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HOUSE BILL 2388

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State of Washington                      55th Legislature                      1998 Regular Session

By Representatives Sheahan, Constantine, Lambert and Costa

Read first time 01/13/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to probate, trust, and estate law; amending RCW  
2 11.02.005, 11.07.010, 11.54.070, 11.68.110, 11.68.114, 11.114.030,  
3 83.100.020, and 83.110.010; amending 1997 c 252 s 87 (uncodified);  
4 amending 1997 c 252 s 89 (uncodified); adding a new chapter to Title 11  
5 RCW; creating new sections; providing an effective date; and declaring  
6 an emergency.

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

8                      **PART I--TESTAMENTARY DISPOSITION OF NONPROBATE ASSETS**

9            NEW SECTION.    **Sec. 101.**    SHORT TITLE.    This chapter may be known  
10 and cited as the testamentary disposition of nonprobate assets act.

11            NEW SECTION.    **Sec. 102.**    PURPOSES.    The purposes of this chapter  
12 are to:

13            (1) Enhance and facilitate the power of testators to control the  
14 disposition of assets that pass outside their wills;

15            (2) Provide simple procedures for resolution of disputes regarding  
16 entitlement to such assets; and

1 (3) Protect any financial institution or other third party having  
2 possession of or control over such an asset and transferring it to a  
3 beneficiary duly designated by the testator, unless that third party  
4 has been provided notice of a testamentary disposition as required in  
5 this chapter.

6 NEW SECTION. **Sec. 103.** CONSTRUCTION--JURISDICTION. (1) When  
7 construing sections and provisions of this chapter, the sections and  
8 provisions must:

9 (a) Be liberally construed and applied to promote the purposes of  
10 this chapter;

11 (b) Be considered part of a general act that is intended as unified  
12 coverage of the subject matter, and no part of this chapter may be  
13 deemed impliedly repealed by subsequent legislation if the construction  
14 can be reasonably avoided;

15 (c) Not be held invalid because of the invalidity of other sections  
16 or provisions of this chapter as long as the section or provision in  
17 question can be given effect without regard to the invalid section or  
18 provision, and to this end the sections or provisions of this chapter  
19 are severable;

20 (d) Not be construed by reference to section or subsection headings  
21 as used in this chapter, since these do not constitute any part of the  
22 law;

23 (e) Not be deemed to alter the community or separate property  
24 nature of any asset passing outside a testator's will or any  
25 individual's community or separate rights to the asset, and a  
26 testator's community or separate property rights to the asset are not  
27 affected by whether it passes outside the will or, under this chapter,  
28 by disposition under the will; and

29 (f) Not be construed as authorizing or extending the authority of  
30 any financial institution or other third party to sell or otherwise  
31 create assets that would pass outside a testator's will upon such terms  
32 as would contravene any other applicable federal or state law.

33 (2) The sections and provisions of this chapter apply to an owner  
34 who dies while a resident of this state on or after the effective date  
35 of this section and to a nonprobate asset the disposition of which on  
36 the death of the owner would otherwise be governed by the law of this  
37 state.

1        NEW SECTION.    **Sec. 104.**    DEFINITIONS.    The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1)(a) "Actual knowledge" means:

5        (i) For a financial institution, whether acting as personal  
6 representative or otherwise, or other third party in possession or  
7 control of a nonprobate asset, receipt of written notice that: (A)  
8 Complies with section 109 of this act; (B) pertains to the testamentary  
9 disposition or ownership of a nonprobate asset in its possession or  
10 control; and (C) is received by the financial institution or third  
11 party after the death of the owner in a time sufficient to afford the  
12 financial institution or third party a reasonable opportunity to act  
13 upon the knowledge; and

14        (ii) For a personal representative that is not a financial  
15 institution, personal knowledge or possession of documents relating to  
16 the testamentary disposition or ownership of a nonprobate asset of the  
17 owner sufficient to afford the personal representative reasonable  
18 opportunity to act upon the knowledge, including reasonable opportunity  
19 for the personal representative to provide the written notice under  
20 section 109 of this act.

21        (b) For the purposes of (a) of this subsection, notice of more than  
22 thirty days is presumed to be notice that is sufficient to afford the  
23 party a reasonable opportunity to act upon the knowledge, but notice of  
24 less than five business days is presumed not to be a sufficient notice  
25 for these purposes. These presumptions may be rebutted only by clear  
26 and convincing evidence to the contrary.

27        (2) "Beneficiary" means the person designated to receive a  
28 nonprobate asset upon the death of the owner by means other than the  
29 owner's will.

30        (3) "Broker" means a person defined as a broker or dealer under the  
31 federal securities laws.

32        (4) "Date of will" means, as to any nonprobate asset, the date of  
33 signature of the will or codicil that refers to the asset and disposes  
34 of it.

35        (5) "Designate" means a written means by which the owner selects a  
36 beneficiary, including but not limited to instruments under contractual  
37 arrangements and registration of accounts, and "designation" means the  
38 selection.

1 (6) "Financial institution" means: A bank, trust company, mutual  
2 savings bank, savings and loan association, credit union broker, or  
3 issuer of stock or its transfer agent; or an individual retirement  
4 account or similar arrangement, its trustee or other fiduciary, or its  
5 plan administrator.

6 (7)(a) "Nonprobate asset" means a nonprobate asset within the  
7 meaning of RCW 11.02.005, but excluding the following:

8 (i) A right or interest in real property passing under a joint  
9 tenancy with right of survivorship;

10 (ii) A deed or conveyance for which possession has been postponed  
11 until the death of the owner;

12 (iii) A right or interest passing under a community property  
13 agreement; and

14 (iv) An individual retirement account or bond.

15 (b) For the definition of "nonprobate asset" relating to revocation  
16 of a provision for a former spouse upon dissolution of marriage or  
17 declaration of invalidity of marriage, see RCW 11.07.010(5).

18 (8) "Owner" means a person who, during life, has beneficial  
19 ownership of the nonprobate asset.

20 (9) "Request" means a request by the beneficiary for transfer of a  
21 nonprobate asset after the death of the owner, if it complies with all  
22 conditions of the arrangement, including reasonable special  
23 requirements concerning necessary signatures and regulations of the  
24 financial institution or other third party, or by the personal  
25 representative of the owner's estate or the testamentary beneficiary,  
26 if it complies with the owner's will and any additional conditions of  
27 the financial institution or third party for such transfer.

28 (10) "Testamentary beneficiary" means a person named under the  
29 owner's will to receive a nonprobate asset under this chapter,  
30 including but not limited to the trustee of a testamentary trust.

31 (11) "Third party" means a person, including a financial  
32 institution, having possession of or control over a nonprobate asset at  
33 the death of the owner, including the trustee of a revocable living  
34 trust and surviving joint tenant or tenants.

35 NEW SECTION. **Sec. 105.** DISPOSITION OF NONPROBATE ASSETS UNDER  
36 WILL. (1) Subject to community property rights, upon the death of an  
37 owner the owner's interest in any nonprobate asset specifically  
38 referred to in the owner's will belongs to the testamentary beneficiary

1 named to receive the nonprobate asset, notwithstanding the rights of  
2 any beneficiary designated before the date of the will.

3 (2) A general residuary gift in an owner's will, or a will making  
4 general disposition of all of the owner's property, does not entitle  
5 the devisees or legatees to receive nonprobate assets of the owner.

6 (3) A disposition in a will of the owner's interest in "all  
7 nonprobate assets" or of all of a category of nonprobate asset under  
8 section 104(8) of this act, such as "all of my payable on death bank  
9 accounts" or similar language, is deemed to be a disposition of all the  
10 nonprobate assets the beneficiaries of which are designated before the  
11 date of the will.

12 (4) If the owner designates a beneficiary for a nonprobate asset  
13 after the date of the will, the will does not govern the disposition of  
14 that nonprobate asset. If the owner revokes the later beneficiary  
15 designation, the prior will does not govern the disposition of the  
16 nonprobate asset. A beneficiary designation with respect to an asset  
17 that renews without the signature of the owner is deemed to have been  
18 made on the date on which the account was first opened.

19 NEW SECTION. **Sec. 106.** WAIVER OF RIGHT TO DISPOSE OF A NONPROBATE  
20 ASSET UNDER WILL. An owner may waive the right to dispose of a  
21 specific nonprobate asset by will under this chapter, with or without  
22 consideration, by a written instrument signed by the owner and  
23 delivered to the financial institution or other third party, including  
24 but not limited to signature cards or deposit agreements. The waiver  
25 is revocable by written instrument delivered to the financial  
26 institution or other third party unless the owner has stated that the  
27 waiver is to be irrevocable.

28 NEW SECTION. **Sec. 107.** CONTROVERSIES BETWEEN BENEFICIARIES AND  
29 TESTAMENTARY BENEFICIARIES. This chapter is intended to establish  
30 ownership rights to nonprobate assets upon the death of the owner, as  
31 between beneficiaries and testamentary beneficiaries. This chapter is  
32 relevant only as to controversies between these persons, and has no  
33 bearing on the right of a person to transfer a nonprobate asset under  
34 its terms in the absence of a testamentary provision under this  
35 chapter.

1        NEW SECTION.    **Sec. 108.**    RIGHT TO RELY ON FORM OF NONPROBATE  
2 ASSET--DISCHARGE OF FINANCIAL INSTITUTION OR OTHER THIRD PARTY.    In  
3 transferring nonprobate assets, a financial institution or other third  
4 party may rely conclusively and entirely upon the form of the  
5 nonprobate asset and the terms of the nonprobate asset arrangement in  
6 effect on the date of death of the owner, unless the financial  
7 institution or other third party has actual knowledge of the existence  
8 of a claim by a testamentary beneficiary. A financial institution or  
9 other third party is not required to inquire as to either the source or  
10 ownership of any nonprobate asset in its possession or under its  
11 control, or as to the proposed application of an asset so transferred.  
12 A transfer of a nonprobate asset in accordance with this section  
13 constitutes a complete release and discharge of the financial  
14 institution or other third party from all claims relating to the  
15 nonprobate asset, regardless of whether or not the transfer is  
16 consistent with the actual ownership of the nonprobate asset.

17        NEW SECTION.    **Sec. 109.**    NOTICE--FORM--LIMITATION ON LIABILITY FOR  
18 FAILURE TO PROVIDE NOTICE.    (1) Written notice under this chapter must  
19 be served personally or by certified mail, return receipt requested and  
20 postage prepaid, on the financial institution or other third party  
21 having the nonprobate asset in its possession or control, on the  
22 beneficiary, on the testamentary beneficiary, and on the personal  
23 representative, and proof of the mailing or service must be made by  
24 affidavit and filed under the cause number assigned to the owner's  
25 estate.    Notice to a financial institution must include notice  
26 delivered as follows:

27        (a) If the nonprobate asset was maintained at a specific office of  
28 the financial institution, notice must be delivered to the office at  
29 which the nonprobate asset was maintained, which notice must be  
30 directed to the manager of the office;

31        (b) If the nonprobate asset was held in a trust administered by a  
32 financial institution, notice must be delivered to the office at which  
33 the trust was administered, which notice must be directed to a named  
34 officer responsible for the administration of the trust; and

35        (c) In all cases, notice must be delivered to any other location  
36 and in any other manner specifically designated in a written agreement  
37 signed by the owner and the financial institution, including but not  
38 limited to a signature card or deposit agreement.

1 (2) Written notice to a financial institution or other third party  
2 of the testamentary disposition of a nonprobate asset under this  
3 chapter must be in a form substantially similar to the following:

4 NOTICE OF TESTAMENTARY  
5 DISPOSITION OF NONPROBATE ASSET

6 The undersigned personal representative, petitioner for  
7 appointment as personal representative, attorney for the  
8 personal representative or petitioner, or testamentary  
9 beneficiary under the will of the decedent named above (as that  
10 term is defined in section 104 of this act) hereby notifies you  
11 that the decedent named above died on (DATE MUST BE SUPPLIED)  
12 and left a will dated (DATE OF WILL MUST BE SUPPLIED) disposing  
13 of the following nonprobate asset or assets in your possession  
14 or control:

15 (EACH SUCH ASSET MUST BE DESCRIBED WITH REASONABLE SPECIFICITY.  
16 FOR ACCOUNTS AT FINANCIAL INSTITUTIONS, THE WRITTEN NOTICE MUST  
17 SPECIFY THE OFFICE AT WHICH THE ACCOUNT WAS MAINTAINED, THE  
18 NAME OR NAMES IN WHICH THE ACCOUNT WAS HELD, AND THE FULL  
19 ACCOUNT NUMBER. FOR ASSETS HELD IN TRUST, THE WRITTEN NOTICE  
20 MUST SPECIFY THE NAME OR NAMES OF THE GRANTOR, THE NAME OF THE  
21 TRUST, IF ANY, AND THE DATE OF THE TRUST INSTRUMENT.)

22 Under chapter 11.-- RCW (sections 101 through 116 of this act),  
23 you may not transfer, deliver, or otherwise dispose of the  
24 asset or assets listed above in accordance with the beneficiary  
25 designation, account registration, or other arrangement made  
26 with you by the decedent. You may transfer, deliver, or  
27 otherwise dispose of the asset or assets listed above only upon  
28 receipt of the written direction of the personal representative  
29 or of the testamentary beneficiary, if the personal  
30 representative consents.

31 . . . . .  
32 . . . . .  
33 (CAPACITY OF SIGNER)

34 (3) The personal representative of the estate of the owner, a  
35 petitioner for appointment as personal representative, or the  
36 testamentary beneficiary may provide written notice under this section.

1 The personal representative has no duty to provide written notice under  
2 this section and has no liability for failing or refusing to give the  
3 notice.

4 (4) Written notice under this section may be provided at any time  
5 after the death of the owner and before discharge of the personal  
6 representative on closing of the estate, and may be provided before  
7 admission to probate of the will.

8 NEW SECTION. **Sec. 110.** VESTING OF RIGHTS AND POWERS UNDER  
9 CHAPTER. The right to provide notice under section 109 of this act and  
10 the entitlement of the testamentary beneficiary to the nonprobate asset  
11 vest immediately upon death of the owner. The power of the personal  
12 representative to direct the financial institution or other third party  
13 having the nonprobate asset in its possession or under its control to  
14 transfer or otherwise dispose of the asset arises upon the later of  
15 appointment of the personal representative or admission of the will to  
16 probate.

17 NEW SECTION. **Sec. 111.** OWNERSHIP RIGHTS AS BETWEEN INDIVIDUALS  
18 PRESERVED--TESTAMENTARY BENEFICIARY MAY RECOVER NONPROBATE ASSET FROM  
19 BENEFICIARY--LIMITATION ON ACTION TO RECOVER. (1) The protection  
20 accorded to financial institutions and other third parties under  
21 section 108 of this act has no bearing on the actual rights of  
22 ownership to nonprobate assets as between beneficiaries and  
23 testamentary beneficiaries, and their heirs, successors, personal  
24 representatives, and assigns.

25 (2) A testamentary beneficiary entitled to a nonprobate asset  
26 otherwise transferred to a beneficiary not so entitled, and a personal  
27 representative of the owner's estate on behalf of the testamentary  
28 beneficiary, may petition the superior court having jurisdiction over  
29 the owner's estate for an order declaring that the testamentary  
30 beneficiary is so entitled, the hearing of the petition to be held in  
31 accordance with chapter 11.96 RCW.

32 (3) A testamentary beneficiary claiming a nonprobate asset who has  
33 not filed such a petition within the earlier of: (a) Six months from  
34 the date of admission of the will to probate; and (b) one year from the  
35 date of the owner's death, shall be forever barred from making such a  
36 claim or commencing such an action.



1        NEW SECTION.    **Sec. 112.**    NONPROBATE ASSETS NOT PROPERTY OF ESTATE.

2    (1) Notwithstanding any provision of this chapter, a nonprobate asset  
3    disposed of under the owner's will may not be treated as a part of the  
4    owner's probate estate for any other purpose under this title, unless:

5        (a) The nonprobate asset is subject to liabilities and claims,  
6    estate taxes, and expenses of administration under RCW 11.18.200; or

7        (b) Any section of this title directs otherwise, by specifically  
8    referring to this section.

9        (2) Provision of notice under this chapter has no effect on the  
10   administration of other assets of the estate of the owner.    The  
11   personal representative has no duty to administer upon a nonprobate  
12   asset because of providing the notice, unless specifically required by  
13   this chapter or under RCW 11.18.200.

14        (3) RCW 11.12.110, regarding death of a devisee or legatee before  
15   the testator, does not apply to disposition of a nonprobate asset under  
16   a will.

17        NEW SECTION.    **Sec. 113.**    TRANSFER OF NONPROBATE ASSET TO  
18   TESTAMENTARY BENEFICIARY.    (1) A financial institution's or third

19   party's obligation to transfer a nonprobate asset to a testamentary  
20   beneficiary arises only after it has actual knowledge of the claim of  
21   the testamentary beneficiary, and after receiving written direction  
22   from the personal representative of the owner's estate, or if the  
23   personal representative consents in writing, from the testamentary  
24   beneficiary, to make the transfer.    The financial institution may also  
25   require that its customary procedures be followed in effectuating a  
26   transfer of the nonprobate asset.

27        (2) Subject to subsection (1) of this section, financial  
28   institutions and other third parties may transfer a nonprobate asset  
29   that has not already been distributed to the testamentary beneficiary  
30   entitled to the nonprobate asset under the owner's will, subject to  
31   liabilities and claims, estate taxes, and expenses of administration  
32   under RCW 11.18.200.

33        NEW SECTION.    **Sec. 114.**    AUTHORITY TO WITHHOLD TRANSFER.    (1) This  
34   chapter does not require any financial institution or other third party  
35   to transfer a nonprobate asset to a beneficiary, testamentary  
36   beneficiary, or other person claiming an interest in the nonprobate  
37   asset if the financial institution or third party has actual knowledge

1 of the existence of a dispute between beneficiaries, testamentary  
2 beneficiaries, or other persons concerning rights or ownership to the  
3 nonprobate asset under this chapter, or if the financial institution or  
4 third party is otherwise uncertain as to who is entitled to receive the  
5 nonprobate asset under this chapter. In any such case, the financial  
6 institution or third party may, without liability, notify in writing  
7 all beneficiaries, testamentary beneficiaries, or other persons  
8 claiming an interest in the nonprobate asset of either its uncertainty  
9 as to who is entitled to transfer of the nonprobate asset or the  
10 existence of any dispute, and it may also, without liability, refuse to  
11 transfer a nonprobate asset to a beneficiary or a testamentary  
12 beneficiary until such time as either:

13 (a) All the beneficiaries, testamentary beneficiaries, and other  
14 interested persons have consented in writing to the transfer; or

15 (b) The transfer is authorized or directed by a court of proper  
16 jurisdiction.

17 (2) The expense of obtaining the written consent or court  
18 authorization or direction may, by order of the court, be paid by the  
19 personal representative as an expense of administration.

20 NEW SECTION. **Sec. 115.** ADVERSE CLAIM BOND. Notwithstanding  
21 section 114 of this act, a financial institution or other third party  
22 having actual knowledge of the existence of a dispute between  
23 beneficiaries, a testamentary beneficiary, or other persons concerning  
24 rights to a nonprobate asset under this chapter may condition transfer  
25 of the nonprobate asset on execution, in form and with security  
26 acceptable to the financial institution or other third party, of a bond  
27 in an amount that is double the fair market value of the nonprobate  
28 asset on the date of the owner's death or the amount of any adverse  
29 claim, whichever is the lesser, indemnifying the financial institution  
30 or other third party from any and all liability, loss, damage, costs,  
31 and expenses, for and on account of transfer of the nonprobate asset.

32 NEW SECTION. **Sec. 116.** APPLICATION OF CHAPTER. This chapter  
33 applies to any will of an owner who dies while a resident of this state  
34 on or after the effective date of this section, regardless of whether  
35 the will was executed or republished before or after the effective date  
36 of this section and regardless of whether the beneficiary of the

1 nonprobate asset was designated before or after the effective date of  
2 this section.

3 **Sec. 117.** RCW 11.02.005 and 1997 c 252 s 1 are each amended to  
4 read as follows:

5 When used in this title, unless otherwise required from the  
6 context:

7 (1) "Personal representative" includes executor, administrator,  
8 special administrator, and guardian or limited guardian and special  
9 representative.

10 (2) "Net estate" refers to the real and personal property of a  
11 decedent exclusive of homestead rights, exempt property, the family  
12 allowance and enforceable claims against, and debts of, the deceased or  
13 the estate.

14 (3) "Representation" refers to a method of determining distribution  
15 in which the takers are in unequal degrees of kinship with respect to  
16 the intestate, and is accomplished as follows: After first determining  
17 who, of those entitled to share in the estate, are in the nearest  
18 degree of kinship, the estate is divided into equal shares, the number  
19 of shares being the sum of the number of persons who survive the  
20 intestate who are in the nearest degree of kinship and the number of  
21 persons in the same degree of kinship who died before the intestate but  
22 who left issue surviving the intestate; each share of a deceased person  
23 in the nearest degree shall be divided among those of the deceased  
24 person's issue who survive the intestate and have no ancestor then  
25 living who is in the line of relationship between them and the  
26 intestate, those more remote in degree taking together the share which  
27 their ancestor would have taken had he or she survived the intestate.  
28 Posthumous children are considered as living at the death of their  
29 parent.

30 (4) "Issue" includes all the lawful lineal descendants of the  
31 ancestor and all lawfully adopted children.

32 (5) "Degree of kinship" means the degree of kinship as computed  
33 according to the rules of the civil law; that is, by counting upward  
34 from the intestate to the nearest common ancestor and then downward to  
35 the relative, the degree of kinship being the sum of these two counts.

36 (6) "Heirs" denotes those persons, including the surviving spouse,  
37 who are entitled under the statutes of intestate succession to the real  
38 and personal property of a decedent on the decedent's death intestate.

1 (7) "Real estate" includes, except as otherwise specifically  
2 provided herein, all lands, tenements, and hereditaments, and all  
3 rights thereto, and all interest therein possessed and claimed in fee  
4 simple, or for the life of a third person.

5 (8) "Will" means an instrument validly executed as required by RCW  
6 11.12.020.

7 (9) "Codicil" means a will that modifies or partially revokes an  
8 existing earlier will. A codicil need not refer to or be attached to  
9 the earlier will.

10 (10) "Guardian" or "limited guardian" means a personal  
11 representative of the person or estate of an incompetent or disabled  
12 person as defined in RCW 11.88.010 and the term may be used in lieu of  
13 "personal representative" wherever required by context.

14 (11) "Administrator" means a personal representative of the estate  
15 of a decedent and the term may be used in lieu of "personal  
16 representative" wherever required by context.

17 (12) "Executor" means a personal representative of the estate of a  
18 decedent appointed by will and the term may be used in lieu of  
19 "personal representative" wherever required by context.

20 (13) "Special administrator" means a personal representative of the  
21 estate of a decedent appointed for limited purposes and the term may be  
22 used in lieu of "personal representative" wherever required by context.

23 (14) "Trustee" means an original, added, or successor trustee and  
24 includes the state, or any agency thereof, when it is acting as the  
25 trustee of a trust to which chapter 11.98 RCW applies.

26 (15) "Nonprobate asset" means those rights and interests of a  
27 person having beneficial ownership of an asset that pass on the  
28 person's death under a written instrument or arrangement other than the  
29 person's will. "Nonprobate asset" includes, but is not limited to, a  
30 right or interest passing under a joint tenancy with right of  
31 survivorship, joint bank account with right of survivorship, payable on  
32 death or trust bank account, transfer on death security or security  
33 account, deed or conveyance if possession has been postponed until the  
34 death of the person, trust of which the person is grantor and that  
35 becomes effective or irrevocable only upon the person's death,  
36 community property agreement, individual retirement account or bond, or  
37 note or other contract the payment or performance of which is affected  
38 by the death of the person. "Nonprobate asset" does not include: A  
39 payable-on-death provision of a life insurance policy, annuity, or

1 other similar contract, or of an employee benefit plan; a right or  
2 interest passing by descent and distribution under chapter 11.04 RCW;  
3 a right or interest if, before death, the person has irrevocably  
4 transferred the right or interest, the person has waived the power to  
5 transfer it or, in the case of contractual arrangement, the person has  
6 waived the unilateral right to rescind or modify the arrangement; or a  
7 right or interest held by the person solely in a fiduciary capacity.  
8 For the definition of "nonprobate asset" relating to revocation of a  
9 provision for a former spouse upon dissolution of marriage or  
10 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For  
11 the definition of "nonprobate asset" relating to revocation of a  
12 provision for a former spouse upon dissolution of marriage or  
13 declaration of invalidity of marriage, see RCW 11.07.010(5). For the  
14 definition of "nonprobate asset" relating to testamentary disposition  
15 of nonprobate assets, see section 104(7) of this act.

16 (16) "Internal Revenue Code" means the United States Internal  
17 Revenue Code of 1986, as amended or renumbered on January 1, (~~1997~~)  
18 1998.

19 Words that import the singular number may also be applied to the  
20 plural of persons and things.

21 Words importing the masculine gender only may be extended to  
22 females also.

23 **Sec. 118.** RCW 11.07.010 and 1997 c 252 s 2 are each amended to  
24 read as follows:

25 (1) This section applies to all nonprobate assets, wherever  
26 situated, held at the time of entry by a superior court of this state  
27 of a decree of dissolution of marriage or a declaration of invalidity.

28 (2)(a) If a marriage is dissolved or invalidated, a provision made  
29 prior to that event that relates to the payment or transfer at death of  
30 the decedent's interest in a nonprobate asset in favor of or granting  
31 an interest or power to the decedent's former spouse is revoked. A  
32 provision affected by this section must be interpreted, and the  
33 nonprobate asset affected passes, as if the former spouse failed to  
34 survive the decedent, having died at the time of entry of the decree of  
35 dissolution or declaration of invalidity.

36 (b) This subsection does not apply if and to the extent that:

37 (i) The instrument governing disposition of the nonprobate asset  
38 expressly provides otherwise;

1 (ii) The decree of dissolution or declaration of invalidity  
2 requires that the decedent maintain a nonprobate asset for the benefit  
3 of a former spouse or children of the marriage, payable on the  
4 decedent's death either outright or in trust, and other nonprobate  
5 assets of the decedent fulfilling such a requirement for the benefit of  
6 the former spouse or children of the marriage do not exist at the  
7 decedent's death; or

8 (iii) If not for this subsection, the decedent could not have  
9 effected the revocation by unilateral action because of the terms of  
10 the decree or declaration, or for any other reason, immediately after  
11 the entry of the decree of dissolution or declaration of invalidity.

12 (3)(a) A payor or other third party in possession or control of a  
13 nonprobate asset at the time of the decedent's death is not liable for  
14 making a payment or transferring an interest in a nonprobate asset to  
15 a decedent's former spouse whose interest in the nonprobate asset is  
16 revoked under this section, or for taking another action in reliance on  
17 the validity of the instrument governing disposition of the nonprobate  
18 asset, before the payor or other third party has actual knowledge of  
19 the dissolution or other invalidation of marriage. A payor or other  
20 third party is liable for a payment or transfer made or other action  
21 taken after the payor or other third party has actual knowledge of a  
22 revocation under this section.

23 (b) This section does not require a payor or other third party to  
24 pay or transfer a nonprobate asset to a beneficiary designated in a  
25 governing instrument affected by the dissolution or other invalidation  
26 of marriage, or to another person claiming an interest in the  
27 nonprobate asset, if the payor or third party has actual knowledge of  
28 the existence of a dispute between the former spouse and the  
29 beneficiaries or other persons concerning rights of ownership of the  
30 nonprobate asset as a result of the application of this section among  
31 the former spouse and the beneficiaries or among other persons, or if  
32 the payor or third party is otherwise uncertain as to who is entitled  
33 to the nonprobate asset under this section. In such a case, the payor  
34 or third party may, without liability, notify in writing all  
35 beneficiaries or other persons claiming an interest in the nonprobate  
36 asset of either the existence of the dispute or its uncertainty as to  
37 who is entitled to payment or transfer of the nonprobate asset. The  
38 payor or third party may also, without liability, refuse to pay or

1 transfer a nonprobate asset in such a circumstance to a beneficiary or  
2 other person claiming an interest until the time that either:

3 (i) All beneficiaries and other interested persons claiming an  
4 interest have consented in writing to the payment or transfer; or

5 (ii) The payment or transfer is authorized or directed by a court  
6 of proper jurisdiction.

7 (c) Notwithstanding subsections (1) and (2) of this section and (a)  
8 and (b) of this subsection, a payor or other third party having actual  
9 knowledge of the existence of a dispute between beneficiaries or other  
10 persons concerning rights to a nonprobate asset as a result of the  
11 application of this section may condition the payment or transfer of  
12 the nonprobate asset on execution, in a form and with security  
13 acceptable to the payor or other third party, of a bond in an amount  
14 that is double the fair market value of the nonprobate asset at the  
15 time of the decedent's death or the amount of an adverse claim,  
16 whichever is the lesser, or of a similar instrument to provide security  
17 to the payor or other third party, indemnifying the payor or other  
18 third party for any liability, loss, damage, costs, and expenses for  
19 and on account of payment or transfer of the nonprobate asset.

20 (d) As used in this subsection, "actual knowledge" means, for a  
21 payor or other third party in possession or control of the nonprobate  
22 asset at or following the decedent's death, written notice to the payor  
23 or other third party, or to an officer of a payor or third party in the  
24 course of his or her employment, received after the decedent's death  
25 and within a time that is sufficient to afford the payor or third party  
26 a reasonable opportunity to act upon the knowledge. The notice must  
27 identify the nonprobate asset with reasonable specificity. The notice  
28 also must be sufficient to inform the payor or other third party of the  
29 revocation of the provisions in favor of the decedent's spouse by  
30 reason of the dissolution or invalidation of marriage, or to inform the  
31 payor or third party of a dispute concerning rights to a nonprobate  
32 asset as a result of the application of this section. Receipt of the  
33 notice for a period of more than thirty days is presumed to be received  
34 within a time that is sufficient to afford the payor or third party a  
35 reasonable opportunity to act upon the knowledge, but receipt of the  
36 notice for a period of less than five business days is presumed not to  
37 be a sufficient time for these purposes. These presumptions may be  
38 rebutted only by clear and convincing evidence to the contrary.

1           (4)(a) A person who purchases a nonprobate asset from a former  
2 spouse or other person, for value and without actual knowledge, or who  
3 receives from a former spouse or other person payment or transfer of a  
4 nonprobate asset without actual knowledge and in partial or full  
5 satisfaction of a legally enforceable obligation, is neither obligated  
6 under this section to return the payment, property, or benefit nor is  
7 liable under this section for the amount of the payment or the value of  
8 the nonprobate asset. However, a former spouse or other person who,  
9 with actual knowledge, not for value, or not in satisfaction of a  
10 legally enforceable obligation, receives payment or transfer of a  
11 nonprobate asset to which that person is not entitled under this  
12 section is obligated to return the payment or nonprobate asset, or is  
13 personally liable for the amount of the payment or value of the  
14 nonprobate asset, to the person who is entitled to it under this  
15 section.

16           (b) As used in this subsection, "actual knowledge" means, for a  
17 person described in (a) of this subsection who purchases or receives a  
18 nonprobate asset from a former spouse or other person, personal  
19 knowledge or possession of documents relating to the revocation upon  
20 dissolution or invalidation of marriage of provisions relating to the  
21 payment or transfer at the decedent's death of the nonprobate asset,  
22 received within a time after the decedent's death and before the  
23 purchase or receipt that is sufficient to afford the person purchasing  
24 or receiving the nonprobate asset reasonable opportunity to act upon  
25 the knowledge. Receipt of the personal knowledge or possession of the  
26 documents for a period of more than thirty days is presumed to be  
27 received within a time that is sufficient to afford the payor or third  
28 party a reasonable opportunity to act upon the knowledge, but receipt  
29 of the notice for a period of less than five business days is presumed  
30 not to be a sufficient time for these purposes. These presumptions may  
31 be rebutted only by clear and convincing evidence to the contrary.

32           (5) As used in this section, "nonprobate asset" means those rights  
33 and interests of a person having beneficial ownership of an asset that  
34 pass on the person's death under only the following written instruments  
35 or arrangements other than the decedent's will:

36           (a) A payable-on-death provision of a life insurance policy,  
37 employee benefit plan, annuity or similar contract, or individual  
38 retirement account;



1 (b) A payable-on-death, trust, or joint with right of survivorship  
2 bank account;

3 (c) A trust of which the person is a grantor and that becomes  
4 effective or irrevocable only upon the person's death; or

5 (d) Transfer on death beneficiary designations of a transfer on  
6 death or pay on death security, if such designations are authorized  
7 under Washington law.

8 (~~However, for the general definition of "nonprobate asset" in this~~  
9 ~~title, RCW 11.02.005 applies.~~) For the general definition in this  
10 title of "nonprobate asset," see RCW 11.02.005(15) and for the  
11 definition of "nonprobate asset" relating to testamentary disposition  
12 of nonprobate assets, see section 104(7) of this act.

13 (6) This section is remedial in nature and applies as of July 25,  
14 1993, to decrees of dissolution and declarations of invalidity entered  
15 after July 24, 1993, and this section applies as of January 1, 1995, to  
16 decrees of dissolution and declarations of invalidity entered before  
17 July 25, 1993.

18 **PART II--PROBATE**

19 **Sec. 201.** RCW 11.54.070 and 1997 c 252 s 54 are each amended to  
20 read as follows:

21 (1) Except as provided in (~~subsection~~) RCW 11.54.060(2) (~~of this~~  
22 ~~section~~), property awarded and cash paid under this chapter is immune  
23 from all debts, including judgments and judgment liens, of the decedent  
24 and of the surviving spouse existing at the time of death.

25 (2) Both the decedent's and the surviving spouse's interests in any  
26 community property awarded to the spouse under this chapter are immune  
27 from the claims of creditors.

28 **Sec. 202.** RCW 11.68.110 and 1997 c 252 s 68 are each amended to  
29 read as follows:

30 (1) If a personal representative who has acquired nonintervention  
31 powers does not apply to the court for either of the final decrees  
32 provided for in RCW 11.68.100 as now or hereafter amended, the personal  
33 representative shall, when the administration of the estate has been  
34 completed, file a declaration that must state as follows:

35 (a) The date of the decedent's death and the decedent's residence  
36 at the time of death;

1 (b) Whether or not the decedent died testate or intestate;

2 (c) If the decedent died testate, the date of the decedent's last  
3 will and testament and the date of the order probating the will;

4 (d) That each creditor's claim which was justly due and properly  
5 presented as required by law has been paid or otherwise disposed of by  
6 agreement with the creditor, and that the amount of estate taxes due as  
7 the result of the decedent's death has been determined, settled, and  
8 paid;

9 (e) That the personal representative has completed the  
10 administration of the decedent's estate without court intervention, and  
11 the estate is ready to be closed;

12 (f) If the decedent died intestate, the names, addresses (if  
13 known), and relationship of each heir of the decedent, together with  
14 the distributive share of each heir; and

15 (g) The amount of fees paid or to be paid to each of the following:

16 (i) Personal representative or representatives; (ii) lawyer or lawyers;  
17 (iii) appraiser or appraisers; and (iv) accountant or accountants; and  
18 that the personal representative believes the fees to be reasonable and  
19 does not intend to obtain court approval of the amount of the fees or  
20 to submit an estate accounting to the court for approval.

21 (2) Subject to the requirement of notice as provided in this  
22 section, unless an heir, devisee, or legatee of a decedent petitions  
23 the court either for an order requiring the personal representative to  
24 obtain court approval of the amount of fees paid or to be paid to the  
25 personal representative, lawyers, appraisers, or accountants, or for an  
26 order requiring an accounting, or both, within thirty days from the  
27 date of filing a declaration of completion of probate, the personal  
28 representative will be automatically discharged without further order  
29 of the court and the representative's powers will cease thirty days  
30 after the filing of the declaration of completion of probate, and the  
31 declaration of completion of probate shall, at that time, be the  
32 equivalent of the entry of a decree of distribution in accordance with  
33 chapter 11.76 RCW for all legal intents and purposes.

34 (3) Within five days of the date of the filing of the declaration  
35 of completion, the personal representative or the personal  
36 representative's lawyer shall mail a copy of the declaration of  
37 completion to each heir, legatee, or devisee of the decedent, who: (a)  
38 Has not waived notice of the filing, in writing, filed in the cause((  
39 or who, not having waived notice,)); and (b) either has not received



1 personal representative shall be automatically discharged upon the  
2 discharge of the personal representative.

3 **Sec. 203.** RCW 11.68.114 and 1997 c 252 s 70 are each amended to  
4 read as follows:

5 (1) The personal representative retains the powers to: Deal with  
6 the taxing authority of any federal, state, or local government; hold  
7 a reserve in an amount not to exceed three thousand dollars, for the  
8 determination and payment of any additional taxes, interest, and  
9 penalties, and of all reasonable expenses related directly or  
10 indirectly to such determination or payment; pay from the reserve the  
11 reasonable expenses, including compensation for services rendered or  
12 goods provided by the personal representative or by the personal  
13 representative's employees, independent contractors, and other agents,  
14 in addition to any taxes, interest, or penalties assessed by a taxing  
15 authority; receive and hold any credit, including interest, from any  
16 taxing authority; and distribute the residue of the reserve to the  
17 intended beneficiaries of the reserve; if:

18 (a) In lieu of the statement set forth in RCW 11.68.110(1)(e), the  
19 declaration of completion of probate states that:

20 The personal representative has completed the  
21 administration of the decedent's estate without court  
22 intervention, and the estate is ready to be closed, except for  
23 the determination of taxes and of interest and penalties  
24 thereon as permitted under this section;

25 and

26 (b) The notice of the filing of declaration of completion of  
27 probate must be in substantially the following form:

28 CAPTION NOTICE OF FILING OF  
29 OF DECLARATION OF COMPLETION  
30 CASE OF PROBATE

31 NOTICE IS GIVEN that the attached Declaration of  
32 Completion of Probate was filed by the undersigned in the  
33 above-entitled court on the . . . day of . . . , . . . ;  
34 unless you file a petition in the above-entitled court  
35 requesting the court to approve the reasonableness of the fees,  
36 or for an accounting, or both, and serve a copy thereof upon

1 the personal representative or the personal representative's  
2 lawyer, within thirty days after the date of the filing:

3 (i) The schedule of fees set forth in the Declaration of  
4 Completion of Probate will be deemed reasonable;

5 (ii) The Declaration of Completion of Probate will be  
6 final and deemed the equivalent of a Decree of Distribution  
7 entered under chapter 11.76 RCW;

8 (iii) The acts that the personal representative  
9 performed before the Declaration of Completion of Probate was  
10 filed will be deemed approved, and the personal representative  
11 will be automatically discharged without further order of the  
12 court with respect to all such acts; and

13 (iv) The personal representative will retain the power  
14 to deal with the taxing authorities, together with \$. . . . for  
15 the determination and payment of all remaining tax obligations.  
16 Only that portion of the reserve that remains after the  
17 settlement of any tax liability, and the payment of any  
18 expenses associated with such settlement, will be distributed  
19 to the persons legally entitled to the reserve.

20 (2) If the requirements in subsection (1) of this section are met,  
21 the personal representative is discharged from all claims other than  
22 those relating to the settlement of any tax obligations and the actual  
23 distribution of the reserve, at the effective date of the declaration  
24 of completion. The personal representative is discharged from  
25 liability from the settlement of any tax obligations and the  
26 distribution of the reserve, and the personal representative's powers  
27 cease, thirty days after the personal representative((÷

28 (~~a~~)) has mailed to those persons who would have shared in the  
29 distribution of the reserve had the reserve remained intact((÷)) and

30 ((~~b~~)) has filed with the court copies of checks or receipts  
31 showing how the reserve was in fact distributed, unless a person with  
32 an interest in the reserve petitions the court earlier within the  
33 thirty-day period for an order requiring an accounting of the reserve  
34 or an order determining the reasonableness, or lack of reasonableness,  
35 of distributions made from the reserve. If the personal representative  
36 has been required to furnish a bond, any bond furnished by the personal  
37 representative is automatically discharged upon the final discharge of  
38 the personal representative.

1       **Sec. 204.**   1997 c 252 s 87 (uncodified) is amended to read as  
2 follows:

3       The following acts or parts of acts are each repealed, effective  
4 December 31, 1997:

5       (1) RCW 11.40.011 and 1989 c 333 s 2, 1983 c 201 s 1, & 1967 ex.s.  
6 c 106 s 3;

7       (2) RCW 11.40.012 and 1989 c 333 s 3;

8       (3) RCW 11.40.013 and 1994 c 221 s 26 & 1989 c 333 s 4;

9       (4) RCW 11.40.014 and 1989 c 333 s 5;

10       (5) RCW 11.40.015 and 1994 c 221 s 27 & 1989 c 333 s 6;

11       (6) RCW 11.42.160 and 1994 c 221 s 46;

12       (7) RCW 11.42.170 and 1994 c 221 s 47;

13       (8) RCW 11.42.180 and 1994 c 221 s 48;

14       (9) RCW 11.44.066 and 1990 c 180 s 1 & 1974 ex.s. c 117 s 49;

15       (10) RCW 11.52.010 and 1987 c 442 s 1116, 1984 c 260 s 17, 1974  
16 ex.s. c 117 s 7, 1971 ex.s. c 12 s 2, 1967 c 168 s 12, & 1965 c 145 s  
17 11.52.010;

18       (11) RCW 11.52.012 and 1985 c 194 s 1, 1984 c 260 s 18, 1977 ex.s.  
19 c 234 s 9, 1974 ex.s. c 117 s 8, & 1965 c 145 s 11.52.012;

20       (12) RCW 11.52.014 and 1965 c 145 s 11.52.014;

21       (13) RCW 11.52.016 and 1988 c 202 s 18, 1972 ex.s. c 80 s 1, & 1965  
22 c 145 s 11.52.016;

23       (14) RCW 11.52.020 and 1985 c 194 s 2, 1984 c 260 s 19, 1974 ex.s.  
24 c 117 s 9, 1971 ex.s. c 12 s 3, 1967 c 168 s 13, & 1965 c 145 s  
25 11.52.020;

26       (15) RCW 11.52.022 and 1985 c 194 s 3, 1984 c 260 s 20, 1977 ex.s.  
27 c 234 s 10, 1974 ex.s. c 117 s 10, 1971 ex.s. c 12 s 4, & 1965 c 145 s  
28 11.52.022;

29       (16) RCW 11.52.024 and 1972 ex.s. c 80 s 2 & 1965 c 145 s  
30 11.52.024;

31       (17) RCW 11.52.030 and 1965 c 145 s 11.52.030;

32       (18) RCW 11.52.040 and 1965 c 145 s 11.52.040;

33       (19) RCW 11.52.050 and 1967 c 168 s 14;

34       (20) RCW 11.68.010 and 1994 c 221 s 50, 1977 ex.s. c 234 s 18, 1974  
35 ex.s. c 117 s 13, 1969 c 19 s 1, & 1965 c 145 s 11.68.010;

36       (21) RCW 11.68.020 and 1974 ex.s. c 117 s 14 & 1965 c 145 s  
37 11.68.020;

38       (22) RCW 11.68.030 and 1977 ex.s. c 234 s 19, 1974 ex.s. c 117 s  
39 15, & 1965 c 145 s 11.68.030; and

1 (23) RCW 11.68.040 and 1977 ex.s. c 234 s 20, 1974 ex.s. c 117 s  
2 16, & 1965 c 145 s 11.68.040.

3 **Sec. 205.** 1997 c 252 s 89 (uncodified) is amended to read as  
4 follows:

5 Sections 1 through (~~(73 of this act)~~) 72, chapter 252, Laws of 1997  
6 apply to estates of decedents dying after December 31, 1997. Sections  
7 81 through 86, chapter 252, Laws of 1997 apply to all estates, trusts,  
8 and governing instruments in existence on or at any time after March 7,  
9 1984, and to all proceedings with respect thereto after March 7, 1984,  
10 whether the proceedings commenced before or after March 7, 1984, and  
11 including distributions made after March 7, 1984. Sections 81 through  
12 86, chapter 252, Laws of 1997 do not apply to any governing instrument,  
13 the terms of which expressly or by necessary implication make the  
14 application of sections 81 through 86, chapter 252, Laws of 1997  
15 inapplicable. The judicial and nonjudicial dispute resolution  
16 procedures of chapter 11.96 RCW apply to sections 81 through 86,  
17 chapter 252, Laws of 1997.

18 **PART III--UNIFORM TRANSFERS TO MINORS ACT**

19 **Sec. 301.** RCW 11.114.030 and 1991 c 193 s 3 are each amended to  
20 read as follows:

21 (1) A person having the right to designate the recipient of  
22 property transferable upon the occurrence of a future event may  
23 revocably nominate a custodian to receive the property for a minor  
24 beneficiary upon the occurrence of the event by naming the custodian  
25 followed in substance by the words: ". . . . . as custodian for  
26 . . . . . (name of minor) under the Washington uniform transfers to  
27 minors act." The nomination may name one or more persons as substitute  
28 custodians to whom the property shall be transferred, in the order  
29 named, if the first nominated custodian dies before the transfer or is  
30 unable, declines, or is ineligible to serve. The nomination may be  
31 made in a will, a trust, a deed, an instrument exercising a power of  
32 appointment, or in a writing designating a beneficiary of contractual  
33 rights which is registered with or delivered to the payor, issuer, or  
34 other obligor of the contractual rights.

35 As an alternative to naming a specific person as custodian, the  
36 nomination may provide that the custodian may be designated by the

1 legal representative of, or other person specified by, the person  
2 having the right to designate the recipient of the property described  
3 in this subsection. The person having the right of designation of the  
4 custodian is authorized to designate himself or herself as custodian,  
5 if he or she falls within the class of persons eligible to serve as  
6 custodian under RCW 11.114.090(1).

7 (2) A custodian nominated under this section shall be a person to  
8 whom a transfer of property of that kind may be made under RCW  
9 11.114.090(1).

10 (3) Instead of designating one specific minor, the designation may  
11 specify multiple persons or a class or classes of persons, but when the  
12 custodial property is actually created under subsection (4) of this  
13 section, it must be constituted as a separate custodianship for each  
14 beneficiary, and each beneficiary's interest in it must be determined  
15 in accordance with the governing instrument and applicable law.

16 (4) The nomination of a custodian under this section does not  
17 create custodial property until the nominating instrument becomes  
18 irrevocable or a transfer to the nominated custodian is completed under  
19 RCW 11.114.090. Unless the nomination of a custodian has been revoked,  
20 upon the occurrence of the future event the custodianship becomes  
21 effective and the custodian shall enforce a transfer of the custodial  
22 property pursuant to RCW 11.114.090.

23 **PART IV--INTERNAL REVENUE CODE REFERENCES**

24 **Sec. 401.** RCW 83.100.020 and 1994 c 221 s 70 are each amended to  
25 read as follows:

26 As used in this chapter:

27 (1) "Decedent" means a deceased individual;

28 (2) "Department" means the department of revenue, the director of  
29 that department, or any employee of the department exercising authority  
30 lawfully delegated to him by the director;

31 (3) "Federal credit" means (a) for a transfer, the maximum amount  
32 of the credit for state taxes allowed by section 2011 of the Internal  
33 Revenue Code; and (b) for a generation-skipping transfer, the maximum  
34 amount of the credit for state taxes allowed by section 2604 of the  
35 Internal Revenue Code;

36 (4) "Federal return" means any tax return required by chapter 11 or  
37 13 of the Internal Revenue Code;



1 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11  
2 of the Internal Revenue Code; and (b) for a generation-skipping  
3 transfer, the tax under chapter 13 of the Internal Revenue Code;

4 (6) "Generation-skipping transfer" means a "generation-skipping  
5 transfer" as defined and used in section 2611 of the Internal Revenue  
6 Code;

7 (7) "Gross estate" means "gross estate" as defined and used in  
8 section 2031 of the Internal Revenue Code;

9 (8) "Nonresident" means a decedent who was domiciled outside  
10 Washington at his death;

11 (9) "Person" means any individual, estate, trust, receiver,  
12 cooperative association, club, corporation, company, firm, partnership,  
13 joint venture, syndicate, or other entity and, to the extent permitted  
14 by law, any federal, state, or other governmental unit or subdivision  
15 or agency, department, or instrumentality thereof;

16 (10) "Person required to file the federal return" means any person  
17 required to file a return required by chapter 11 or 13 of the Internal  
18 Revenue Code, such as the personal representative of an estate; or a  
19 transferor, trustee, or beneficiary of a generation-skipping transfer;  
20 or a qualified heir with respect to qualified real property, as defined  
21 and used in section 2032A(c) of the Internal Revenue Code;

22 (11) "Property" means (a) for a transfer, property included in the  
23 gross estate; and (b) for a generation-skipping transfer, all real and  
24 personal property subject to the federal tax;

25 (12) "Resident" means a decedent who was domiciled in Washington at  
26 time of death;

27 (13) "Transfer" means "transfer" as used in section 2001 of the  
28 Internal Revenue Code, or a disposition or cessation of qualified use  
29 as defined and used in section 2032A(c) of the Internal Revenue Code;

30 (14) "Trust" means "trust" under Washington law and any arrangement  
31 described in section 2652 of the Internal Revenue Code; and

32 (15) "Internal Revenue Code" means, for the purposes of this  
33 chapter and RCW 83.110.010, the United States Internal Revenue Code of  
34 1986, as amended or renumbered on January 1, (~~1995~~) 1998.

35 **Sec. 402.** RCW 83.110.010 and 1994 c 221 s 71 are each amended to  
36 read as follows:

37 As used in this chapter, the following terms have the meanings  
38 indicated unless the context clearly requires otherwise.

1 (1) "Estate" means the gross estate of a decedent as determined for  
2 the purpose of federal estate tax and the estate tax payable to this  
3 state;

4 (2) "Excise tax" means the federal excise tax imposed by section  
5 4980A(d) of the Internal Revenue Code, and interest and penalties  
6 imposed in addition to the excise tax;

7 (3) "Fiduciary" means executor, administrator of any description,  
8 and trustee;

9 (4) "Internal Revenue Code" means the United States Internal  
10 Revenue Code of 1986, as (~~amended or renumbered on January 1, 1995~~)  
11 defined in and as of the date specified in RCW 83.100.020;

12 (5) "Person" means any individual, partnership, association, joint  
13 stock company, corporation, government, political subdivision,  
14 governmental agency, or local governmental agency;

15 (6) "Persons interested in retirement distributions" means any  
16 person determined as of the date the excise tax is due, including a  
17 personal representative, guardian, trustee, or beneficiary, entitled to  
18 receive, or who has received, by reason of or following the death of a  
19 decedent, any property or interest therein which constitutes a  
20 retirement distribution as defined in section 4980A(e) of the Internal  
21 Revenue Code, but this definition excludes any alternate payee under a  
22 qualified domestic relations order as such terms are defined in section  
23 414(p) of the Internal Revenue Code;

24 (7) "Person interested in the estate" means any person, including  
25 a personal representative, guardian, or trustee, entitled to receive,  
26 or who has received, from a decedent while alive or by reason of the  
27 death of a decedent any property or interest therein included in the  
28 decedent's taxable estate;

29 (8) "Qualified heir" means a person interested in the estate who is  
30 entitled to receive, or who has received, an interest in qualified real  
31 property;

32 (9) "Qualified real property" means real property for which the  
33 election described in section 2032A of the Internal Revenue Code has  
34 been made;

35 (10) "State" means any state, territory, or possession of the  
36 United States, the District of Columbia, or the Commonwealth of Puerto  
37 Rico; and

1 (11) "Tax" means the federal estate tax, the excise tax defined in  
2 subsection (2) of this section, and the estate tax payable to this  
3 state and interest and penalties imposed in addition to the tax.

4 **PART V--MISCELLANEOUS--EFFECTIVE DATES**

5 NEW SECTION. **Sec. 501.** Part headings and section captions used in  
6 this act are not any part of the law.

7 NEW SECTION. **Sec. 502.** Sections 101 through 116 of this act  
8 constitute a new chapter in Title 11 RCW.

9 NEW SECTION. **Sec. 503.** (1) Sections 101 through 118 of this act  
10 take effect January 1, 1999.

11 (2) Sections 201 through 205, 301, 401, and 504 of this act are  
12 necessary for the immediate preservation of the public peace, health,  
13 or safety, or support of the state government and its existing public  
14 institutions, and take effect immediately.

15 NEW SECTION. **Sec. 504.** (1) Sections 201 through 205 of this act  
16 are remedial in nature and apply retroactively to July 27, 1997, and  
17 thereafter.

18 (2) Section 301 of this act is remedial in nature and applies  
19 retroactively to July 1, 1991, and thereafter.

--- END ---