

SB 5297 - H COMM AMD
By Committee on Judiciary

ADOPTED 03/30/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 11.68.110 and 1998 c 292 s 202 are each amended to
4 read as follows:

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

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

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

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

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

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

23 (f) If the decedent died intestate, the names, addresses (if
24 known), and relationship of each heir of the decedent, together with
25 the distributive share of each heir; and

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

27 (i) Personal representative or representatives; (ii) lawyer or lawyers;
28 (iii) appraiser or appraisers; and (iv) accountant or accountants; and
29 that the personal representative believes the fees to be reasonable and

1 does not intend to obtain court approval of the amount of the fees or
2 to submit an estate accounting to the court for approval.

3 (2) Subject to the requirement of notice as provided in this
4 section, unless an heir, devisee, or legatee of a decedent petitions
5 the court either for an order requiring the personal representative to
6 obtain court approval of the amount of fees paid or to be paid to the
7 personal representative, lawyers, appraisers, or accountants, or for an
8 order requiring an accounting, or both, within thirty days from the
9 date of filing a declaration of completion of probate, the personal
10 representative will be automatically discharged without further order
11 of the court and the representative's powers will cease thirty days
12 after the filing of the declaration of completion of probate, and the
13 declaration of completion of probate shall, at that time, be the
14 equivalent of the entry of a decree of distribution in accordance with
15 chapter 11.76 RCW for all legal intents and purposes.

16 (3) Within five days of the date of the filing of the declaration
17 of completion, the personal representative or the personal
18 representative's lawyer shall mail a copy of the declaration of
19 completion to each heir, legatee, or devisee of the decedent, who: (a)
20 Has not waived notice of the filing, in writing, filed in the cause;
21 and (b) either has not received the full amount of the distribution to
22 which the heir, legatee, or devisee is entitled or has a property right
23 that might be affected adversely by the discharge of the personal
24 representative under this section, together with a notice which shall
25 be substantially as follows:

26
27 CAPTION NOTICE OF FILING OF
28 OF DECLARATION OF COMPLETION
29 CASE OF PROBATE

1 NOTICE IS GIVEN that the attached Declaration of
2 Completion of Probate was filed by the undersigned in the
3 above-entitled court on the day of, ((19:))
4 20 . . ., unless you shall file a petition in the above-entitled
5 court requesting the court to approve the reasonableness of
6 the fees, or for an accounting, or both, and serve a copy
7 thereof upon the personal representative or the personal
8 representative's lawyer, and each heir, legatee, and devisee
9 to whom the personal representative sent a copy of this
10 Declaration of Completion of Probate, within thirty days
11 after the date of the filing, the amount of fees paid or to be
12 paid will be deemed reasonable, the acts of the personal
13 representative will be deemed approved, the personal
14 representative will be automatically discharged without
15 further order of the court, and the Declaration of
16 Completion of Probate will be final and deemed the
17 equivalent of a Decree of Distribution entered under
18 chapter 11.76 RCW.

19 If you file and serve a petition within the period
20 specified, ((the undersigned will)) you must request the
21 court to fix a time and place for the hearing of your petition,
22 and you ((will be notified)) must provide notice of the time
23 and place thereof to the personal representative or the
24 personal representative's lawyer, and to each heir, legatee,
25 and devisee to whom the personal representative sent a
26 copy of this Declaration of Completion of Probate, by
27 mail(;) or personal service, not less than ten days before
28 the hearing on the petition.

29 If you file and serve a petition but do not provide
30 notice of the hearing time and place, the acts of the personal
31 representative will be deemed approved, and the personal
32 representative will be automatically discharged as provided
33 in RCW 11.68.110.

34 Dated this day of, ((19:)) 20 . .

35

36 Personal Representative

1 (4) If all heirs, devisees, and legatees of the decedent entitled
2 to notice under this section waive, in writing, the notice required by
3 this section, the personal representative will be automatically
4 discharged without further order of the court and the declaration of
5 completion of probate will become effective as a decree of distribution
6 upon the date of filing thereof. In those instances where the personal
7 representative has been required to furnish bond, and a declaration of
8 completion is filed pursuant to this section, any bond furnished by the
9 personal representative shall be automatically discharged upon the
10 discharge of the personal representative.

11 **Sec. 2.** RCW 11.68.114 and 1998 c 292 s 203 are each amended to
12 read as follows:

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

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

28 The personal representative has completed the
29 administration of the decedent's estate without court
30 intervention, and the estate is ready to be closed, except for
31 the determination of taxes and of interest and penalties
32 thereon as permitted under this section;

33 and

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

36 CAPTION NOTICE OF FILING OF

1 OF DECLARATION OF COMPLETION
2 CASE OF PROBATE

3 NOTICE IS GIVEN that the attached Declaration of
4 Completion of Probate was filed by the undersigned in the
5 above-entitled court on the . . . day of , ;
6 unless you file a petition in the above-entitled court
7 requesting the court to approve the reasonableness of the fees,
8 or for an accounting, or both, and serve a copy thereof upon
9 the personal representative or the personal representative's
10 lawyer, and each heir, legatee, and devisee to whom the
11 personal representative sent a copy of this Declaration of
12 Completion of Probate, within thirty days after the date of the
13 filing:

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

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

19 (iii) The acts that the personal representative
20 performed before the Declaration of Completion of Probate was
21 filed will be deemed approved, and the personal representative
22 will be automatically discharged without further order of the
23 court with respect to all such acts; and

24 (iv) The personal representative will retain the power
25 to deal with the taxing authorities, together with \$. . . . for
26 the determination and payment of all remaining tax obligations.
27 Only that portion of the reserve that remains after the
28 settlement of any tax liability, and the payment of any
29 expenses associated with such settlement, will be distributed
30 to the persons legally entitled to the reserve.

31 (2) If the requirements in subsection (1) of this section are met,
32 the personal representative is discharged from all claims other than
33 those relating to the settlement of any tax obligations and the actual
34 distribution of the reserve, at the effective date of the declaration
35 of completion. The personal representative is discharged from
36 liability from the settlement of any tax obligations and the
37 distribution of the reserve, and the personal representative's powers

1 cease, thirty days after the personal representative has mailed to
2 those persons who would have shared in the distribution of the reserve
3 had the reserve remained intact and has filed with the court copies of
4 checks or receipts showing how the reserve was in fact distributed,
5 unless a person with an interest in the reserve petitions the court
6 earlier within the thirty-day period for an order requiring an
7 accounting of the reserve or an order determining the reasonableness,
8 or lack of reasonableness, of distributions made from the reserve. If
9 the personal representative has been required to furnish a bond, any
10 bond furnished by the personal representative is automatically
11 discharged upon the final discharge of the personal representative."

12 Correct the title.

EFFECT: Adds the requirement that the petitioner notify other beneficiaries of a court petition to approve the reasonableness of the fees paid to the personal representative or the accounting of the estate in cases where the estate is ready to be closed, except for the determination of taxes. Restructures the changes made by the bill for clarity.

--- END ---