

treating disease, or to produce analgesia, or as further defined by rules and regulations of the board.

Passed the Senate June 6, 1977.

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Approved by the Governor June 15, 1977.

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CHAPTER 234

[Engrossed Senate Bill No. 2215]

PROBATE

AN ACT Relating to probate; amending section 11.16.083, chapter 145, Laws of 1965 and RCW 11.16.083; amending section 11.20.020, chapter 145, Laws of 1965 as last amended by section 27, chapter 117, Laws of 1974 ex. sess. and RCW 11.20.020; amending section 11.20.090, chapter 145, Laws of 1965 and RCW 11.20.090; amending section 11.28.110, chapter 145, Laws of 1965 as amended by section 29, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.110; amending section 46, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.185; amending section 11.28.237, chapter 145, Laws of 1965 as last amended by section 30, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.237; amending section 32, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.340; amending section 11.40.030, chapter 145, Laws of 1965 as amended by section 35, chapter 117, Laws of 1974 ex. sess. and RCW 11.40.030; amending section 11.52.012, chapter 145, Laws of 1965 as amended by section 8, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.012; amending section 11.52.022, chapter 145, Laws of 1965 as last amended by section 10, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.022; amending section 4, chapter 117, Laws of 1974 ex. sess. and RCW 11.62.010; amending section 5, chapter 117, Laws of 1974 ex. sess. and RCW 11.62.020; amending section 11.64.002, chapter 145, Laws of 1965 and RCW 11.64.002; amending section 11.64.008, chapter 145, Laws of 1965 and RCW 11.64.008; amending section 11.64.016, chapter 145, Laws of 1965 and RCW 11.64.016; amending section 11.64.022, chapter 145, Laws of 1965 and RCW 11.64.022; amending section 11.64.030, chapter 145, Laws of 1965 and RCW 11.64.030; amending section 11.68.010, chapter 145, Laws of 1965 as last amended by section 13, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.010; amending section 11.68.030, chapter 145, Laws of 1965 as amended by section 15, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.030; amending section 11.68.040, chapter 145, Laws of 1965 as amended by section 16, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.040; amending section 17, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.050; amending section 18, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.060; amending section 19, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.070; amending section 20, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.080; amending section 22, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.100; amending section 23, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.110; amending section 53, chapter 117, Laws of 1974 ex. sess. and RCW 11.94.020; amending section 30.20.020, chapter 33, Laws of 1955 as last amended by section 39, chapter 117, Laws of 1974 ex. sess. and RCW 30.20.020; adding a new section to chapter 11.62 RCW; repealing section 11.76.140, chapter 145, Laws of 1965 and RCW 11.76.140; and providing an effective date.

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

Section 1. Section 11.16.083, chapter 145, Laws of 1965 and RCW 11.16.083 are each amended to read as follows:

Notwithstanding any other provision of this title, no notice of any hearing in probate or probate proceeding need be given to any ((person)) legally competent person who is interested in any hearing in ((a)) any probate ((proceeding may)) as an heir, legatee, or devisee of the decedent who has in person or by attorney ((waive)) waived in writing notice of such hearing or proceeding. Such waiver of notice may apply to either a specific hearing or proceeding, or to any and all hearings and proceedings to be held during the administration of the estate in which event such waiver of notice shall be of continuing effect unless subsequently revoked by the filing of a written notice of revocation of the waiver and the mailing

of a copy thereof to the personal representative and his attorney. Unless notice of a hearing is required to be given by publication, if all persons entitled to notice thereof shall have waived such notice, the court may hear the matter forthwith. A guardian of the estate or a guardian ad litem may make such ((a)) waivers on behalf of his incompetent, and a trustee may make such ((a)) waivers on behalf of ((the)) any competent or incompetent beneficiary of his trust. A consul or other representative of a foreign government, whose appearance has been entered as provided by law on behalf of any person residing in a foreign country, may make such waiver of notice on behalf of such person. Any person who submits to the jurisdiction of the court in any hearing shall be deemed to have waived notice thereof.

Sec. 2. Section 11.20.020, chapter 145, Laws of 1965 as last amended by section 27, chapter 117, Laws of 1974 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 RCW 11.28.330 or 11.28.340.

(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. 3. Section 11.20.090, chapter 145, Laws of 1965 and RCW 11.20.090 are each amended to read as follows:

Wills probated in any other state or territory of the United States, or in any foreign country or state, shall be admitted to probate in this state on the production of a copy of such will and of the original record of probate thereof, ~~((authenticated))~~ certified by the attestation of the clerk of the court in which such probate was made; or if there be no clerk, certification by the attestation of the judge thereof, and by the seal of such officers, if they have a seal.

Sec. 4. Section 11.28.110, chapter 145, Laws of 1965 as amended by section 29, chapter 117, Laws of 1974 ex. sess. 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 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 RCW 11.28.330 or 11.28.340.

Sec. 5. Section 46, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.185 are each amended 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. 6. Section 11.28.237, chapter 145, Laws of 1965 as last amended by section 30, chapter 117, Laws of 1974 ex. sess. 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~~) by mail to each heir, legatee and devisee of the estate whose names and addresses are known to him, and proof of such mailing or service shall be made by affidavit and filed in the cause.

Sec. 7. Section 32, chapter 117, Laws of 1974 ex. sess. and RCW 11.28.340 are each amended to read as follows:

Unless, within four months after the entry of the order adjudicating testacy or intestacy and heirship, and the mailing or service of the notice required in RCW

11.28.330 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 or on whom served, 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.

Sec. 8. Section 11.40.030, chapter 145, Laws of 1965 as amended by section 35, chapter 117, Laws of 1974 ex. sess. and RCW 11.40.030 are each amended to read as follows:

(1) Unless the personal representative shall, within six months after the date of first publication of notice to creditors, or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims not exceeding one thousand dollars 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 within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later, or any extended time, notify the claimant of its rejection, in whole or in part(;-if).

(2) When a claim exceeding one thousand dollars is presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, it shall be the duty of the personal representative to indorse thereon his allowance or rejection. A claimant after a claim has been on file for at least thirty days may notify the personal representative that he will petition the court to have the claim allowed. If the personal representative fails to file an allowance or rejection of such claim twenty days after the receipt of such notice, the claimant may note the matter up for hearing and the court shall hear the matter and determine

whether the claim should be allowed or rejected, in whole or in part. If at the hearing the claim is substantially allowed the court may allow petitioner reasonable attorney's fees of not less than one hundred dollars chargeable against the estate.

(3) 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.

(4) 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. 9. Section 11.52.012, chapter 145, Laws of 1965 as amended by section 8, chapter 117, Laws of 1974 ex. sess. 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 provided in RCW 11.52.010 through 11.52.024 (~~provided~~), as now or hereafter amended, 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 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 not subject to probate, including insurance, by reason of the death of the deceased spouse in the sum of 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~~) which shall enter such decree as shall be just and equitable but not in excess of the award provided herein.

Sec. 10. Section 11.52.022, chapter 145, Laws of 1965 as last amended by section 10, chapter 117, Laws of 1974 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 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 twenty thousand dollars: PROVIDED, That if it shall appear to the court, either (1) that there are 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) that such surviving spouse is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property not subject to probate, 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 twenty thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than 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))~~ which shall enter such decree as shall be just and equitable, but not in excess of the award provided herein.

Sec. 11. Section 4, chapter 117, Laws of 1974 ex. sess. and RCW 11.62.010 are each amended to read as follows:

(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)) a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.~~

~~(2) An affidavit which is to be made pursuant to this section shall state:~~

~~(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in section 29 of this 1976 amendatory act;~~

~~(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)) decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, 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))~~ A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice;

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein; and

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

~~((2))~~ (3) A transfer agent of any security shall change the registered ownership ((on the books of a corporation)) of the security claimed from the decedent to the person claiming to be the successor ((or successors)) with respect to such security upon the presentation of proof of death and of an affidavit ((as provided in subsection (1)) made by such person which meets the requirements of subsection (2) of this section(;)). Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

~~((3))~~ (4) 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 RCW 11.62.020 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.))~~

Sec. 12. Section 5, chapter 117, Laws of 1974 ex. sess. and RCW 11.62.020 are each amended to read as follows:

The person paying, delivering, ~~((or))~~ transferring, or issuing personal property ~~((or the evidence thereof))~~ pursuant to RCW 11.62.010 is discharged and released to the same extent as if ~~((he))~~ such person has 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)), unless at the time of such payment, delivery, transfer, or issuance, such person had actual knowledge of the falsity of any statement which is required by RCW 11.62.010(2) as now or hereafter amended to be contained in the successor's affidavit. Such person is not required to see to the application of the personal property, or to inquire into the truth of any matter specified in RCW 11.62.010 (1) or (2) as now or hereafter amended, or into the payment of any inheritance tax liability.~~

An organization shall not be deemed to have actual knowledge of the falsity of any statement contained in an affidavit made pursuant to RCW 11.62.010(2) as now or hereafter amended until such time as said knowledge shall have been brought to the personal attention of the individual making the transfer, delivery, payment, or issuance of the personal property claimed under RCW 11.62.010 as now or hereafter amended.

If any person to whom an affidavit and proof of death is delivered refuses to pay, deliver, or transfer any personal property, 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 an affidavit is delivered may pay, deliver, transfer, or issue any personal property in response to the first affidavit received, provided that proof of death has also been received, or alternately implead such property into court for payment over to the person entitled thereto. Any person to whom payment, delivery, transfer, or issuance of personal property is made pursuant to RCW 11.62.010 as now or hereafter amended is answerable and accountable therefor to any personal representative of the estate of the decedent or to any other person having a superior right thereto.

Sec. 13. Section 11.64.002, chapter 145, Laws of 1965 and RCW 11.64.002 are each amended to read as follows:

Within ((thirty days after the death of a partner)) three months after receiving written request from the personal representative the surviving partner or partners of the partnership shall ((five)) furnish the personal representative with a verified inventory of the assets of the partnership ((in the superior court in which letters testamentary or of administration are issued on the estate of the decedent, or, if no letters are issued, in the court of the county of which the decedent was resident at the time of his death)). The inventory shall state the value of the assets as shown

by the books of the partnership and ~~((a))~~ list ~~((of))~~ the liabilities of the partnership. ~~((If letters testamentary or of administration have been issued on the estate of the decedent))~~ At the request of the personal representative, the surviving partner or partners shall ~~((cause))~~ permit the assets of the partnership to be appraised ~~((in like manner as the individual property of a deceased person)),~~ which appraisal shall include the value of the assets of the partnership and a list of the liabilities. ~~((The appraisers appointed by the court under RCW 11.44.055 to appraise the property of the deceased partner may appraise the partnership property, and the surviving partner or partners shall file the inventory and appraisal with the court in which the estate of the deceased partner is being administered. PROVIDED, That if the surviving partner or partners cannot prepare an inventory within thirty days after the death of the decedent, the court may, on application made within said thirty day period and for good cause shown, grant an extension of time not to exceed an additional three months, within which time such inventory may be filed.))~~

Sec. 14. Section 11.64.008, chapter 145, Laws of 1965 and RCW 11.64.008 are each amended to read as follows:

The surviving partner or partners may continue in possession of the partnership estate, pay its debts, and settle its business, and shall account to the personal representative of the decedent and shall pay over such balances as may, from time to time, be payable to him. ~~((Upon the verified petition of the personal representative, or on its own motion, the court, whenever it appears necessary, may order the surviving partner or partners to account to said court.))~~

Sec. 15. Section 11.64.016, chapter 145, Laws of 1965 and RCW 11.64.016 are each amended to read as follows:

If the surviving partner or partners commit waste, or if it appears to the court that it is for the best interest of the estate of the decedent, such court may, after a hearing, order the surviving partner or partners to give security for the faithful settlement of the partnership affairs and the payment to the personal representative of any amount due the estate.

Sec. 16. Section 11.64.022, chapter 145, Laws of 1965 and RCW 11.64.022 are each amended to read as follows:

If the surviving partner or partners fail or refuse to ~~((file the))~~ furnish an inventory(;) or list of liabilities, ~~((or))~~ to permit an appraisal, or ~~((if it appears proper to order the surviving partner or partners to account to the court or to file a bond))~~ to account to the personal representative, or to furnish a bond when required pursuant to RCW 11.64.016, said court shall order a citation to issue requiring the surviving partner or partners to appear and show cause why they have not ~~((filed))~~ furnished an inventory(;) list of liabilities, or permitted an appraisal or why they should not account to the ~~((court))~~ personal representative or file a bond. The citation shall be served not less than ten days before the return day designated therein, or such shorter period as the court upon a showing of good cause deems appropriate. If the surviving partner or partners neglect or refuse to file an inventory(;) or list of liabilities, or to permit an appraisal, or fail to account to the court or to file a bond, after they have been directed to do so, they may be punished for a contempt or the court may commit them to jail until they comply with the order of the court. Where the surviving partner or partners fail to file a

bond after being ordered to do so by the court, the court may also appoint a receiver of the partnership estate with like powers and duties of receivers in equity, and order the costs and expenses of the proceedings to be paid out of the partnership estate or out of the estate of the decedent, or by the surviving partner or partners personally, or partly by each of the parties.

Sec. 17. Section 11.64.030, chapter 145, Laws of 1965 and RCW 11.64.030 are each amended to read as follows:

The surviving partner or the surviving partners jointly, shall have the right at any time to petition the court to purchase the interests of a deceased partner in the partnership. Upon a hearing pursuant to such petition ~~((being presented))~~ the court shall, in such manner as it sees fit, ~~((learn))~~ determine and by order fix the value of the interest of the deceased partner over and above all partnership debts and obligations, ~~((and))~~ the price, terms, and conditions ~~((upon))~~ of such sale and the period of time during which the surviving partner or partners ~~((may purchase, and thereafter the surviving partner or partners))~~ shall have the ~~((preference))~~ prior right ~~((for such length of time as the court may fix,))~~ to purchase the interest of the deceased partner ~~((at the price and upon the terms and conditions fixed by the court))~~. If any such surviving partner be also the personal representative of the estate of the deceased partner, such fact shall not affect his right to purchase, or to join with the other surviving partners to purchase such interest in the manner hereinbefore provided.

The court shall make such orders in connection with such sale as it deems proper or necessary to protect the estate of the deceased against any liability for partnership debts or obligations.

Sec. 18. Section 11.68.010, chapter 145, Laws of 1965 as last amended by section 13, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.010 are each amended to read as follows:

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))~~ decedent not designated as ~~((executor))~~ personal representative 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. 19. Section 11.68.030, chapter 145, Laws of 1965 as amended by section 15, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.030 are each amended to read as follows:

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 decedent's creditor, of an estate of a decedent who died intestate

or the personal representative, other than a decedent's creditor, with the will annexed of the estate of a decedent who died testate shall ~~((have))~~ 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. 20. Section 11.68.040, chapter 145, Laws of 1965 as amended by section 16, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.040 are each amended to read as follows:

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

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

(2) 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,M.;

(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, or other person entitled to notice 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.

(3) If no notice is required, or all heirs, legatees, ~~((and))~~ devisees, and other persons entitled to notice 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.

Sec. 21. Section 17, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.050 are each amended 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))~~ person 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))~~ If an order of solvency is entered, 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))~~ objection is made at the time of the hearing by any person entitled to notice thereof, 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.

Sec. 22. Section 18, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.060 are each amended 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 of a decedent not designated as ~~((executor))~~ a personal representative in the decedent's will, shall administer the estate of the decedent without the intervention of court after notice and hearing as required by RCW 11.68.040 and 11.68.050 as now or hereafter amended, 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))~~ other person entitled to notice pursuant to RCW 11.28.240 as now existing or hereafter amended, 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))~~ other person entitled to notice 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.

Sec. 23. Section 19, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.070 are each amended 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))~~ the powers of the personal representative may be restricted or the 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.

Sec. 24. Section 20, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.080 are each amended 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 or restrict 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.

Sec. 25. Section 22, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.100 are each amended 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 distributes 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))~~ payment of said fees 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.

Sec. 26. Section 23, chapter 117, Laws of 1974 ex. sess. and RCW 11.68.110 are each amended 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 RCW 11.68.100 as now or hereafter amended, 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)) and 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; and

(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((-)); and 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:

CAPTION
OF
CASE

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 {or})) 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~~ ~~within~~) within 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. In those instances where the personal representative has been required to furnish bond, and a declaration of completion shall have been filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

Sec. 27. Section 53, chapter 117, Laws of 1974 ex. sess. and RCW 11.94.020 are each amended to read as follows:

(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 RCW (~~30.04-260~~) 11.94.010, 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.

Sec. 28. Section 30.20.020, chapter 33, Laws of 1955 as last amended by section 39, chapter 117, Laws of 1974 ex. sess. 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 and no executor or administrator has been appointed for the depositor's estate, and the depositor had on deposit in 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~~) a personal representative 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~~) personal representative. 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 RCW 11.62.010 as now or hereafter amended.

NEW SECTION. Sec. 29. There is added to chapter 11.62 RCW a new section to read as follows:

As used in this chapter, the following terms shall have the meanings indicated.

(1) "Personal property" shall include any tangible personal property, any instrument evidencing a debt, obligation, stock, chose in action, license or ownership, any debt or any other intangible property.

(2) (a) "Successor" and "successors" shall mean (subject to subsection (2)(b) of this section):

(i) That person or those persons who are entitled to the claimed property pursuant to the terms and provisions of the last will and testament of the decedent or by virtue of the laws of intestate succession contained in this title; and/or

(ii) The surviving spouse of the decedent to the extent that the surviving spouse is entitled to the property claimed as his or her undivided one-half interest in the community property of said spouse and the decedent.

(b) Any person claiming to be a successor solely by reason of being a creditor of the decedent or of the decedent's estate shall be excluded from the definition of "successor".

(3) "Person" shall mean any individual or organization.

(4) "Organization" shall include a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

NEW SECTION. Sec. 30. If any provisions of this 1977 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.

NEW SECTION. Sec. 31. This 1977 amendatory act shall take effect on October 1, 1977 and shall apply to all proceedings in probate with respect to decedents whose deaths occurred after the effective date.

NEW SECTION. Sec. 32. Section 11.76.140, chapter 145, Laws of 1965 and RCW 11.76.140 are each repealed.

Passed the Senate June 6, 1977.

Passed the House June 7, 1977.

Approved by the Governor June 15, 1977.

Filed in Office of Secretary of State June 15, 1977.

CHAPTER 235

[Substitute Senate Bill No. 2525]

TRANSPORTATION STUDIES, PLANS, REPORTS, AND ACTIVITIES

AN ACT Relating to transportation; amending section 36, chapter 3, Laws of 1963 ex. sess. as amended by section 1, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.020; amending section 2, chapter 195, Laws of 1971 ex. sess. as amended by section 19, chapter 293, Laws of 1975 1st ex. sess. and RCW 44.40.025; amending section 38, chapter 3, Laws of 1963 ex. sess. as amended by section 3, chapter 195, Laws of 1971 ex. sess. and RCW 44.40.030; amending section 39, chapter 3, Laws of 1963 ex. sess. as last amended by section 3, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.040; amending section 1, chapter 201, Laws of 1973 1st ex. sess. and RCW 44.40.070; amending section 2, chapter 210, Laws of 1973 1st ex. sess. and RCW 44.40.090; amending section 3, chapter 210, Laws of 1973 1st ex. sess. as amended by section 7, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.100; amending section 2, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.120; amending section 47.01.220, chapter 13, Laws of 1961 as amended by section 3, chapter 12, Laws of 1973 2nd ex. sess. and RCW 47.01.220; amending section 7, chapter 120, Laws of 1965 ex. sess. and RCW 36.78.070; amending section 1, chapter 167, Laws of 1965 ex. sess. and RCW 47.02.010; amending section 4, chapter 173, Laws of 1963 as last amended by section 3, chapter 143, Laws of 1975 1st ex. sess. and RCW 47.05.040; amending section 171, chapter 51, Laws of 1970 ex. sess. as amended by section 26, chapter 73, Laws of 1971 ex. sess. and RCW 47.17.850; amending section 22, chapter 83, Laws of 1967 ex. sess. as amended by section 1, chapter 291, Laws of 1971 ex. sess. and RCW 47.26.160; creating new sections; repealing section 4, chapter 210, Laws of 1973 1st ex. sess., section 1, chapter 2, Laws of 1975, section 8, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.110; repealing section 5, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.125; repealing section 6, chapter 268, Laws of 1975 1st ex. sess. and RCW 44.40.130; repealing section 57, chapter 281, Laws of 1969 ex. sess. and RCW 47.16.220; repealing section 2, chapter 267, Laws of 1975 1st ex. sess. and RCW 47.20.662; repealing section 1, chapter 149, Laws of 1971 ex. sess. and RCW 47.60.510; repealing section 2, chapter 149, Laws of 1971 ex. sess. and RCW 47.60.520; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. The legislative transportation committee is authorized to conduct the following studies and activities and such other related studies and activities as it deems appropriate, may employ consultants, and shall report findings and recommendations, as appropriate, to the legislature during or prior to the 1979 regular legislative session:

(1) Review local, state, and national needs studies, for the purpose of evaluating the consolidation of such needs studies;

(2) Evaluate the method of collection and administration of special fuel taxes to include, but not be limited to, economies in administration of the tax and evasion of such fuel taxes;

(3) Continue reviewing the interrelationship of state and federal laws and regulations with respect to administering federal programs within the state, including but not limited to, laws affecting right of way and environmental protection, considering alternatives of decentralization of administration and supervision to the state;