
SUBSTITUTE SENATE BILL 6541

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senator Haugen)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to property that has been specifically devised; and
2 adding a new section to chapter 11.12 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 11.12 RCW
5 to read as follows:

6 (1) A specific devisee has a right to the specifically devised
7 property in the testator's estate at death and to the following:

8 (a) Any balance of the purchase price, together with any security
9 agreement, owing from a purchaser to the testator at death by reason of
10 sale of the property;

11 (b) Any amount of a condemnation award for the taking of the
12 property unpaid at death;

13 (c) Any proceeds unpaid at death on fire or casualty insurance on
14 or other recovery for injury to the property;

15 (d) Property owned by the testator at death and acquired as a
16 result of foreclosure or obtained in lieu of foreclosure of the
17 security interest for a specifically devised obligation.

18 (2) If specifically devised property is sold or mortgaged by a
19 guardian or by an agent acting within the authority of a durable power

1 of attorney for an incapacitated principal or if a condemnation award,
2 insurance proceeds, or recovery for injury to the property are paid to
3 a guardian or to an agent acting within the authority of a durable
4 power of attorney for an incapacitated principal, the specific devisee
5 has the right to a general pecuniary devise equal to the lesser of (a)
6 the net sale price, the amount of the unpaid loan, the condemnation
7 award, the insurance proceeds, or the recovery; or (b) the testator's
8 remaining net estate after payment of debts and claims with priority.
9 It is not necessary to adjudicate the issue of incapacity for an agent
10 to act under this subsection. An agent's actions that are within the
11 authority of a durable power of attorney are presumed to be on behalf
12 of the incapacitated principal. For the purposes of this subsection,
13 "incapacitated principal" means a principal who is an incapacitated
14 person.

15 (3) The right of a specific devisee under subsection (2) of this
16 section is reduced by any right the devisee has under subsection (1) of
17 this section.

18 (4) The provisions in subsection (2) of this section that relate to
19 the actions of a guardian do not apply if, after the sale, mortgage,
20 condemnation, casualty, or recovery, it was adjudicated that the
21 testator's incapacity ceased and the testator survived the adjudication
22 by one year.

23 (5) A demonstrative gift shall not lose its demonstrative status
24 for purposes of abatement under RCW 11.10.010 as a result of the
25 operation of this section.

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