

2 **HB 1078** - S COMM AMD

3 By Committee on Law & Justice

4 ADOPTED 4/6/93

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 11.62.010 and 1988 c 64 s 25 and 1988 c 29 s 2 are  
8 each reenacted and amended to read as follows:

9 (1) At any time after forty days from the date of a decedent's  
10 death, any person who is indebted to or who has possession of any  
11 personal property belonging to the decedent or to the decedent and his  
12 or her surviving spouse as a community, which debt or personal property  
13 is an asset which is subject to probate, shall pay such indebtedness or  
14 deliver such personal property, or so much of either as is claimed, to  
15 a person claiming to be a successor of the decedent upon receipt of  
16 proof of death and of an affidavit made by said person which meets the  
17 requirements of subsection (2) of this section.

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

20 (a) The claiming successor's name and address, and that the  
21 claiming successor is a "successor" as defined in RCW 11.62.005;

22 (b) That the decedent was a resident of the state of Washington on  
23 the date of his death;

24 (c) That the value of the decedent's entire estate subject to  
25 probate, not including the surviving spouse's community property  
26 interest in any assets which are subject to probate in the decedent's  
27 estate, wherever located, less liens and encumbrances, does not exceed  
28 (~~the amount specified in RCW 6.13.030~~) sixty thousand dollars;

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

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

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

1 (g) A description of the personal property and the portion thereof  
2 claimed, together with a statement that such personal property is  
3 subject to probate;

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

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

13 (3) A transfer agent of any security shall change the registered  
14 ownership of the security claimed from the decedent to the person  
15 claiming to be the successor with respect to such security upon the  
16 presentation of proof of death and of an affidavit made by such person  
17 which meets the requirements of subsection (2) of this section. Any  
18 governmental agency required to issue certificates of ownership or of  
19 license registration to personal property shall issue a new certificate  
20 of ownership or of license registration to a person claiming to be a  
21 successor of the decedent upon receipt of proof of death and of an  
22 affidavit made by such person which meets the requirements of  
23 subsection (2) of this section.

24 (4) No release from any Washington state or local taxing authority  
25 may be required before any assets or debts are paid or delivered to a  
26 successor of a decedent as required under this section.

27 NEW SECTION. **Sec. 2.** (1) An otherwise effective written  
28 instrument of transfer may not be deemed testamentary solely because of  
29 a provision for a nonprobate transfer at death in the instrument.

30 (2) "Provision for a nonprobate transfer at death" as used in  
31 subsection (1) of this section includes, but is not limited to, a  
32 written provision that:

33 (a) Money or another benefit up to that time due to, controlled, or  
34 owned by a decedent before death must be paid after the decedent's  
35 death to a person whom the decedent designates either in the instrument  
36 or a separate writing, including a will, executed at any time;

1 (b) Money or another benefit due or to become due under the  
2 instrument ceases to be payable in the event of the death of the  
3 promisee or the promisor before payment or demand; or

4 (c) Property, controlled by or owned by the decedent before death,  
5 that is the subject of the instrument passes to a person the decedent  
6 designates either in the instrument or in a separate writing, including  
7 a will, executed at any time.

8 (3) "Otherwise effective written instrument of transfer" as used in  
9 subsection (1) of this section means: An insurance policy; a contract  
10 of employment; a bond; a mortgage; a promissory note; a certified or  
11 uncertified security; an account agreement; a compensation plan; a  
12 pension plan; an individual retirement plan; an employee benefit plan;  
13 a joint tenancy; a community property agreement; a trust; a conveyance;  
14 a deed of gift; a contract; or another written instrument of a similar  
15 nature that would be effective if it did not contain provision for a  
16 nonprobate transfer at death.

17 (4) This section only eliminates a requirement that instruments of  
18 transfer comply with formalities for executing wills under chapter  
19 11.12 RCW. This section does not make a written instrument effective  
20 as a contract, gift, conveyance, deed, or trust that would not  
21 otherwise be effective as such for reasons other than failure to comply  
22 with chapter 11.12 RCW.

23 (5) This section does not limit the rights of a creditor under  
24 other laws of this state.

25 NEW SECTION. **Sec. 3.** A provision in a lease of a safety deposit  
26 repository to the effect that two or more persons have access to the  
27 repository, or that purports to create a joint tenancy in the  
28 repository or in the contents of the repository, or that purports to  
29 vest ownership of the contents of the repository in the surviving  
30 lessee, is ineffective to create joint ownership of the contents of the  
31 repository or to transfer ownership at death of one of the lessees to  
32 the survivor. Ownership of the contents of the repository and  
33 devolution of title to those contents is determined according to rules  
34 of law without regard to the lease provisions.

35 NEW SECTION. **Sec. 4.** RCW 11.02.090 and 1974 ex.s. c 117 s 54 are  
36 each repealed.

