the Revised Code of Washington.

NEW SECTION: Sec. 3. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

PART II. PROVISIONS RELATING TO DISTRIBUTION
OF PROPERTY

NEW SECTION. Sec. 4. (1) At any time after forty days from the date of the decedent's death, any person indebted to the decedent or having possession of tangible personal property or any instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent, which property is subject to probate, shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon receipt of an affidavit made by the successor stating:

- (a) The successor's name and address;
- (b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the total estate of the decedent subject to probate, wherever located, less liens and encumbrances, does not exceed ten thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) That the claiming successor has mailed notice identifying his claim to all other successors of the decedent and at least ten days have elapsed since said mailing, and the claiming successor is personally, or with the written authority of all other successors of the decedent, entitled to full payment or delivery of the property; and

(h) That the claiming successor has mailed to the inheritance tax division of the state department of revenue a notification of his claim in such form as the department of revenue may prescribe, and that at least ten days have elapsed since said mailing; and

(2) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (1) of this section;

(3) Upon receipt of notification from the inheritance tax division of the state department of revenue that an inheritance tax report is requested, the holder of any property subject to claim by a successor hereunder shall withhold payment, delivery, transfer or issuance of such property until provided with an inheritance tax release.

(4) The terms "successor" and "successors" as used in this section and in section 5 of this 1974 amendatory act shall mean that person or those persons, other than creditors, who are entitled to the property of the decedent under his will or the laws of intestate succession as contained in this title.

NEW SECTION. Sec. 5. The person paying, delivering, or transferring personal property or the evidence thereof pursuant to section 4 of this 1974 amendatory act is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit or to the payment of any inheritance tax liability. If any person to whom an affidavit is delivered refuses to pay, deliver, or transfer any personal property or

evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto.

If more than one affidavit is delivered with reference to the same personal property, the person to whom delivered may pay, deliver, transfer, or issue any personal property or evidence thereof in response to the first affidavit received, or alternately implead the money or other personal property into court for payment over to the person entitled thereto. Any person to whom payment, delivery, transfer, or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Sec. 6. Section 11.04.015, chapter 145, Laws of 1965 as last amended by section 2, chapter 168, Laws of 1967 and RCW 11.04.015 are each amended to read as follows:

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 RCW 11.02.070, 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. 7. Section 11.52.010, chapter 145, Laws of 1965 as last amended by section 2, chapter 12, Laws of 1971 ex. sess. and RCW 11.52.010 are each amended to read as follows:

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 ((fifteen)) twenty 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.

Sec. 8. Section 11.52.012, chapter 145, Laws of 1965 and RCW 11.52.012 are each amended to read as follows:

Such award shall be made by an order or 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 RCW 11.52.010 through 11.52.024 provided, to a surviving spouse who has feloniously killed the deceased spouse: 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 or minor children are entitled to receive property including insurance by reason of the death of the deceased spouse in the sum of ((ten)) twenty thousand dollars, or more, then 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 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.

Sec. 9. Section 11.52.020, chapter 145, Laws of 1965 as last amended by section 3, chapter 12, Laws of 1971 ex. sess. 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 ((fifteen)) twenty 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.

Sec. 10. Section 11.52.022, chapter 145, Laws of 1965 as amended by section 4, chapter 12, Laws of 1971 ex. sess. and RCW 11.52.022 are each amended to read as follows:

If the value of the homestead, exclusive of all such liens, be less than ((fifteen)) twenty 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 ((fifteen)) twenty thousand dollars: PROVIDED, That if it shall appear to the court, either (1) that there are ((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)) that such surviving spouse ((or incompetent children are)) is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property including insurance by reason of the death of the deceased spouse, exclusive of property confirmed to the surviving spouse as his or her one-half interest in community property, in the sum of ((fifteen)) twenty thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than ((fifteen)) twenty thousand dollars 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.

Sec. 11. Section 11.76.090, chapter 145, Laws of 1965 as amended by section 2, chapter 28, Laws of 1971 and RCW 11.76.090 are each amended to read as follows:

When a decree of distribution is made by the court in administration upon a decedent's estate and distribution is ordered to a person under the age of eighteen years, of a sum of ((five hundred)) one thousand dollars or less, the court, in such order of distribution, shall order the same paid ((to the clerk of the court wherein administration of such estate is pending, and the same shall be paid by the clerk)), for the use and as the property of said minor, to the person named in said order of distribution to receive the same, without requiring bond or appointment of any guardian.

Sec. 12. Section 11.76.095, chapter 145, Laws of 1965 as amended by section 3, chapter 28, Laws of 1971 and RCW 11.76.095 are each amended to read as follows:

When a decree of distribution is made by the court in administration upon a decedent's estate or when distribution is made by ((an executor)) a personal representative under a nonintervention will and distribution is ordered under such decree or authorized under such nonintervention will to a person under the age of eighteen years, ((and the value of such property or money is five thousand dollars or less and there is no general guardian of the incompetent;)) the court ((may)) shall require either that

(1) the money be deposited in a bank or trust company or be invested in an account in an insured ((savings and loan association)) financial institution for the benefit of the ((incompetent)) minor subject to withdrawal only upon the order of the court in the original probate proceeding, or upon said minor's attaining the age of eighteen years and furnishing proof thereof satisfactory to the depositary, or

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

This section shall not bar distribution under RCW 11.76.090 as now or hereafter amended.

PART III. PROVISIONS RELATING TO NONINTERVENTION POWERS

Sec. 13. Section 11.68.010, chapter 145, Laws of 1965 as amended by section 1, chapter 19, Laws of 1969 and RCW 11.68.010 are each amended to read as follows:

((In all cases where it is provided in the last will and testament of the deceased that the estate shall be settled in a manner provided in such last will and testament, and that such estate shall be settled without the intervention of any court or courts, and where it duly appears to the court, by the inventory filed, and other proof, that the estate is fully solvent, which fact may be established by an order of the court on the filing of the inventory, it shall not be necessary to take out letters testamentary or of administration, except to admit the will to probate and to file a true inventory of all the property of such estate and give notice to creditors and to the body having charge of the collection of inheritance tax, in the manner required by law.

After the probate of any such will and the filing of the inventory all such estates may be managed and settled without the intervention of the court, if the last will and testament so provides. However, when the estate is ready to be closed the court,

upon application, shall have authority and it shall be its duty, to make and cause to be entered a decree finding and adjudging that all debts have been paid; finding and adjudging also the heirs and those entitled to take under the will and distributing the property to the persons entitled thereto. Such decree shall be made after notice given as provided for like decrees in the estates of persons dying intestate. If no application for a final decree is filed, the executor shall, when the administration of the estate has been completed, file a written declaration to that effect, and thereupon his powers shall cease.

The executor of a nonintervention will shall not be deemed to waive his nonintervention powers by obtaining any order appointing appraisers, fixing or allowing appraiser's fees, dispensing with appraisement, or approving or allowing creditors' claims, nor by obtaining any other order or decree.)) Subject to the provisions of this chapter, if the estate of a decedent, who died either testate or intestate, is solvent, and if the personal representative is other than a creditor of the estate not designated as executor in the decedent's will, such estate shall be managed and settled without the intervention of the court; the fact of solvency shall be established by the entry of an order of solvency. An order of solvency may be entered at the time of the appointment of the personal representative or at any time thereafter where it appears to the court by the petition of the personal representative, or the inventory filed, and/or other proof submitted, that the estate of the decedent is solvent, and that notice of the application for an order of solvency has been given to those persons entitled thereto when required by RCW 11.68.040 as now or hereafter amended.

Sec. 14. Section 11.68.020, chapter 145, Laws of 1965 and RCW 11.68.020 are each amended to read as follows:

((In all cases, if the party named in such will as executor declines to execute the trust or dies or is otherwise disabled for any cause from acting as such executor, letters testamentary or of administration shall issue and the estate be settled as in other cases.)) Unless court supervision of an estate shall be specifically required under the terms and provisions of a will, a decedent shall be deemed to have intended any and all personal representatives named in his will to have the power to administer his estate without the intervention of court, and any personal representative or personal representatives named in the decedent's will shall acquire nonintervention powers without prior notice, upon meeting the requirements of RCW 11.68.010 as now or hereafter amended.

Sec. 15. Section 11.68.030, chapter 145, Laws of 1965 and RCW 11.68.030 are each amended to read as follows:

((If the person named in the will fails to execute the trust faithfully and to take care and promote the interest of all parties; then, upon petition of a creditor of the estate; or of any of the heirs; or of any person on behalf of any minor heir; the court shall cite such person to appear before it; and if, upon hearing of the petition it appears that the trust in such will is not faithfully discharged; and that the parties interested; or any of them; have been or are about to be damaged by the doings of the executor; then, in the discretion of the court; administration may be had and required as is required in the administration of estates; and in all such cases the costs of the citation and hearing shall be charged against the party failing and neglecting to execute the trust as required in the will:)) Subject to giving prior notice when required under RCW 11.68.040 as now or hereafter amended and the entry of an order of solvency, the personal representative, other than a creditor, of an estate of a decedent who died intestate or the personal representative, other than a creditor, with the will annexed of the estate of a decedent who died testate shall [have] the power to administer the estate without further intervention of court after the entry of an order of solvency and furnishing bond when required.

Sec. 16. Section 11.68.040, chapter 145, Laws of 1965 and RCW 11.68.040 are each amended to read as follows:

((Executors acting under nonintervention wills may, if the estate has been adjudged solvent, mortgage, lease, sell, exchange, and convey the real and personal property of the testator, and borrow money on the general credit of the estate, without an order of the court for that purpose and without notice, approval, or confirmation, and in all other respects administer and settle the estate without the intervention of the court. The other party to any such transaction and his successors in interest shall be entitled to have it conclusively presumed that such transaction is necessary for the administration of the estate:))

If the decedent shall have died intestate, or the petitioning personal representative is not named in the will as such, and in either case the petitioner wishes to acquire nonintervention powers, the personal representative shall, after filing the petition for order of solvency, give notice of his intention to apply to the court for nonintervention powers to all heirs, devisees, legatees of the decedent, and all parties who have requested notice under RCW 11.28.240, who have not, in writing, either waived notice of the hearing or consented to the entry of an order of solvency; said notice shall be given at least ten days prior to the date fixed by the personal representative for the hearing on his petition for an

order of solvency: PROVIDED, That no prior notice of said hearing shall be required when the personal representative is:

(1) The surviving spouse of the decedent and the decedent left no issue of a prior marriage; or

(2) A bank or trust company authorized to do trust business in the state of Washington.

The notice required by this section shall be sent by regular mail and proof of mailing of said notice shall be by affidavit filed in the cause. Said notice shall contain the name of the decedent's estate, the probate cause number, the name and address of the personal representative, and shall state in substance as follows:

(a) The personal representative has petitioned the superior court of county, state of Washington, for the entry of an order of solvency and a hearing on said petition will be held on the day of 19... at o'clock, ... Mi

(b) The petition for order of solvency has been filed with said court;

(c) Upon the entry of an order of solvency by the court, the personal representative will be entitled to administer and close the decedent's estate without further court intervention or supervision;

(d) Any heir, legatee, or devisee shall have the right to appear at the time of the hearing on the petition for an order of solvency to object to the granting of nonintervention powers to the personal representative.

If no notice is required, or all heirs, legatees, and devisees have either waived notice of said hearing or consented to the entry of an order of solvency as provided in this section, the court may hear the petition for an order of solvency at any time.

NEW SECTION. Sec. 17. There is added to chapter 11.68 RCW a new section to read as follows:

If at the time set for the hearing upon the petition for the entry of an order of solvency, any party entitled to notice under the provisions of RCW 11.68.040 as now or hereafter amended, shall appear and object to the granting of nonintervention powers to the personal representative of the estate, the court shall consider said objections, if any, and the entry of an order of solvency shall be discretionary with the court upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended. Unless unrestricted nonintervention powers are directed by the will of the decedent, the court may restrict the powers of the personal representative in such manner as the court determines and shall thereupon restrict the powers as ordered. If no heir, legatee, or devisee of the decedent shall appear at the time of the hearing to

object to the entry of an order of solvency, the court shall enter an order of solvency upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended.

NEW SECTION. Sec. 18. There is added to chapter 11.68 RCW a new section to read as follows:

If, after the entry of an order of solvency, any personal representative of the estate of the decedent shall die, resign, or otherwise become disabled from any cause from acting as the nonintervention personal representative, the successor personal representative, other than a creditor not designated as executor in the decedent's will, shall administer the estate of the decedent without the intervention of court after notice and hearing as required by sections 16 and 17 of this 1974 amendatory act, unless at the time of said hearing objections to the granting of nonintervention powers to such successor personal representative shall be made by an heir, legatee, devisee, or creditor of the decedent, and unless the court, after hearing said objections shall refuse to grant nonintervention powers to such successor personal representative. If no heir, legatee, devisee, or creditor of the decedent shall appear at the time of the hearing to object to the granting of nonintervention powers to such successor personal representative, the court shall enter an order granting nonintervention powers to the successor personal representative.

NEW SECTION. Sec. 19. There is added to chapter 11.68 RCW a new section to read as follows:

If any personal representative who has been granted nonintervention powers fails to execute his trust faithfully or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, upon petition of any unpaid creditor of the estate who has filed a claim or any heir, devisee, legatee, or of any person on behalf of any incompetent heir, devisee, or legatee, such petition being supported by affidavit which makes a prima facie showing of cause for removal or restriction of powers, the court shall cite such personal representative to appear before it, and if, upon hearing of the petition it appears that said personal representative has not faithfully discharged said trust or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, then, in the discretion of the court said personal representative may be removed and a successor appointed with such powers as the court may determine, and in the event the court shall restrict the powers of the personal representative in any manner, it shall endorse the words "Powers restricted" upon the original order of solvency together with the date of said endorsement, and in all

such cases the cost of the citation, hearing, and reasonable attorney's fees may be awarded as the court determines.

NEW SECTION. Sec. 20. There is added to chapter 11.68 RCW a new section to read as follows:

After such notice as the court may require, the order of solvency shall be vacated or restricted upon the petition of any personal representative, heir, legatee, devisee, or creditor, if supported by proof satisfactory to the court that said estate has become insolvent.

If, after hearing, the court shall vacate the prior order of solvency, the court shall endorse the term "Vacated" or "Powers restricted" upon the original order of solvency together with the date of said endorsement.

NEW SECTION. Sec. 21. There is added to chapter 11.68 RCW a new section to read as follows:

Any personal representative acting under nonintervention powers, may mortgage, encumber, lease, sell, exchange, and convey the real and personal property of the decedent, and borrow money on the general credit of the estate, without an order of court for that purpose and without notice, approval or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Any other party to any such transaction and his successors in interest shall be entitled to have it conclusively presumed that such transaction is necessary for the administration of the decedent's estate.

NEW SECTION. Sec. 22. There is added to chapter 11.68 RCW a new section to read as follows:

(1) When the estate is ready to be closed, the court, upon application by the personal representative who has nonintervention powers, shall have the authority and it shall be its duty, to make and cause to be entered a decree which either:

(a) Finds and adjudges that all approved claims of the decedent have been paid, finds and adjudges the heirs of the decedent or those persons entitled to take under his will, and distribute the property of the decedent to the persons entitled thereto; or

(b) Approves the accounting of the personal representative and settles the estate of the decedent in the manner provided for in the administration of those estates in which the personal representative has not acquired nonintervention powers.

(2) Either decree provided for in this section shall be made after notice given as provided for in the settlement of estates by a personal representative who has not acquired nonintervention powers. The petition for either decree provided for in this section shall state the fees paid or proposed to be paid to the personal

representative, his attorneys, accountants, and appraisers, and any heir, devisee, or legatee whose interest in the assets of a decedent's estate would be reduced by the amount of said fee shall receive a copy of said petition with the notice of hearing thereon; at the request of the personal representative or any said heir, devisee, or legatee, the court shall, at the time of the hearing on either petition, determine the reasonableness of said fees. The criteria for and reasonable range of fees reviewed shall be as established by court rules issued by the state supreme court. The court shall take into consideration all criteria forming the basis for the determination of the amount of such fees as contained in the code of professional responsibility; in determining the reasonableness of the fees charged by any personal representative, accountants, and appraisers the court shall take into consideration the criteria forming the basis for the determination of attorney's fees, to the extent applicable, and any other factors which the court determines to be relevant in the determination of the amount of fees to be paid to such personal representative.

NEW SECTION. Sec. 23. There is added to chapter 11.68 RCW a new section to read as follows:

If a personal representative who has acquired nonintervention powers shall not apply to the court for either final decree provided for in section 22 of this 1974 amendatory act, the personal representative shall, when the administration of the estate has been completed, file a declaration to that effect, which declaration shall state as follows:

(1) The date of the decedent's death, and his residence at the time of death, whether or not the decedent died testate or intestate, and if testate, the date of his last will and testament and the date of the order admitting said will to probate;

(2) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of state inheritance or federal estate tax due as the result of the decedent's death has been determined, settled, and paid;

(3) The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(4) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each said heir;

(5) The amount of fees paid or to be paid to each of the following: (a) Personal representative or representatives, (b) attorney or attorneys, (c) appraiser or appraisers, and (d)

accountant or accountants. That the personal representative believes said fees to be reasonable and does not intend to obtain court approval of the amount of said fees or to submit an estate accounting to the court for approval.

Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent shall petition the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, his attorneys, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be discharged and his powers cease thirty days after the filing of said declaration of completion of probate, and said declaration of completion of probate shall, at said time, be the equivalent of the entry of a decree of distribution in accordance with the provisions of chapter 11.76 RCW for all legal intents and purposes.

Within five days of the date of the filing of the declaration of completion, the personal representative or his attorney shall mail a copy of said declaration of completion to each heir, legatee, or devisee of the decedent (who has not waived notice of said filing, in writing, filed in the cause) together with a notice which shall be as follows:

**NOTICE OF FILING OF
DECLARATION OF COMPLETION
OF PROBATE**

NOTICE IS HEREBY GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court of [on] the day of, 19..; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of said fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or his attorney, within thirty days after the date of said filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition with the period specified, the undersigned will request the court to fix a time and place for the hearing of said petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on said petition.

Dated this day of, 19...

.....
Personal Representative

If all heirs, devisees, and legatees of the decedent shall waive, in writing, the notice required by this section, the personal representative shall be discharged and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof.

NEW SECTION. Sec. 24. There is added to chapter 11.68 RCW a new section to read as follows:

A personal representative who has acquired nonintervention powers in accordance with this chapter shall not be deemed to have waived his nonintervention powers by obtaining any order or decree during the course of his administration of the estate.

Sec. 25. Section 11.28.070, chapter 145, Laws of 1965 and RCW 11.28.070 are each amended to read as follows:

Administrators with the will annexed shall have the same authority as the executor named in the will would have had, and their acts shall be as effectual for every purpose: PROVIDED, That they shall not lease, mortgage, pledge, exchange, sell, or convey any real or personal property of the estate except under order of the court and pursuant to procedure under existing laws pertaining to the administration of estates in cases of intestacy, unless the powers expressed in the will are directory and not discretionary, or said administrator with will annexed shall have obtained nonintervention powers as provided in chapter 11.68 RCW.

Sec. 26. Section 11.28.280, chapter 145, Laws of 1965 and RCW 11.28.280 are each amended to read as follows:

If the personal representative of an estate dies, resigns, or the letters are revoked before the settlement of the estate, letters of administration of the estate remaining unadministered shall be granted to those to whom administration would have been granted if the original letters had not been obtained, or the person obtaining them had renounced administration, and the administrator de bonis non shall perform like duties and incur like liabilities as the former personal representative, and shall serve as administrator with will annexed de bonis non in the event a will has been admitted to probate. Said administrator de bonis non may, upon satisfying the requirements and complying with the procedures provided in chapter 11.68 RCW, administer the estate of the decedent without the intervention of court.

PART IV. PROVISIONS RELATING TO ADJUDICATIONS OF TESTACY OR

INTESTACY AND HEIRSHIP

Sec. 27. Section 11.20.020, chapter 145, Laws of 1965 as amended by section 1, chapter 126, Laws of 1969 ex. sess. and RCW 11.20.020 are each amended to read as follows:

(1) Applications for the probate of a will and for letters testamentary, or either, may be made to the judge of the court having jurisdiction and the court may immediately hear the proofs and either probate or reject such will as the testimony may justify. Upon such hearing the court shall make and cause to be entered a formal order, either establishing and probating such will, or refusing to establish and probate the same, and such order shall be conclusive except in the event of a contest of such will as hereinafter provided. All testimony in support of the will shall be reduced to writing, signed by the witnesses, and certified by the judge of the court. If the application for probate of a will does not request the appointment of a personal representative and the court enters an adjudication of testacy establishing such will no further administration shall be required except as commenced pursuant to section 32 of this 1974 amendatory act.

(2) In addition to the foregoing procedure for the proof of wills, any or all of the attesting witnesses to a will may, at the request of the testator or, after his decease, at the request of the executor or any person interested under it, make an affidavit before any person authorized to administer oaths, stating such facts as they would be required to testify to in court to prove such will, which affidavit may be written on the will or may be attached to the will or to a photographic copy of the will. The sworn statement of any witness so taken shall be accepted by the court as if it had been taken before the court.

Sec. 28. Section 11.28.010, chapter 145, Laws of 1965 and RCW 11.28.010 are each amended to read as follows:

After ((probate of any will)) the entry of an order admitting a will to probate and appointing a personal representative, or personal representatives, letters testamentary shall be granted to the persons therein appointed executors. If a part of the persons thus appointed refuse to act, or be disqualified, the letters shall be granted to the other persons appointed therein. If all such persons refuse to act, letters of administration with the will annexed shall be granted to the person to whom administration would have been granted if there had been no will.

Sec. 29. Section 11.28.110, chapter 145, Laws of 1965 and RCW 11.28.110 are each amended to read as follows:

Application for letters of administration, OR, application for an adjudication of intestacy and heirship without the issuance of letters of administration shall be made by petition in writing,

signed and verified by the applicant or his attorney, and filed with the court, which petition shall set forth the facts essential to giving the court jurisdiction of the case, and state, if known, the names, ages and ((residences)) addresses of the heirs of the deceased and that the deceased died without a will. If the application for an adjudication of intestacy and heirship does not request the appointment of a personal representative and the court enters an adjudication of intestacy no further administration shall be required except as set forth in section 31 of this 1974 amendatory act.

Sec. 30. Section 11.28.237, chapter 145, Laws of 1965 as amended by section 2, chapter 70, Laws of 1969 and RCW 11.28.237 are each amended to read as follows:

Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his said appointment, and of the pendency of said probate proceedings, to be served personally or mailed to each heir, legatee and devisee of the estate whose names and addresses are known to him, and proof of such mailing shall be made by affidavit and filed in the cause.

NEW SECTION. Sec. 31. There is added to chapter 11.28 RCW a new section to read as follows:

If no personal representative is appointed to administer the estate of a decedent, the person obtaining the adjudication of testacy, or intestacy and heirship, shall, cause written notice of said adjudication to be mailed to each heir, legatee, and devisee of the decedent, which notice shall contain the name of the decedent's estate and the probate cause number, and shall:

(1) State the name and address of the applicant;
(2) State that on the day of, 19.., the applicant obtained an order from the superior court of county, state of Washington, adjudicating that the decedent died intestate, or testate, whichever shall be the case;

(3) In the event the decedent died testate, enclose a copy of his will therewith, and state that the adjudication of testacy will become final and conclusive for all legal intents and purposes unless any heir, legatee, or devisee of the decedent shall contest said will within four months after the date the said will was adjudicated to be the last will and testament of the decedent;

(4) In the event that the decedent died intestate, set forth the names and addresses of the heirs of the decedent, their relationship to the decedent, the distributive shares of the estate of the decedent which they are entitled to receive, and that said adjudication of intestacy and heirship shall become final and conclusive for all legal intents and purposes, unless, within four

months of the date of said adjudication of intestacy, a petition shall be filed seeking the admission of a will of the decedent for probate, or contesting the adjudication of heirship.

Notices provided for in this section may be served personally or sent by regular mail, and proof of such service or mailing shall be made by an affidavit filed in the cause.

NEW SECTION. Sec. 32. There is added to chapter 11.28 RCW a new section to read as follows:

Unless, within four months after the entry of the order adjudicating testacy or intestacy and heirship, and the mailing of the notice required in section 31 of this 1974 amendatory act any heir, legatee or devisee of the decedent shall offer a later will for probate or contest an adjudication of testacy in the manner provided in this title for will contests, or offer a will of the decedent for probate following an adjudication of intestacy and heirship, or contesting the determination of heirship, an order adjudicating testacy or intestacy and heirship without appointing a personal representative to administer a decedent's estate shall, as to those persons by whom notice was waived or to whom said notice was mailed, be deemed the equivalent of the entry of a final decree of distribution in accordance with the provisions of chapter 11.76 RCW for the purpose of:

(1) Establishing the decedent's will as his last will and testament and persons entitled to receive his estate thereunder; or

(2) Establishing the fact that the decedent died intestate, and those persons entitled to receive his estate as his heirs at law.

The right of an heir, legatee, or devisee to receive the assets of a decedent shall, to the extent otherwise provided by this title, be subject to the prior rights of the decedent's creditors and of any persons entitled to a homestead award or award in lieu of homestead or family allowance, and nothing contained in this section shall be deemed to alter or diminish such prior rights, or to prohibit any person for good cause shown, from obtaining the appointment of a personal representative to administer the estate of the decedent after the entry of an order adjudicating testacy or intestacy and heirship. However, if the petition for letters testamentary or of administration shall be filed more than four months after the date of the adjudication of testacy or of intestacy and heirship, the issuance of such letters shall not affect the finality of said adjudications.

PART V. PROVISIONS RELATING TO CREDITORS CLAIMS

Sec. 33. Section 11.40.010, chapter 145, Laws of 1965 as amended by section 7, chapter 168, Laws of 1967 and RCW 11.40.010 are each amended to read as follows:

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 an executed copy thereof 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 or within four months after the date of the filing of the copy of said notice to creditors with the clerk of the court, whichever is the later. Such notice shall be published once in each week for three successive weeks and a copy of said notice shall be filed with the clerk of the court. If a claim be not filed within the time aforesaid, it shall be barred, except under 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.

Sec. 34. Section 11.40.020, chapter 145, Laws of 1965 and RCW 11.40.020 are each amended to read as follows:

Every claim ((served and filed as above provided shall be supported by the affidavit of the claimant that the amount is justly due, that no payments have been made thereon, and that there are no offsets to the same to the knowledge of the claimant)) shall be signed by the claimant, or his attorney, or any person who is authorized to sign claims on his, her, or its behalf, and shall contain the following information:

(1) The name and address of the claimant;
(2) The name, business address (if different from that of the claimant), and nature of authority of any person signing the claim on behalf of the claimant;

(3) A written statement of the facts or circumstances constituting the basis upon which the claim is submitted;

(4) The amount of the claim;

(5) If the claim is secured, unliquidated or contingent, or not yet due, the nature of the security, the nature of the uncertainty, and due date of the claim: PROVIDED HOWEVER, That failure to describe correctly the security, nature of any uncertainty, or the due date of a claim not yet due, if such failure is not substantially misleading, does not invalidate the presentation made.

Claims need not be supported by affidavit.

Sec. 35. Section 11.40.030, chapter 145, Laws of 1965 and RCW 11.40.030 are each amended to read as follows:

((When a claim, accompanied by the affidavit required in RCW 11.40.020 has been served and filed, it shall be the duty of the personal representative to indorse thereon his allowance or rejection, with the day and date thereof. If he allow the claim, it shall be presented to the judge of the court, who shall in the same manner indorse on it his allowance or rejection; or he may by order allow or reject the claim. If the personal representative reject the claim in whole or in part, he shall notify the claimant forthwith of said rejection and file in the office of the clerk an affidavit showing such notification and the date thereof. Such notification shall be by personal service or registered or certified mail and shall state that the holder of the rejected claim must bring suit in the proper court against the personal representative within thirty days after notification of the rejection; otherwise the claim shall be forever barred.

If the personal representative shall neglect for the period of sixty days after service upon him or his attorney to act upon any such claim, the claimant may take the matter up before the court and the court may require the personal representative to act on such claim and in its discretion may impose costs and attorney's fees.)) Unless the personal representative shall, within six months after the date of first publication of notice to creditors, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, shall be deemed allowed and may not thereafter be rejected, unless the personal representative shall, within six months after the date of first publication of notice to creditors, or any extended time, notify the claimant of its rejection, in whole or in part; if the personal representative shall reject the claim, in whole or in part, he shall notify the claimant of said rejection and file in the office of the clerk, an affidavit showing such notification and the date thereof. Said notification shall be by personal service or certified mail addressed to the claimant at his address as stated in the claim; if a person other than the claimant shall have signed said claim for or on behalf of the claimant, and said person's business address as stated in said claim is different from that of the claimant, notification of rejection shall also be made by personal service or certified mail upon said person; the date of the postmark shall be the date of notification. The notification of rejection shall advise the claimant, and the person making claim

on his, her, or its behalf, if any, that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, and that otherwise the claim will be forever barred.

The personal representative may, either before or after rejection of any claim compromise said claim, whether due or not, absolute or contingent, liquidated or unliquidated, if it appears to the personal representative that such compromise is in the best interests of the estate.

Sec. 36. Section 11.40.040, chapter 145, Laws of 1965 and RCW 11.40.040 are each amended to read as follows:

Every claim which has been allowed by the personal representative ((and the said judge)) shall be ranked among the acknowledged debts of the estate to be paid in the course of administration.

Sec. 37. Section 11.40.060, chapter 145, Laws of 1965 and RCW 11.40.060 are each amended to read as follows:

When a claim is rejected by ((either)) the personal representative ((or the court)), the holder must bring suit in the proper court against the personal representative within thirty days after notification of the rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, otherwise the claim shall be forever barred.

Sec. 38. Section 11.40.110, chapter 145, Laws of 1965 and RCW 11.40.110 are each amended to read as follows:

Whenever any claim shall have been filed and presented to a personal representative ((and the court)), and a part thereof shall be allowed, the amount of such allowance shall be stated in the indorsement. If the creditor shall refuse to accept the amount so allowed in satisfaction of his claim, he shall recover no costs in any action he may bring against the personal representative unless he shall recover a greater amount than that offered to be allowed, exclusive of interest and costs.

PART VI. PROVISIONS RELATING TO BANKS, TRUST COMPANIES,
ACCOUNTS

Sec. 39. Section 30.20.020, chapter 33, Laws of 1955 as amended by section 2, chapter 280, Laws of 1961 and RCW 30.20.020 are each amended to read as follows:

On the death of any depositor of any bank or trust company, such bank or trust company may pay to the surviving spouse, the moneys in said bank or trust company on deposit to the credit of said deceased depositor in cases where the amount of deposit does not exceed the sum of one thousand dollars upon receipt of an affidavit

from the surviving spouse, to the effect that the depositor died ((intestate)) and no executor or administrator has been appointed for the depositor's estate, and the depositor had on deposit in ((all banks and trust companies within the state of Washington)) said bank or trust company money not exceeding the sum of one thousand dollars. The payment of such deposit made in good faith to the spouse making the affidavit shall be a full acquittance and release of the bank for the amount of the deposit so paid.

No probate proceeding shall be necessary to establish the right of said surviving spouse to withdraw said deposits upon the filing of said affidavit: PROVIDED, HOWEVER, Whenever an administrator is appointed in an estate where a withdrawal of deposits has been had in compliance with this section, the spouse so withdrawing said deposits shall account for the same to the administrator. The bank or trust company may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in section 4 of this 1974 amendatory act.

Sec. 40. Section 32.12.020, chapter 13, Laws of 1955 as last amended by section 2, chapter 55, Laws of 1969 and RCW 32.12.020 are each amended to read as follows:

The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand in such manner, and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section and RCW 32.12.030. Such regulations shall be posted in a conspicuous place in the room where the business of such savings bank shall be transacted, and shall be available to depositors upon request. All such rules and regulations, and all amendments thereto, from time to time in effect, shall be binding upon all depositors.

(1) Such bank may at any time by a resolution of its board of trustees require a notice of not more than six months before repaying deposits, in which event no deposit shall be due or payable until the required notice of intention to withdraw the same shall have been personally given by the depositor: PROVIDED, That such bank at its option may pay any deposit or deposits before the expiration of such notice. But no bank shall agree with its depositors or any of them in advance to waive the requirement of notice as herein provided.

(2) Except as provided in subdivisions (3), (4), and (5) of this section the savings bank shall not pay any dividend, or interest, or deposit, or portion thereof, or any check drawn upon it by a depositor unless the certificate of deposit is produced, or the

passbook of the depositor is produced and the proper entry is made therein, at the time of the payment.

(3) The board of trustees of any such bank may by its bylaws provide for making payments in cases of loss of passbook or certificate of deposit, or other exceptional cases where the passbooks or certificates of deposit cannot be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the supervisor upon his being satisfied that such right is being improperly exercised by any such bank; but payments may be made at any time upon the judgment or order of a court.

(4) The board of trustees of any such bank may by its bylaws provide for making payments to depositors at their request, of dividends or interest payable on any deposit, without requiring the production of the passbook or certificate of deposit of the depositor, and any payment made in accordance with any such request and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such request prior to receipt by such savings bank of notice in writing not to pay such sums in accordance with the terms of such request.

(5) The issuance of a passbook or certificate of deposit may be omitted for any account if a ledger record thereof is maintained in lieu of a passbook or certificate of deposit on which shall be entered deposits, withdrawals, and interest credited: PROVIDED, That in any event a passbook or certificate of deposit shall be issued upon the request of any depositor.

(6) If any person dies leaving in any such bank an account on which the balance due him does not exceed one thousand dollars and no executor or administrator of his estate has been appointed, such bank may in its discretion pay the balance of his account to his widow (or if the decedent was a married woman, then to her husband), next of kin, funeral director, or other creditor who may appear to be entitled thereto. As a condition of such payment such bank may require proof by affidavit as to the parties in interest, the filing of proper waivers, the execution of a bond of indemnity with surety or sureties by the person to whom the payment is to be made, and a proper receipt and acquittance for such payment. For any such payment pursuant to this section such bank shall not be liable to the decedent's executor or administrator thereafter appointed, unless the payment was made within six months after the decedent's death, and an action to recover the amount is commenced within six months after the date of payment. On the death of any depositor of any savings bank, the bank may also pay out the moneys on deposit to the credit of the

deceased upon presentation of an affidavit as provided in section 4 of this 1974 amendatory act.

Sec. 41. Section 46, chapter 235, Laws of 1945 as amended by section 6, chapter 246, Laws of 1963 and RCW 33.20.080 are each amended to read as follows:

If any person shall die having any savings account in an association amounting to not more than one thousand dollars, and the association has no knowledge that an executor or administrator has been appointed, such association may pay such account to the surviving spouse, next of kin, funeral director or other creditor who may appear entitled thereto. For any such payment, the association may require such proofs, waivers, indemnity and receipt and acquittance as it may deem proper. For any payment made hereunder, the association shall not be liable to the decedent's executor or administrator. On the death of any person having any savings account in an association, the association may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in section 4 of this 1974 amendatory act.

Sec. 42. Section 2, chapter 139, Laws of 1939 as amended by section 1, chapter 210, Laws of 1967 and RCW 49.48.120 are each amended to read as follows:

If at the time of the death of any person, his employer is indebted to him for work, labor, and services performed, and no executor or administrator of his estate has been appointed, such employer shall upon the request of the surviving spouse forthwith pay said indebtedness, in such an amount as may be due not exceeding the sum of one thousand dollars, to the said surviving spouse or if the decedent leaves no surviving spouse, then to the child or children, or if no children, then to the father or mother of said decedent: PROVIDED, HOWEVER, That if by virtue of a community property agreement between the decedent and the surviving spouse, which meets the requirements of RCW 26.16.120, the right to such indebtedness became the sole property of the surviving spouse upon the death of the decedent, the employer shall pay to the surviving spouse the total of such indebtedness or that portion which is governed by the community property agreement upon presentation of said agreement accompanied by affidavit of the surviving spouse stating that such agreement was executed in good faith between the parties thereto and had not been rescinded by the parties prior to the death of the decedent: PROVIDED FURTHER, That in all cases the employer shall require proof of claimant's relationship to decedent by affidavit, and shall require claimant to acknowledge receipt of such payment in writing. Any payments made by an employer pursuant to the provisions of RCW 49.48.115 and 49.48.120 shall operate as a full and complete

discharge of the employer's indebtedness to the extent of said payment, and no employer shall thereafter be liable therefor to the decedent's estate, or the decedent's executor or administrator thereafter appointed. The employer may also pay the indebtedness upon presentation of an affidavit as provided in section 4 of this 1974 amendatory act.

Sec. 43. Section 30.04.260, chapter 33, Laws of 1955 and RCW 30.04.260 are each amended to read as follows:

No trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, shall be permitted to act as executor, administrator, or guardian; and any trust company or other corporation whose officers or agents shall solicit legal business ((or personally solicit the appointment of such trust company or corporation as executor, administrator or guardian)) shall be ineligible for a period of one year thereafter to be appointed executor, administrator or guardian in any of the courts of this state.

Any trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, and any officer, agent, or employee of any trust company or corporation who shall solicit legal business ((or personally solicit the appointment of such trust company or corporation as executor, administrator or guardian)) shall be guilty of a gross misdemeanor.

PART VII. MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 44. There is added to chapter 11.28 RCW a new section to read as follows:

When a petition for general letters of administration or for letters of administration with the will annexed shall be filed, the matter may heard forthwith, appointment made and letters of administration issued: PROVIDED, That if there be a surviving spouse and a petition is presented by anyone other than the surviving spouse, or any person designated by the surviving spouse to serve as personal representative on his or her behalf, notice to the surviving spouse shall be given of the time and place of such hearing at least ten days before the hearing, unless the surviving spouse shall waive notice of the hearing in writing filed in the cause.

Sec. 45. Section 11.76.080, chapter 145, Laws of 1965 as last amended by section 1, chapter 28, Laws of 1971 and RCW 11.76.080 are each amended to read as follows:

If there be any incompetent as defined in RCW 11.88.010 interested in the estate who has no legally appointed guardian, the court:

(1) At any stage of the proceeding in its discretion and for such purpose or purposes as it shall indicate, may, and

(2) For hearings held pursuant to RCW 11.52.010, 11.52.020, 11.68.040 and 11.76.050 as now or hereafter amended, or for entry of an order adjudicating testacy or intestacy and heirship when no personal representative is appointed to administer the estate of the decedent, shall ((--)) appoint some disinterested person as guardian ad litem to represent such incompetent with reference to any petition, proceeding ((or)), report, or adjudication of testacy or intestacy without the appointment of a personal representative to administer the estate of decedent in which the incompetent may have an interest, who, on behalf of the incompetent, may contest the same as any other person interested might contest it, and who shall be allowed by the court reasonable compensation for his services: PROVIDED, HOWEVER, That where a surviving spouse is the sole beneficiary under the terms of a will, the court may grant a motion by the personal representative to waive the appointment of a guardian ad litem for a person who is the minor child of such surviving spouse and the decedent and who is incompetent solely for the reason of his being under eighteen years of age.

NEW SECTION. Sec. 46. There is added to chapter 11.28 RCW a new section to read as follows:

When the terms of the decedent's will manifest an intent that the personal representative appointed to administer the estate shall not be required to furnish bond or other security, or when the personal representative is the surviving spouse of the decedent and it appears to the court that the entire estate, after provision for expenses and claims of creditors, will be distributable to such spouse and any minor children born to or adopted by decedent and living with said surviving spouse, then such personal representative shall not be required to give bond or other security as a condition of appointment. In all cases where a bank or trust company authorized to act as personal representative is appointed as personal representative, no bond shall be required. In all other cases, unless waived by the court, the personal representative shall give such bond or other security, in such amount and with such surety or sureties, as the court may direct.

Every person required to furnish bond must, before receiving letters testamentary or of administration, execute a bond to the state of Washington conditioned that the personal representative shall faithfully execute the duty of the trust according to law.

The court may at any time after appointment of the personal representative require said personal representative to give a bond or additional bond, the same to be conditioned and to be approved as

provided in this section; or the court may allow a reduction of the bond upon a proper showing.

In lieu of bond, the court may in its discretion, substitute other security or financial arrangements, such as provided under RCW 11.88.105, or as the court may deem adequate to protect the assets of the estate.

Sec. 47. Section 11.40.100, chapter 145, Laws of 1965 and RCW 11.40.100 are each amended to read as follows:

If any action be pending against the testator or intestate at the time of his death, the plaintiff shall within ((ninety days)) four months after first publication of notice to creditors, or the filing of a copy of such notice, whichever is later, serve on the personal representative a motion to have such personal representative, as such, substituted as defendant in such action, and, upon the hearing of such motion, such personal representative shall be so substituted, unless, at or prior to such hearing, the claim of plaintiff, together with costs, be allowed by the personal representative and court. After the substitution of such personal representative, the court shall proceed to hear and determine the action as in other civil cases.

Sec. 48. Section 11.44.025, chapter 145, Laws of 1965 and RCW 11.44.025 are each amended to read as follows:

Whenever any property of the estate not mentioned in the inventory comes to the knowledge of a personal representative, he shall cause the same to be inventoried and appraised and shall make and return upon oath into the court a true inventory of said property within thirty days after the discovery thereof, unless a longer time shall be granted by the court.

NEW SECTION. Sec. 49. There is added to chapter 11.44 RCW a new section to read as follows:

Within the time required to file an inventory as provided in RCW 11.44.015, the personal representative shall determine the fair net value, as of the date of the decedent's death, of each item contained in the inventory after deducting the encumbrances, liens, and other secured charges thereon. The personal representative may employ a qualified and disinterested person to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The appraisement may, but need not be, filed in the probate cause: PROVIDED HOWEVER, That upon receipt of a written request for a copy of said inventory and appraisement from any heir, legatee, devisee or unpaid creditor who has filed a claim, or from the inheritance tax division of the department of

revenue, the personal representative shall furnish to said person, a true and correct copy thereof.

Sec. 50. Section 11.44.070, chapter 145, Laws of 1965 as amended by section 10, chapter 168, Laws of 1967 and RCW 11.44.070 are each amended to read as follows:

((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)) The amount of the fee to be paid to any persons assisting the personal representative in any appraisal shall be determined by the personal representative: PROVIDED HOWEVER, That the reasonableness of any such compensation shall, at the time of hearing on any final account as provided in chapter 11.76 RCW or on a request or petition under sections 22 or 23 of this 1974 amendatory act, be reviewed by the court in accordance with the provisions of section 22 of this 1974 amendatory act, and if the court determines the compensation to be unreasonable, a personal representative may be ordered to make appropriate refund.

Sec. 51. Section 11.12.120, chapter 145, Laws of 1965 and RCW 11.12.120 are each amended to read as follows:

Whenever any person having died leaving a will which has been admitted to probate or established by an adjudication of testacy, shall by said will have given, devised or bequeathed unto any person, a legacy or a devise upon the condition that said person survive him, and not otherwise, such legacy or devise shall lapse and fall into the residue of said estate to be distributed according to the residuary clause, if there be one, of said will, and if there be none then according to the laws of descent, unless said legatee or devisee, as the case may be, or his heirs, personal representative, or someone in behalf of such legatee or devisee, shall appear before the court which is administering said estate within ((six)) three years from and after the date the said will was admitted to probate or established by an adjudication of testacy, and prove to the satisfaction of the court that the said legatee or devisee, as the case may be, did in fact survive the testator.

NEW SECTION. Sec. 52. Whenever a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, the authority of the attorney in fact or agent is exercisable by him as

provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or his guardian or heirs, devisees and personal representative as if the principal were alive, competent and not disabled. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if he were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

NEW SECTION. Sec. 53. (1) The death, disability, or incompetence of any principal who has executed a power of attorney in writing other than a power as described by section 43 [52] of this 1974 amendatory act, does not revoke or terminate the agency as to the attorney in fact, agent or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his heirs, devisees, and personal representatives.

(2) An affidavit, executed by the attorney in fact or agent stating that he did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is, in the absence of a showing of fraud or bad faith, conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.

NEW SECTION. Sec. 54. (1) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, pension plan, joint tenancy, community property agreement, trust agreement, conveyance, or any other written instrument effective as a contract, gift, conveyance, or trust is deemed to be nontestamentary, and this title does not invalidate the instrument or any provision:

(a) that money or other benefits theretofore due to, controlled or owned by a decedent shall be paid after his death to a

person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently;

(b) that any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promisor before payment or demand; or

(c) that any property which is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(2) Nothing in this section limits the rights of creditors under other laws of this state.

(3) Any provision in a lease of a safety deposit repository to the effect that two or more persons shall have access to the repository, or that purports to create a joint tenancy in the repository or in the contents of the repository, or that purports to vest ownership of the contents of the repository in the surviving lessee, is ineffective to create joint ownership of the contents of the repository or to transfer ownership at death of one of the lessees to the survivor. Ownership of the contents of the repository and devolution of title to those contents is determined according to rules of law without regard to the lease provisions.

NEW SECTION. Sec. 55. The following acts or parts of acts are each hereby repealed:

(1) Section 11.28.130, chapter 145, Laws of 1965 and RCW 11.28.130;

(2) Section 11.28.180, chapter 145, Laws of 1965 and RCW 11.28.180;

(3) Section 11.28.200, chapter 145, Laws of 1965 and RCW 11.28.200;

(4) Section 11.40.050, chapter 145, Laws of 1965 and RCW 11.40.050;

(5) Section 11.44.055, chapter 145, Laws of 1965 and RCW 11.44.055;

(6) Section 11.44.065, chapter 145, Laws of 1965 and RCW 11.44.065; and

(7) Section 11.44.080, chapter 145, Laws of 1965, section 11, chapter 168, Laws of 1967 and RCW 11.44.080.

NEW SECTION. Sec. 56. This 1974 amendatory act shall take effect October 1, 1974.

Passed the House February 13, 1974.

Passed the Senate February 12, 1974.

Approved by the Governor February 19, 1974.

Filed in Office of Secretary of State February 19, 1974.