
SENATE BILL 5859

State of Washington 56th Legislature 1999 Regular Session

By Senators Prentice, Benton, Winsley and Spanel

Read first time 02/12/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to financial institutions; amending RCW 11.11.010;
2 providing an effective date; and declaring an emergency.

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

4 **Sec. 1.** RCW 11.11.010 and 1998 c 292 s 104 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

9 (i) For a financial institution, whether acting as personal
10 representative or otherwise, or other third party in possession or
11 control of a nonprobate asset, receipt of written notice that: (A)
12 Complies with RCW 11.11.050; (B) pertains to the testamentary
13 disposition or ownership of a nonprobate asset in its possession or
14 control; and (C) is received by the financial institution or third
15 party after the death of the owner in a time sufficient to afford the
16 financial institution or third party a reasonable opportunity to act
17 upon the knowledge; and

18 (ii) For a personal representative that is not a financial
19 institution, personal knowledge or possession of documents relating to

1 the testamentary disposition or ownership of a nonprobate asset of the
2 owner sufficient to afford the personal representative reasonable
3 opportunity to act upon the knowledge, including reasonable opportunity
4 for the personal representative to provide the written notice under RCW
5 11.11.050.

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

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

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

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

20 (5) "Designate" means a written means by which the owner selects a
21 beneficiary, including but not limited to instruments under contractual
22 arrangements and registration of accounts, and "designation" means the
23 selection.

24 (6) "Financial institution" means: A bank, trust company, mutual
25 savings bank, savings and loan association, (~~credit union,~~) broker,
26 or issuer of stock or its transfer agent. Credit unions are exempt
27 from this chapter.

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

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

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

34 (iii) A right or interest passing under a community property
35 agreement; and

36 (iv) An individual retirement account or bond.

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

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

3 (9) "Request" means a request by the beneficiary for transfer of a
4 nonprobate asset after the death of the owner, if it complies with all
5 conditions of the arrangement, including reasonable special
6 requirements concerning necessary signatures and regulations of the
7 financial institution or other third party, or by the personal
8 representative of the owner's estate or the testamentary beneficiary,
9 if it complies with the owner's will and any additional conditions of
10 the financial institution or third party for such transfer.

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

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

18 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 July 1, 1999.

--- END ---