

2ESHB 1117 - S COMM AMD
By Committee on Law & Justice

ADOPTED 03/07/2014

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

3 "NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be cited as
4 the Washington uniform real property transfer on death act.

5 NEW SECTION. **Sec. 2.** DEFINITIONS. The following definitions in
6 this section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Beneficiary" means a person that receives property under a
9 transfer on death deed.

10 (2) "Designated beneficiary" means a person designated to receive
11 property in a transfer on death deed.

12 (3) "Joint owner" means an individual who owns property
13 concurrently with one or more other individuals with a right of
14 survivorship. The term includes a joint tenant with a right to
15 survivorship. The term does not include a tenant in common or owner of
16 community property.

17 (4) "Person" means an individual, corporation, business trust,
18 estate, trust, partnership, limited liability company, association,
19 joint venture, public corporation, government or governmental
20 subdivision, agency, or instrumentality, or any other legal or
21 commercial entity.

22 (5) "Property" means an interest in real property located in this
23 state which is transferable on the death of the owner.

24 (6) "Transfer on death deed" means a deed authorized under this
25 chapter.

26 (7) "Transferor" means an individual who makes a transfer on death
27 deed.

1 NEW SECTION. **Sec. 3.** APPLICABILITY. This chapter applies to a
2 transfer on death deed made before, on, or after the effective date of
3 this section by a transferor dying on or after the effective date of
4 this section.

5 NEW SECTION. **Sec. 4.** NONEXCLUSIVITY. The chapter does not affect
6 any method of transferring property otherwise permitted under the law
7 of this state.

8 NEW SECTION. **Sec. 5.** TRANSFER ON DEATH DEED AUTHORIZED. An
9 individual may transfer property to one or more beneficiaries effective
10 at the transferor's death by a transfer on death deed. A transfer on
11 death deed may not be used to effect a deed in lieu of foreclosure of
12 a deed of trust.

13 NEW SECTION. **Sec. 6.** TRANSFER ON DEATH DEED REVOCABLE. A
14 transfer on death deed is revocable even if the deed or another
15 instrument contains a contrary provision.

16 NEW SECTION. **Sec. 7.** TRANSFER ON DEATH DEED NONTESTAMENTARY. A
17 transfer on death deed is nontestamentary.

18 NEW SECTION. **Sec. 8.** CAPACITY OF TRANSFEROR. The capacity
19 required to make or revoke a transfer on death deed is the same as the
20 capacity required to make a will.

21 NEW SECTION. **Sec. 9.** REQUIREMENTS. A transfer on death deed:
22 (1) Except as otherwise provided in subsection (2) of this section,
23 must contain the essential elements and formalities of a properly
24 recordable inter vivos deed;
25 (2) Must state that the transfer to the designated beneficiary is
26 to occur at the transferor's death; and
27 (3) Must be recorded before the transferor's death in the public
28 records in the office of the auditor of the county where the property
29 is located.

30 NEW SECTION. **Sec. 10.** NOTICE, DELIVERY, ACCEPTANCE, CONSIDERATION
31 NOT REQUIRED. A transfer on death deed is effective without:

1 (1) Notice or delivery to or acceptance by the designated
2 beneficiary during the transferor's life; or

3 (2) Consideration.

4 NEW SECTION. **Sec. 11.** REVOCATION BY INSTRUMENT AUTHORIZED;
5 REVOCATION BY ACT NOT PERMITTED. (1) Subject to subsection (2) of this
6 section, an instrument is effective to revoke a recorded transfer on
7 death deed, or any part of it, only if the instrument:

8 (a) Is one of the following:

9 (i) A transfer on death deed that revokes the deed or part of the
10 deed expressly or by inconsistency;

11 (ii) An instrument of revocation that expressly revokes the deed or
12 part of the deed; or

13 (iii) An inter vivos deed that expressly revokes the transfer on
14 death deed or part of the deed; and

15 (b) Is acknowledged by the transferor after the acknowledgment of
16 the deed being revoked and recorded before the transferor's death in
17 the public records in the office of the county auditor of the county
18 where the deed is recorded.

19 (2) If a transfer on death deed is made by more than one
20 transferor:

21 (a) Revocation by a transferor does not affect the deed as to the
22 interest of another transferor;

23 (b) A deed of joint owners is revoked only if it is revoked by all
24 of the joint owners living at the time that the revocation is recorded;
25 and

26 (c) A deed of community property by both spouses or by both
27 domestic partners is revoked only if it is revoked by both of the
28 spouses or domestic partners, provided that if only one of the spouses
29 or domestic partners is then surviving, that spouse or domestic partner
30 may revoke the deed.

31 (3) After a transfer on death deed is recorded, it may not be
32 revoked by a revocatory act on the deed.

33 (4) This section does not limit the effect of an inter vivos
34 transfer of the property.

35 NEW SECTION. **Sec. 12.** EFFECT OF TRANSFER ON DEATH DEED DURING

1 TRANSFEROR'S LIFE. During a transferor's life, a transfer on death
2 deed does not:

3 (1) Affect an interest or right of the transferor or any other
4 owner, including the right to transfer or encumber the property;

5 (2) Affect an interest or right of a transferee, even if the
6 transferee has actual or constructive notice of the deed;

7 (3) Affect an interest or right of a secured or unsecured creditor
8 or future creditor of the transferor, even if the creditor has actual
9 or constructive notice of the deed;

10 (4) Affect the transferor's or designated beneficiary's eligibility
11 for any form of public assistance;

12 (5) Create a legal or equitable interest in favor of the designated
13 beneficiary; or

14 (6) Subject the property to claims or process of a creditor of the
15 designated beneficiary.

16 NEW SECTION. **Sec. 13.** EFFECT OF TRANSFER ON DEATH DEED AT
17 TRANSFEROR'S DEATH. (1) Except as otherwise provided in this section,
18 or in RCW 11.07.010, and 11.05A.030, on the death of the transferor,
19 the following rules apply to property that is the subject of a transfer
20 on death deed and owned by the transferor at death:

21 (a) Subject to (b) of this subsection, the interest in the property
22 is transferred to the designated beneficiary in accordance with the
23 deed.

24 (b) The interest of a designated beneficiary is contingent on the
25 designated beneficiary surviving the transferor. The interest of a
26 designated beneficiary that fails to survive the transferor lapses.

27 (c) Subject to (d) of this subsection, concurrent interests are
28 transferred to the beneficiaries in equal and undivided shares with no
29 right of survivorship.

30 (d) If the transferor has identified two or more designated
31 beneficiaries to receive concurrent interests in the property, the
32 share of one which lapses or fails for any reason is transferred to the
33 other, or to the others in proportion to the interest of each in the
34 remaining part of the property held concurrently.

35 (2) Subject to chapter 65.08 RCW, a beneficiary takes the property
36 subject to all conveyances, encumbrances, assignments, contracts,
37 mortgages, liens, and other interests to which the property is subject

1 at the transferor's death, including liens recorded within twenty-four
2 months after the transferor's death under RCW 41.05A.090 and
3 43.20B.080. For purposes of this subsection and chapter 65.08 RCW, the
4 recording of the transfer on death deed is deemed to have occurred at
5 the transferor's death.

6 (3) If a transferor is a joint owner and is:

7 (a) Survived by one or more other joint owners, the property that
8 is the subject of a transfer on death deed belongs to the surviving
9 joint owner or owners with right of survivorship; or

10 (b) The last surviving joint owner, the transfer on death deed is
11 effective.

12 (4) If the property that is the subject of a transfer on death deed
13 is community property and:

14 (a) The transferor is married and is not joined in the deed by the
15 transferor's spouse or is in a registered domestic partnership and is
16 not joined in the deed by the transferor's domestic partner, the
17 transferor's interest in the property is transferred to the designated
18 beneficiary in accordance with the deed on the transferor's death; or

19 (b) The transferor is married and is joined in the deed by the
20 transferor's spouse, or is in a registered domestic partnership and is
21 joined in the deed by the transferor's domestic partner, and:

22 (i) Is survived by the transferor's spouse or domestic partner, the
23 deed is not effective upon the transferor's death; or

24 (ii) Is the surviving spouse or domestic partner, the transfer on
25 death deed is effective on the transferor's death with respect to the
26 transferor's interest in the property as of the time of the
27 transferor's death.

28 (5) A transfer on death deed transfers property without covenant or
29 warranty of title even if the deed contains a contrary provision.

30 NEW SECTION. **Sec. 14.** DISCLAIMER. A beneficiary may disclaim all
31 or part of the beneficiary's interest as provided by chapter 11.86 RCW.

32 NEW SECTION. **Sec. 15.** LIABILITY FOR CREDITOR CLAIMS AND STATUTORY
33 ALLOWANCES. A beneficiary of a transfer on death deed is liable for an
34 allowed claim against the transferor's probate estate and statutory
35 allowances to a surviving spouse and children to the extent provided in
36 RCW 11.18.200, 11.42.085, and chapter 11.54 RCW.

1 NEW SECTION. **Sec. 16.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.

2 In applying and construing this uniform act, consideration must be
3 given to the need to promote uniformity of the law with respect to its
4 subject matter among the states that enact it.

5 NEW SECTION. **Sec. 17.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
6 AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes
7 the federal electronic signatures in global and national commerce act,
8 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or supersede
9 section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize
10 electronic delivery of any of the notices described in section 103(b)
11 of that act, 15 U.S.C. Sec. 7003(b).

12 **Sec. 18.** RCW 11.02.005 and 2011 c 327 s 1 are each reenacted and
13 amended to read as follows:

14 When used in this title, unless otherwise required from the
15 context:

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

19 (2) "Codicil" means a will that modifies or partially revokes an
20 existing earlier will. A codicil need not refer to or be attached to
21 the earlier will.

22 (3) "Degree of kinship" means the degree of kinship as computed
23 according to the rules of the civil law; that is, by counting upward
24 from the intestate to the nearest common ancestor and then downward to
25 the relative, the degree of kinship being the sum of these two counts.

26 (4) "Executor" means a personal representative of the estate of a
27 decedent appointed by will and the term may be used in lieu of
28 "personal representative" wherever required by context.

29 (5) "Guardian" or "limited guardian" means a personal
30 representative of the person or estate of an incompetent or disabled
31 person as defined in RCW 11.88.010 and the term may be used in lieu of
32 "personal representative" wherever required by context.

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

1 (7) "Internal revenue code" means the United States internal
2 revenue code of 1986, as amended or renumbered as of January 1, 2001.

3 (8) "Issue" means all the lineal descendants of an individual. An
4 adopted individual is a lineal descendant of each of his or her
5 adoptive parents and of all individuals with regard to which each
6 adoptive parent is a lineal descendant. A child conceived prior to the
7 death of a parent but born after the death of the deceased parent is
8 considered to be the surviving issue of the deceased parent for
9 purposes of this title.

10 (9) "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 (10) "Nonprobate asset" means those rights and interests of a
15 person having beneficial ownership of an asset that pass on the
16 person's death under a written instrument or arrangement other than the
17 person's will. "Nonprobate asset" includes, but is not limited to, a
18 right or interest passing under a joint tenancy with right of
19 survivorship, joint bank account with right of survivorship, transfer
20 on death deed, payable on death or trust bank account, transfer on
21 death security or security account, deed or conveyance if possession
22 has been postponed until the death of the person, trust of which the
23 person is grantor and that becomes effective or irrevocable only upon
24 the person's death, community property agreement, individual retirement
25 account or bond, or note or other contract the payment or performance
26 of which is affected by the death of the person. "Nonprobate asset"
27 does not include: A payable-on-death provision of a life insurance
28 policy, annuity, or other similar contract, or of an employee benefit
29 plan; a right or interest passing by descent and distribution under
30 chapter 11.04 RCW; a right or interest if, before death, the person has
31 irrevocably transferred the right or interest, the person has waived
32 the power to transfer it or, in the case of contractual arrangement,
33 the person has waived the unilateral right to rescind or modify the
34 arrangement; or a right or interest held by the person solely in a
35 fiduciary capacity. For the definition of "nonprobate asset" relating
36 to revocation of a provision for a former spouse upon dissolution of
37 marriage or declaration of invalidity of marriage, RCW 11.07.010(5)
38 applies. For the definition of "nonprobate asset" relating to

1 revocation of a provision for a former spouse upon dissolution of
2 marriage or declaration of invalidity of marriage, see RCW
3 11.07.010(5). For the definition of "nonprobate asset" relating to
4 testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

5 (11) "Personal representative" includes executor, administrator,
6 special administrator, and guardian or limited guardian and special
7 representative.

8 (12) "Real estate" includes, except as otherwise specifically
9 provided herein, all lands, tenements, and hereditaments, and all
10 rights thereto, and all interest therein possessed and claimed in fee
11 simple, or for the life of a third person.

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

26 (14) References to "section 2033A" of the internal revenue code in
27 wills, trust agreements, powers of appointment, beneficiary
28 designations, and other instruments governed by or subject to this
29 title (~~shall be~~) are deemed to refer to the comparable or
30 corresponding provisions of section 2057 of the internal revenue code,
31 as added by section 6006(b) of the internal revenue service
32 restructuring act of 1998 (H.R. 2676, P.L. 105-206); and references to
33 the section 2033A "exclusion" (~~shall be~~) are deemed to mean the
34 section 2057 deduction.

35 (15) "Settlor" has the same meaning as provided for "trustor" in
36 this section.

37 (16) "Special administrator" means a personal representative of the

1 estate of a decedent appointed for limited purposes and the term may be
2 used in lieu of "personal representative" wherever required by context.

3 (17) "Surviving spouse" or "surviving domestic partner" does not
4 include an individual whose marriage to or state registered domestic
5 partnership with the decedent has been terminated, dissolved, or
6 invalidated unless, by virtue of a subsequent marriage or state
7 registered domestic partnership, he or she is married to or in a
8 domestic partnership with the decedent at the time of death. A decree
9 of separation that does not terminate the status of spouses or domestic
10 partners is not a dissolution or invalidation for purposes of this
11 subsection.

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

15 (19) "Trustor" means a person, including a testator, who creates,
16 or contributes property to, a trust.

17 (20) "Will" means an instrument validly executed as required by RCW
18 11.12.020.

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. 19.** RCW 11.07.010 and 2008 c 6 s 906 are each amended to read
24 as follows:

25 (1) This section applies to all nonprobate assets, wherever
26 situated, held at the time of entry of a decree of dissolution of
27 marriage or state registered domestic partnership or a declaration of
28 invalidity or certification of termination of a state registered
29 domestic partnership.

30 (2)(a) If a marriage or state registered domestic partnership is
31 dissolved or invalidated, or a state registered domestic partnership
32 terminated, a provision made prior to that event that relates to the
33 payment or transfer at death of the decedent's interest in a nonprobate
34 asset in favor of or granting an interest or power to the decedent's
35 former spouse or state registered domestic partner, is revoked. A
36 provision affected by this section must be interpreted, and the
37 nonprobate asset affected passes, as if the former spouse or former

1 state registered domestic partner, failed to survive the decedent,
2 having died at the time of entry of the decree of dissolution or
3 declaration of invalidity or termination of state registered domestic
4 partnership.

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

6 (i) The instrument governing disposition of the nonprobate asset
7 expressly provides otherwise;

8 (ii) The decree of dissolution, declaration of invalidity, or other
9 court order requires that the decedent maintain a nonprobate asset for
10 the benefit of a former spouse or former state registered domestic
11 partner or children of the marriage or domestic partnership, payable on
12 the decedent's death either outright or in trust, and other nonprobate
13 assets of the decedent fulfilling such a requirement for the benefit of
14 the former spouse or former state registered domestic partner or
15 children of the marriage or domestic partnership do not exist at the
16 decedent's death;

17 (iii) A court order requires that the decedent maintain a
18 nonprobate asset for the benefit of another, payable on the decedent's
19 death either outright or in a trust, and other nonprobate assets of the
20 decedent fulfilling such a requirement do not exist at the decedent's
21 death; or

22 (iv) If not for this subsection, the decedent could not have
23 effected the revocation by unilateral action because of the terms of
24 the decree, declaration, termination of state registered domestic
25 partnership, or for any other reason, immediately after the entry of
26 the decree of dissolution, declaration of invalidity, or termination of
27 state registered domestic partnership.

28 (3)(a) A payor or other third party in possession or control of a
29 nonprobate asset at the time of the decedent's death is not liable for
30 making a payment or transferring an interest in a nonprobate asset to
31 a decedent's former spouse or state registered domestic partner, whose
32 interest in the nonprobate asset is revoked under this section, or for
33 taking another action in reliance on the validity of the instrument
34 governing disposition of the nonprobate asset, before the payor or
35 other third party has actual knowledge of the dissolution or other
36 invalidation of marriage or termination of the state registered
37 domestic partnership. A payor or other third party is liable for a

1 payment or transfer made or other action taken after the payor or other
2 third party has actual knowledge of a revocation under this section.

3 (b) This section does not require a payor or other third party to
4 pay or transfer a nonprobate asset to a beneficiary designated in a
5 governing instrument affected by the dissolution or other invalidation
6 of marriage or termination of state registered domestic partnership, or
7 to another person claiming an interest in the nonprobate asset, if the
8 payor or third party has actual knowledge of the existence of a dispute
9 between the former spouse or former state registered domestic partner,
10 and the beneficiaries or other persons concerning rights of ownership
11 of the nonprobate asset as a result of the application of this section
12 among the former spouse or former state registered domestic partner,
13 and the beneficiaries or among other persons, or if the payor or third
14 party is otherwise uncertain as to who is entitled to the nonprobate
15 asset under this section. In such a case, the payor or third party
16 may, without liability, notify in writing all beneficiaries or other
17 persons claiming an interest in the nonprobate asset of either the
18 existence of the dispute or its uncertainty as to who is entitled to
19 payment or transfer of the nonprobate asset. The payor or third party
20 may also, without liability, refuse to pay or transfer a nonprobate
21 asset in such a circumstance to a beneficiary or other person claiming
22 an interest until the time that either:

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

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

27 (c) Notwithstanding subsections (1) and (2) of this section and (a)
28 and (b) of this subsection, a payor or other third party having actual
29 knowledge of the existence of a dispute between beneficiaries or other
30 persons concerning rights to a nonprobate asset as a result of the
31 application of this section may condition the payment or transfer of
32 the nonprobate asset on execution, in a form and with security
33 acceptable to the payor or other third party, of a bond in an amount
34 that is double the fair market value of the nonprobate asset at the
35 time of the decedent's death or the amount of an adverse claim,
36 whichever is the lesser, or of a similar instrument to provide security
37 to the payor or other third party, indemnifying the payor or other

1 third party for any liability, loss, damage, costs, and expenses for
2 and on account of payment or transfer of the nonprobate asset.

3 (d) As used in this subsection, "actual knowledge" means, for a
4 payor or other third party in possession or control of the nonprobate
5 asset at or following the decedent's death, written notice to the payor
6 or other third party, or to an officer of a payor or third party in the
7 course of his or her employment, received after the decedent's death
8 and within a time that is sufficient to afford the payor or third party
9 a reasonable opportunity to act upon the knowledge. The notice must
10 identify the nonprobate asset with reasonable specificity. The notice
11 also must be sufficient to inform the payor or other third party of the
12 revocation of the provisions in favor of the decedent's spouse or state
13 registered domestic partner, by reason of the dissolution or
14 invalidation of marriage or termination of state registered domestic
15 partnership, or to inform the payor or third party of a dispute
16 concerning rights to a nonprobate asset as a result of the application
17 of this section. Receipt of the notice for a period of more than
18 thirty days is presumed to be received within a time that is sufficient
19 to afford the payor or third party a reasonable opportunity to act upon
20 the knowledge, but receipt of the notice for a period of less than five
21 business days is presumed not to be a sufficient time for these
22 purposes. These presumptions may be rebutted only by clear and
23 convincing evidence to the contrary.

24 (4)(a) A person who purchases a nonprobate asset from a former
25 spouse, former state registered domestic partner, or other person, for
26 value and without actual knowledge, or who receives from a former
27 spouse, former state registered domestic partner, or other person
28 payment or transfer of a nonprobate asset without actual knowledge and
29 in partial or full satisfaction of a legally enforceable obligation, is
30 neither obligated under this section to return the payment, property,
31 or benefit nor is liable under this section for the amount of the
32 payment or the value of the nonprobate asset. However, a former
33 spouse, former state registered domestic partner, or other person who,
34 with actual knowledge, not for value, or not in satisfaction of a
35 legally enforceable obligation, receives payment or transfer of a
36 nonprobate asset to which that person is not entitled under this
37 section is obligated to return the payment or nonprobate asset, or is

1 personally liable for the amount of the payment or value of the
2 nonprobate asset, to the person who is entitled to it under this
3 section.

4 (b) As used in this subsection, "actual knowledge" means, for a
5 person described in (a) of this subsection who purchases or receives a
6 nonprobate asset from a former spouse, former state registered domestic
7 partner, or other person, personal knowledge or possession of documents
8 relating to the revocation upon dissolution or invalidation of marriage
9 of provisions relating to the payment or transfer at the decedent's
10 death of the nonprobate asset, received within a time after the
11 decedent's death and before the purchase or receipt that is sufficient
12 to afford the person purchasing or receiving the nonprobate asset
13 reasonable opportunity to act upon the knowledge. Receipt of the
14 personal knowledge or possession of the documents for a period of more
15 than thirty days is presumed to be received within a time that is
16 sufficient to afford the payor or third party a reasonable opportunity
17 to act upon the knowledge, but receipt of the notice for a period of
18 less than five business days is presumed not to be a sufficient time
19 for these purposes. These presumptions may be rebutted only by clear
20 and convincing evidence to the contrary.

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

25 ((+a)) (i) A payable-on-death provision of a life insurance
26 policy, employee benefit plan, annuity or similar contract, or
27 individual retirement account, unless provided otherwise by controlling
28 federal law;

29 ((+b)) (ii) A payable-on-death, trust, or joint with right of
30 survivorship bank account;

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

33 ((+d)) (iv) Transfer on death beneficiary designations of a
34 transfer on death or pay on death security, or joint tenancy or joint
35 tenancy with right of survivorship designations of a security, if such
36 designations are authorized under Washington law;

37 ((+e)) (v) A transfer on death, pay on death, joint tenancy, or
38 joint tenancy with right of survivorship brokerage account;

1 ~~((f))~~ (vi) A transfer on death deed;

2 (vii) Unless otherwise specifically provided therein, a contract
3 wherein payment or performance under that contract is affected by the
4 death of the person; or

5 ~~((g))~~ (viii) Unless otherwise specifically provided therein, any
6 other written instrument of transfer, within the meaning of RCW
7 11.02.091(3), containing a provision for the nonprobate transfer of an
8 asset at death.

9 (b) For the general definition in this title of "nonprobate asset,"
10 see RCW 11.02.005~~((15))~~ (10) and for the definition of "nonprobate
11 asset" relating to testamentary disposition of nonprobate assets, see
12 RCW 11.11.010(7). For the purposes of this chapter, a "bank account"
13 includes an account into or from which cash deposits and withdrawals
14 can be made, and includes demand deposit accounts, time deposit
15 accounts, money market accounts, or certificates of deposit, maintained
16 at a bank, savings and loan association, credit union, brokerage house,
17 or similar financial institution.

18 (6) This section is remedial in nature and applies as of July 25,
19 1993, to decrees of dissolution and declarations of invalidity entered
20 after July 24, 1993, and this section applies as of January 1, 1995, to
21 decrees of dissolution and declarations of invalidity entered before
22 July 25, 1993.

23 **Sec. 20.** RCW 11.11.010 and 2008 c 6 s 909 are each amended to read
24 as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

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

28 (i) For a financial institution, whether acting as personal
29 representative or otherwise, or other third party in possession or
30 control of a nonprobate asset, receipt of written notice that: (A)
31 Complies with RCW 11.11.050; (B) pertains to the testamentary
32 disposition or ownership of a nonprobate asset in its possession or
33 control; and (C) is received by the financial institution or third
34 party after the death of the owner in a time sufficient to afford the
35 financial institution or third party a reasonable opportunity to act
36 upon the knowledge; and

1 (ii) For a personal representative that is not a financial
2 institution, personal knowledge or possession of documents relating to
3 the testamentary disposition or ownership of a nonprobate asset of the
4 owner sufficient to afford the personal representative reasonable
5 opportunity to act upon the knowledge, including reasonable opportunity
6 for the personal representative to provide the written notice under RCW
7 11.11.050.

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

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

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

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

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

26 (6) "Financial institution" means: A bank, trust company, mutual
27 savings bank, savings and loan association, credit union, broker, or
28 issuer of stock or its transfer agent.

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

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

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

35 (iii) A transfer on death deed;

36 (iv) A right or interest passing under a community property
37 agreement; and

38 ~~((iv))~~ (v) An individual retirement account or bond.

1 (b) For the definition of "nonprobate asset" relating to revocation
2 of a provision for a former spouse or former domestic partner upon
3 dissolution of marriage or state registered domestic partnership or
4 declaration of invalidity of marriage or state registered domestic
5 partnership, see RCW 11.07.010(5).

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

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

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

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

23 **Sec. 21.** RCW 11.18.200 and 1999 c 42 s 605 are each amended to
24 read as follows:

25 (1) Unless expressly exempted by statute, a beneficiary of a
26 nonprobate asset that was subject to satisfaction of the decedent's
27 general liabilities immediately before the decedent's death takes the
28 asset subject to liabilities, claims, estate taxes, and the fair share
29 of expenses of administration reasonably incurred by the personal
30 representative in the transfer of or administration upon the asset.
31 The beneficiary of such an asset is liable to account to the personal
32 representative to the extent necessary to satisfy liabilities, claims,
33 the asset's fair share of expenses of administration, and the asset's
34 share of any applicable estate taxes under chapter (~~83-110~~) 83.110A
35 RCW. Before making demand that a beneficiary of a nonprobate asset
36 account to the personal representative, the personal representative

1 (~~shall~~) must give notice to the beneficiary, in the manner provided
2 in chapter 11.96A RCW, that the beneficiary is liable to account under
3 this section.

4 (2) The following rules govern in applying subsection (1) of this
5 section:

6 (a) A beneficiary of property passing at death under a community
7 property agreement takes the property subject to the decedent's
8 liabilities, claims, estate taxes, and administration expenses as
9 described in subsection (1) of this section. However, assets existing
10 as community or separate property immediately before the decedent's
11 death under the community property agreement are subject to the
12 decedent's liabilities and claims to the same extent that they would
13 have been had they been assets of the probate estate.

14 (b) A beneficiary of property held in joint tenancy form with right
15 of survivorship, including without limitation United States savings
16 bonds or similar obligations, takes the property subject to the
17 decedent's liabilities, claims, estate taxes, and administration
18 expenses as described in subsection (1) of this section to the extent
19 of the decedent's beneficial ownership interest in the property
20 immediately before death.

21 (c) A beneficiary of payable-on-death or trust bank accounts,
22 bonds, securities, or similar obligations, including without limitation
23 United States bonds or similar obligations, takes the property subject
24 to the decedent's liabilities, claims, estate taxes, and administration
25 expenses as described in subsection (1) of this section, to the extent
26 of the decedent's beneficial ownership interest in the property
27 immediately before death.

28 (d) A beneficiary of a transfer on death deed or of deeds or
29 conveyances made by the decedent if possession has been postponed until
30 the death of the decedent takes the property subject to the decedent's
31 liabilities, claims, estate taxes, and administration expenses as
32 described in subsection (1) of this section, to the extent of the
33 decedent's beneficial ownership interest in the property immediately
34 before death.

35 (e) A trust for the decedent's use of which the decedent is the
36 grantor is subject to the decedent's liabilities, claims, estate taxes,
37 and administration expenses as described in subsection (1) of this

1 section, to the same extent as the trust was subject to claims of the
2 decedent's creditors immediately before death under RCW 19.36.020.

3 (f) A trust not for the use of the grantor but of which the
4 decedent is the grantor and that becomes effective or irrevocable only
5 upon the decedent's death is subject to the decedent's claims,
6 liabilities, estate taxes, and expenses of administration as described
7 in subsection (1) of this section.

8 (g) Anything in this section to the contrary notwithstanding,
9 nonprobate assets that existed as community property immediately before
10 the decedent's death are subject to the decedent's liabilities and
11 claims to the same extent that they would have been had they been
12 assets of the probate estate.

13 (h) The liability of a beneficiary of life insurance is governed by
14 chapter 48.18 RCW.

15 (i) The liability of a beneficiary of pension or retirement
16 employee benefits is governed by chapter 6.15 RCW.

17 (j) An inference may not be drawn from (a) through (i) of this
18 subsection that a beneficiary of nonprobate assets other than those
19 assets specifically described in (a) through (i) of this subsection
20 does or does not take the assets subject to claims, liabilities, estate
21 taxes, and administration expenses as described in subsection (1) of
22 this section.

23 (3) Nothing in this section derogates from the rights of a person
24 interested in the estate to recover any applicable estate tax under
25 chapter ((83.110)) 83.110A RCW or from the liability of any beneficiary
26 for estate tax under chapter ((83.110)) 83.110A RCW.

27 (4) Nonprobate assets that may be responsible for the satisfaction
28 of the decedent's general liabilities and claims abate together with
29 the probate assets of the estate in accord with chapter 11.10 RCW.

30 **Sec. 22.** RCW 11.86.011 and 1989 c 34 s 1 are each amended to read
31 as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Beneficiary" means the person entitled, but for the person's
35 disclaimer, to take an interest.

36 (2) "Interest" includes the whole of any property, real or
37 personal, legal or equitable, or any fractional part, share, or

1 particular portion or specific assets thereof, any vested or contingent
2 interest in any such property, any power to appoint, consume, apply, or
3 expend property, or any other right, power, privilege, or immunity
4 relating to property. "Interest" includes, but is not limited to, an
5 interest created in any of the following manners:

- 6 (a) By intestate succession;
- 7 (b) Under a will;
- 8 (c) Under a trust;
- 9 (d) By succession to a disclaimed interest;
- 10 (e) By virtue of an election to take against a will;
- 11 (f) By creation of a power of appointment;
- 12 (g) By exercise or nonexercise of a power of appointment;
- 13 (h) By an inter vivos gift, whether outright or in trust;
- 14 (i) By surviving the death of a depositor of a trust or P.O.D.
15 account within the meaning of RCW 30.22.040;
- 16 (j) Under an insurance or annuity contract;
- 17 (k) By surviving the death of another joint tenant;
- 18 (l) Under an employee benefit plan;
- 19 (m) Under an individual retirement account, annuity, or bond;
- 20 (n) Under a community property agreement; (~~(o)~~)
- 21 (o) By surviving the death of a transferor of a transfer on death
22 deed; or
- 23 (p) Any other interest created by any testamentary or inter vivos
24 instrument or by operation of law.

25 (3) "Creator of the interest" means a person who establishes,
26 declares, or otherwise creates an interest.

27 (4) "Disclaimer" means any writing which declines, refuses,
28 renounces, or disclaims any interest that would otherwise be taken by
29 a beneficiary.

30 (5) "Disclaimant" means a beneficiary who executes a disclaimer on
31 his or her own behalf or a person who executes a disclaimer on behalf
32 of a beneficiary.

33 (6) "Person" means an individual, corporation, government,
34 governmental subdivision or agency, business trust, estate, trust,
35 partnership, association, or other entity.

36 (7)(a) "Date of the transfer" means:
37 (~~(a)~~) (i) For an inter vivos transfer, the date of the creation
38 of the interest; or

1 (~~(b)~~) (ii) For a transfer upon the death of the creator of the
2 interest, the date of the death of the creator.

3 **(b)** A joint tenancy interest of a deceased joint tenant (~~shall~~
4 ~~be~~) is deemed to be transferred at the death of the joint tenant
5 rather than at the creation of the joint tenancy.

6 **Sec. 23.** RCW 11.94.050 and 2011 c 327 s 4 are each amended to read
7 as follows:

8 (1) Although a designated attorney-in-fact or agent has all powers
9 of absolute ownership of the principal, or the document has language to
10 indicate that the attorney-in-fact or agent (~~shall have~~) has all the
11 powers the principal would have if alive and competent, the attorney-
12 in-fact or agent (~~shall~~) does not have the power to make, amend,
13 alter, or revoke the principal's wills or codicils, and (~~shall~~) does
14 not have the power, unless specifically provided otherwise in the
15 document: To make, amend, alter, or revoke any of the principal's life
16 insurance, annuity, or similar contract beneficiary designations,
17 employee benefit plan beneficiary designations, trust agreements,
18 registration of the principal's securities in beneficiary form, payable
19 on death or transfer on death beneficiary designations, designation of
20 persons as joint tenants with right of survivorship with the principal
21 with respect to any of the principal's property, community property
22 agreements, transfer on death deeds, or any other provisions for
23 nonprobate transfer at death contained in nontestamentary instruments
24 described in RCW 11.02.091; to make any gifts of property owned by the
25 principal; to exercise the principal's rights to distribute property in
26 trust or cause a trustee to distribute property in trust to the extent
27 consistent with the terms of the trust agreement; to make transfers of
28 property to any trust (whether or not created by the principal) unless
29 the trust benefits the principal alone and does not have dispositive
30 provisions which are different from those which would have governed the
31 property had it not been transferred into the trust; or to disclaim
32 property.

33 (2) Nothing in subsection (1) of this section prohibits an
34 attorney-in-fact or agent from making any transfer of resources not
35 prohibited under chapter 74.09 RCW when the transfer is for the purpose
36 of qualifying the principal for medical assistance or the limited
37 casualty program for the medically needy.

1 **Sec. 24.** RCW 82.45.010 and 2010 1st sp.s. c 23 s 207 are each
2 amended to read as follows:

3 (1) As used in this chapter, the term "sale" has its ordinary
4 meaning and includes any conveyance, grant, assignment, quitclaim, or
5 transfer of the ownership of or title to real property, including
6 standing timber, or any estate or interest therein for a valuable
7 consideration, and any contract for such conveyance, grant, assignment,
8 quitclaim, or transfer, and any lease with an option to purchase real
9 property, including standing timber, or any estate or interest therein
10 or other contract under which possession of the property is given to
11 the purchaser, or any other person at the purchaser's direction, and
12 title to the property is retained by the vendor as security for the
13 payment of the purchase price. The term also includes the grant,
14 assignment, quitclaim, sale, or transfer of improvements constructed
15 upon leased land.

16 (2)(a) The term "sale" also includes the transfer or acquisition
17 within any twelve-month period of a controlling interest in any entity
18 with an interest in real property located in this state for a valuable
19 consideration.

20 (b) For the sole purpose of determining whether, pursuant to the
21 exercise of an option, a controlling interest was transferred or
22 acquired within a twelve-month period, the date that the option
23 agreement was executed is the date on which the transfer or acquisition
24 of the controlling interest is deemed to occur. For all other purposes
25 under this chapter, the date upon which the option is exercised is the
26 date of the transfer or acquisition of the controlling interest.

27 (c) For purposes of this subsection, all acquisitions of persons
28 acting in concert must be aggregated for purposes of determining
29 whether a transfer or acquisition of a controlling interest has taken
30 place. The department must adopt standards by rule to determine when
31 persons are acting in concert. In adopting a rule for this purpose,
32 the department must consider the following:

33 (i) Persons must be treated as acting in concert when they have a
34 relationship with each other such that one person influences or
35 controls the actions of another through common ownership; and

36 (ii) When persons are not commonly owned or controlled, they must
37 be treated as acting in concert only when the unity with which the
38 purchasers have negotiated and will consummate the transfer of

1 ownership interests supports a finding that they are acting as a single
2 entity. If the acquisitions are completely independent, with each
3 purchaser buying without regard to the identity of the other
4 purchasers, then the acquisitions are considered separate acquisitions.

5 (3) The term "sale" does not include:

6 (a) A transfer by gift, devise, or inheritance.

7 (b) A transfer by transfer on death deed, to the extent that it is
8 not in satisfaction of a contractual obligation of the decedent owed to
9 the recipient of the property.

10 (c) A transfer of any leasehold interest other than of the type
11 mentioned above.

12 ((+e)) (d) A cancellation or forfeiture of a vendee's interest in
13 a contract for the sale of real property, whether or not such contract
14 contains a forfeiture clause, or deed in lieu of foreclosure of a
15 mortgage.

16 ((+d)) (e) The partition of property by tenants in common by
17 agreement or as the result of a court decree.

18 ((+e)) (f) The assignment of property or interest in property from
19 one spouse or one domestic partner to the other spouse or other
20 domestic partner in accordance with the terms of a decree of
21 dissolution of marriage or state registered domestic partnership or in
22 fulfillment of a property settlement agreement.

23 ((+f)) (g) The assignment or other transfer of a vendor's interest
24 in a contract for the sale of real property, even though accompanied by
25 a conveyance of the vendor's interest in the real property involved.

26 ((+g)) (h) Transfers by appropriation or decree in condemnation
27 proceedings brought by the United States, the state or any political
28 subdivision thereof, or a municipal corporation.

29 ((+h)) (i) A mortgage or other transfer of an interest in real
30 property merely to secure a debt, or the assignment thereof.

31 ((+i)) (j) Any transfer or conveyance made pursuant to a deed of
32 trust or an order of sale by the court in any mortgage, deed of trust,
33 or lien foreclosure proceeding or upon execution of a judgment, or deed
34 in lieu of foreclosure to satisfy a mortgage or deed of trust.

35 ((+j)) (k) A conveyance to the federal housing administration or
36 veterans administration by an authorized mortgagee made pursuant to a
37 contract of insurance or guaranty with the federal housing
38 administration or veterans administration.

1 ~~((k))~~ (l) A transfer in compliance with the terms of any lease or
2 contract upon which the tax as imposed by this chapter has been paid or
3 where the lease or contract was entered into prior to the date this tax
4 was first imposed.

5 ~~((l))~~ (m) The sale of any grave or lot in an established
6 cemetery.

7 ~~((m))~~ (n) A sale by the United States, this state or any
8 political subdivision thereof, or a municipal corporation of this
9 state.

10 ~~((n))~~ (o) A sale to a regional transit authority or public
11 corporation under RCW 81.112.320 under a sale/leaseback agreement under
12 RCW 81.112.300.

13 ~~((o))~~ (p) A transfer of real property, however effected, if it
14 consists of a mere change in identity or form of ownership of an entity
15 where there is no change in the beneficial ownership. These include
16 transfers to a corporation or partnership which is wholly owned by the
17 transferor and/or the transferor's spouse or domestic partner or
18 children of the transferor or the transferor's spouse or domestic
19 partner. However, if thereafter such transferee corporation or
20 partnership voluntarily transfers such real property, or such
21 transferor, spouse or domestic partner, or children of the transferor
22 or the transferor's spouse or domestic partner voluntarily transfer
23 stock in the transferee corporation or interest in the transferee
24 partnership capital, as the case may be, to other than (i) the
25 transferor and/or the transferor's spouse or domestic partner or
26 children of the transferor or the transferor's spouse or domestic
27 partner, (ii) a trust having the transferor and/or the transferor's
28 spouse or domestic partner or children of the transferor or the
29 transferor's spouse or domestic partner as the only beneficiaries at
30 the time of the transfer to the trust, or (iii) a corporation or
31 partnership wholly owned by the original transferor and/or the
32 transferor's spouse or domestic partner or children of the transferor
33 or the transferor's spouse or domestic partner, within three years of
34 the original transfer to which this exemption applies, and the tax on
35 the subsequent transfer has not been paid within sixty days of becoming
36 due, excise taxes become due and payable on the original transfer as
37 otherwise provided by law.

1 instrument, a certified copy of the death certificate and a copy of the
2 trust instrument showing the authority of the grantor;

3 (3) If the property is being transferred under the terms of a
4 probated will, a certified copy of the letters testamentary or in the
5 case of intestate administration, a certified copy of the letters of
6 administration showing that the grantor is the court-appointed
7 executor, executrix, or administrator, and a certified copy of the
8 death certificate;

9 (4) In the case of joint tenants with right of survivorship and
10 remainder interests, a certified copy of the death certificate is
11 recorded to perfect title;

12 (5) If the property is being transferred pursuant to a court order,
13 a certified copy of the court order requiring the transfer, and
14 confirming that the grantor is required to do so under the terms of the
15 order; (~~(or)~~)

16 (6) If the community property interest of the decedent is being
17 transferred to a surviving spouse or surviving domestic partner absent
18 the documentation set forth in subsections (1) through (5) of this
19 section, a certified copy of the death certificate and a signed
20 affidavit from the surviving spouse or surviving domestic partner
21 affirming that he or she is the sole and rightful heir to the property;
22 or

23 (7) If the property is being transferred pursuant to a transfer on
24 death deed, a certified copy of the death certificate is recorded to
25 perfect title.

26 **Sec. 26.** RCW 82.45.150 and 1996 c 149 s 6 are each amended to read
27 as follows:

28 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,
29 82.32.140, 82.32.270, and 82.32.090 (1) and (~~(+8+)~~) (10), applies to
30 the tax imposed by this chapter, in addition to any other provisions of
31 law for the payment and enforcement of the tax imposed by this chapter.
32 The department of revenue (~~(shall)~~) must by rule provide for the
33 effective administration of this chapter. The rules (~~(shall)~~) must
34 prescribe and furnish a real estate excise tax affidavit form verified
35 by both the seller and the buyer, or agents of each, to be used by each
36 county, or the department, as the case may be, in the collection of the
37 tax imposed by this chapter, except that an affidavit given in

1 connection with grant of an easement or right-of-way to a gas,
 2 electrical, or telecommunications company, as defined in RCW 80.04.010,
 3 or to a public utility district or cooperative that distributes
 4 electricity, need be verified only on behalf of the company, district,
 5 or cooperative and except that a transfer on death deed need be
 6 verified only on behalf of the transferor. The department of revenue
 7 (~~shall~~) must annually conduct audits of transactions and affidavits
 8 filed under this chapter.

9 **Sec. 27.** RCW 84.33.140 and 2013 2nd sp.s. c 11 s 13 are each
 10 amended to read as follows:

11 (1) When land has been designated as forest land under RCW
 12 84.33.130, a notation of the designation must be made each year upon
 13 the assessment and tax rolls. A copy of the notice of approval
 14 together with the legal description or assessor's parcel numbers for
 15 the land must, at the expense of the applicant, be filed by the
 16 assessor in the same manner as deeds are recorded.

17 (2) In preparing the assessment roll as of January 1, 2002, for
 18 taxes payable in 2003 and each January 1st thereafter, the assessor
 19 must list each parcel of designated forest land at a value with respect
 20 to the grade and class provided in this subsection and adjusted as
 21 provided in subsection (3) of this section. The assessor must compute
 22 the assessed value of the land using the same assessment ratio applied
 23 generally in computing the assessed value of other property in the
 24 county. Values for the several grades of bare forest land are as
 25 follows:

	LAND	OPERABILITY	VALUES
	GRADE	CLASS	PER ACRE
		1	\$234
1		2	229
		3	217
		4	157
		1	198
2		2	190
		3	183
		4	132

1		1	154
2	3	2	149
3		3	148
4		4	113
5		1	117
6	4	2	114
7		3	113
8		4	86
9		1	85
10	5	2	78
11		3	77
12		4	52
13		1	43
14	6	2	39
15		3	39
16		4	37
17		1	21
18	7	2	21
19		3	20
20		4	20
21	8		1

22 (3) On or before December 31, 2001, the department must adjust by
23 rule under chapter 34.05 RCW, the forest land values contained in
24 subsection (2) of this section in accordance with this subsection, and
25 must certify the adjusted values to the assessor who will use these
26 values in preparing the assessment roll as of January 1, 2002. For the
27 adjustment to be made on or before December 31, 2001, for use in the
28 2002 assessment year, the department must:

29 (a) Divide the aggregate value of all timber harvested within the
30 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
31 volume for the same period, as determined from the harvester excise tax
32 returns filed with the department under RCW 84.33.074; and

33 (b) Divide the aggregate value of all timber harvested within the
34 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
35 volume for the same period, as determined from the harvester excise tax
36 returns filed with the department under RCW 84.33.074; and

1 (c) Adjust the forest land values contained in subsection (2) of
2 this section by a percentage equal to one-half of the percentage change
3 in the average values of harvested timber reflected by comparing the
4 resultant values calculated under (a) and (b) of this subsection.

5 (4) For the adjustments to be made on or before December 31, 2002,
6 and each succeeding year thereafter, the same procedure described in
7 subsection (3) of this section must be followed using harvester excise
8 tax returns filed under RCW 84.33.074. However, this adjustment must
9 be made to the prior year's adjusted value, and the five-year periods
10 for calculating average harvested timber values must be successively
11 one year more recent.

12 (5) Land graded, assessed, and valued as forest land must continue
13 to be so graded, assessed, and valued until removal of designation by
14 the assessor upon the occurrence of any of the following:

15 (a) Receipt of notice from the owner to remove the designation;

16 (b) Sale or transfer to an ownership making the land exempt from ad
17 valorem taxation;

18 (c) Sale or transfer of all or a portion of the land to a new
19 owner, unless the new owner has signed a notice of forest land
20 designation continuance, except transfer to an owner who is an heir or
21 devisee of a deceased owner or transfer by a transfer on death deed,
22 does not, by itself, result in removal of designation. The signed
23 notice of continuance must be attached to the real estate excise tax
24 affidavit provided for in RCW 82.45.150. The notice of continuance
25 must be on a form prepared by the department. If the notice of
26 continuance is not signed by the new owner and attached to the real
27 estate excise tax affidavit, all compensating taxes calculated under
28 subsection (11) of this section are due and payable by the seller or
29 transferor at time of sale. The auditor may not accept an instrument
30 of conveyance regarding designated forest land for filing or recording
31 unless the new owner has signed the notice of continuance or the
32 compensating tax has been paid, as evidenced by the real estate excise
33 tax stamp affixed thereto by the treasurer. The seller, transferor, or
34 new owner may appeal the new assessed valuation calculated under
35 subsection (11) of this section to the county board of equalization in
36 accordance with the provisions of RCW 84.40.038. Jurisdiction is
37 hereby conferred on the county board of equalization to hear these
38 appeals;

1 (d) Determination by the assessor, after giving the owner written
2 notice and an opportunity to be heard, that:

3 (i) The land is no longer primarily devoted to and used for growing
4 and harvesting timber. However, land may not be removed from
5 designation if a governmental agency, organization, or other recipient
6 identified in subsection (13) or (14) of this section as exempt from
7 the payment of compensating tax has manifested its intent in writing or
8 by other official action to acquire a property interest in the
9 designated forest land by means of a transaction that qualifies for an
10 exemption under subsection (13) or (14) of this section. The
11 governmental agency, organization, or recipient must annually provide
12 the assessor of the county in which the land is located reasonable
13 evidence in writing of the intent to acquire the designated land as
14 long as the intent continues or within sixty days of a request by the
15 assessor. The assessor may not request this evidence more than once in
16 a calendar year;

17 (ii) The owner has failed to comply with a final administrative or
18 judicial order with respect to a violation of the restocking, forest
19 management, fire protection, insect and disease control, and forest
20 debris provisions of Title 76 RCW or any applicable rules under Title
21 76 RCW; or

22 (iii) Restocking has not occurred to the extent or within the time
23 specified in the application for designation of such land.

24 (6) Land may not be removed from designation if there is a
25 governmental restriction that prohibits, in whole or in part, the owner
26 from harvesting timber from the owner's designated forest land. If
27 only a portion of the parcel is impacted by governmental restrictions
28 of this nature, the restrictions cannot be used as a basis to remove
29 the remainder of the forest land from designation under this chapter.
30 For the purposes of this section, "governmental restrictions" includes:
31 (a) Any law, regulation, rule, ordinance, program, or other action
32 adopted or taken by a federal, state, county, city, or other
33 governmental entity; or (b) the land's zoning or its presence within an
34 urban growth area designated under RCW 36.70A.110.

35 (7) The assessor has the option of requiring an owner of forest
36 land to file a timber management plan with the assessor upon the
37 occurrence of one of the following:

38 (a) An application for designation as forest land is submitted; or

1 (b) Designated forest land is sold or transferred and a notice of
2 continuance, described in subsection (5)(c) of this section, is signed.

3 (8) If land is removed from designation because of any of the
4 circumstances listed in subsection (5)(a) through (c) of this section,
5 the removal applies only to the land affected. If land is removed from
6 designation because of subsection (5)(d) of this section, the removal
7 applies only to the actual area of land that is no longer primarily
8 devoted to the growing and harvesting of timber, without regard to any
9 other land that may have been included in the application and approved
10 for designation, as long as the remaining designated forest land meets
11 the definition of forest land contained in RCW 84.33.035.

12 (9) Within thirty days after the removal of designation as forest
13 land, the assessor must notify the owner in writing, setting forth the
14 reasons for the removal. The seller, transferor, or owner may appeal
15 the removal to the county board of equalization in accordance with the
16 provisions of RCW 84.40.038.

17 (10) Unless the removal is reversed on appeal a copy of the notice
18 of removal with a notation of the action, if any, upon appeal, together
19 with the legal description or assessor's parcel numbers for the land
20 removed from designation must, at the expense of the applicant, be
21 filed by the assessor in the same manner as deeds are recorded and a
22 notation of removal from designation must immediately be made upon the
23 assessment and tax rolls. The assessor must revalue the land to be
24 removed with reference to its true and fair value as of January 1st of
25 the year of removal from designation. Both the assessed value before
26 and after the removal of designation must be listed. Taxes based on
27 the value of the land as forest land are assessed and payable up until
28 the date of removal and taxes based on the true and fair value of the
29 land are assessed and payable from the date of removal from
30 designation.

31 (11) Except as provided in subsection (5)(c), (13), or (14) of this
32 section, a compensating tax is imposed on land removed from designation
33 as forest land. The compensating tax is due and payable to the
34 treasurer thirty days after the owner is notified of the amount of this
35 tax. As soon as possible after the land is removed from designation,
36 the assessor must compute the amount of compensating tax and mail a
37 notice to the owner of the amount of compensating tax owed and the date
38 on which payment of this tax is due. The amount of compensating tax is

1 equal to the difference between the amount of tax last levied on the
2 land as designated forest land and an amount equal to the new assessed
3 value of the land multiplied by the dollar rate of the last levy
4 extended against the land, multiplied by a number, in no event greater
5 than nine, equal to the number of years for which the land was
6 designated as forest land, plus compensating taxes on the land at
7 forest land values up until the date of removal and the prorated taxes
8 on the land at true and fair value from the date of removal to the end
9 of the current tax year.

10 (12) Compensating tax, together with applicable interest thereon,
11 becomes a lien on the land, which attaches at the time the land is
12 removed from designation as forest land and has priority and must be
13 fully paid and satisfied before any recognizance, mortgage, judgment,
14 debt, obligation, or responsibility to or with which the land may
15 become charged or liable. The lien may be foreclosed upon expiration
16 of the same period after delinquency and in the same manner provided by
17 law for foreclosure of liens for delinquent real property taxes as
18 provided in RCW 84.64.050. Any compensating tax unpaid on its due date
19 will thereupon become delinquent. From the date of delinquency until
20 paid, interest is charged at the same rate applied by law to delinquent
21 ad valorem property taxes.

22 (13) The compensating tax specified in subsection (11) of this
23 section may not be imposed if the removal of designation under
24 subsection (5) of this section resulted solely from:

25 (a) Transfer to a government entity in exchange for other forest
26 land located within the state of Washington;

27 (b) A taking through the exercise of the power of eminent domain,
28 or sale or transfer to an entity having the power of eminent domain in
29 anticipation of the exercise of such power;

30 (c) A donation of fee title, development rights, or the right to
31 harvest timber, to a government agency or organization qualified under
32 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
33 sections, or the sale or transfer of fee title to a governmental entity
34 or a nonprofit nature conservancy corporation, as defined in RCW
35 64.04.130, exclusively for the protection and conservation of lands
36 recommended for state natural area preserve purposes by the natural
37 heritage council and natural heritage plan as defined in chapter 79.70
38 RCW or approved for state natural resources conservation area purposes

1 as defined in chapter 79.71 RCW, or for acquisition and management as
2 a community forest trust as defined in chapter 79.155 RCW. At such
3 time as the land is not used for the purposes enumerated, the
4 compensating tax specified in subsection (11) of this section is
5 imposed upon the current owner;

6 (d) The sale or transfer of fee title to the parks and recreation
7 commission for park and recreation purposes;

8 (e) Official action by an agency of the state of Washington or by
9 the county or city within which the land is located that disallows the
10 present use of the land;

11 (f) The creation, sale, or transfer of forestry riparian easements
12 under RCW 76.13.120;

13 (g) The creation, sale, or transfer of a conservation easement of
14 private forest lands within unconfined channel migration zones or
15 containing critical habitat for threatened or endangered species under
16 RCW 76.09.040;

17 (h) The sale or transfer of land within two years after the death
18 of the owner of at least a fifty percent interest in the land if the
19 land has been assessed and valued as classified forest land, designated
20 as forest land under this chapter, or classified under chapter 84.34
21 RCW continuously since 1993. The date of death shown on a death
22 certificate is the date used for the purposes of this subsection
23 (13)(h); or

24 (i)(i) The discovery that the land was designated under this
25 chapter in error through no fault of the owner. For purposes of this
26 subsection (13)(i), "fault" means a knowingly false or misleading
27 statement, or other act or omission not in good faith, that contributed
28 to the approval of designation under this chapter or the failure of the
29 assessor to remove the land from designation under this chapter.

30 (ii) For purposes of this subsection (13), the discovery that land
31 was designated under this chapter in error through no fault of the
32 owner is not the sole reason for removal of designation under
33 subsection (5) of this section if an independent basis for removal
34 exists. An example of an independent basis for removal includes the
35 land no longer being devoted to and used for growing and harvesting
36 timber.

37 (14) In a county with a population of more than six hundred
38 thousand inhabitants or in a county with a population of at least two

1 hundred forty-five thousand inhabitants that borders Puget Sound as
2 defined in RCW 90.71.010, the compensating tax specified in subsection
3 (11) of this section may not be imposed if the removal of designation
4 as forest land under subsection (5) of this section resulted solely
5 from:

- 6 (a) An action described in subsection (13) of this section; or
- 7 (b) A transfer of a property interest to a government entity, or to
8 a nonprofit historic preservation corporation or nonprofit nature
9 conservancy corporation, as defined in RCW 64.04.130, to protect or
10 enhance public resources, or to preserve, maintain, improve, restore,
11 limit the future use of, or otherwise to conserve for public use or
12 enjoyment, the property interest being transferred. At such time as
13 the property interest is not used for the purposes enumerated, the
14 compensating tax is imposed upon the current owner.

15 **Sec. 28.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c
16 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as
17 follows:

18 (1) When land has once been classified under this chapter, a
19 notation of the classification (~~shall~~) must be made each year upon
20 the assessment and tax rolls and the land (~~shall~~) must be valued
21 pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a
22 portion of the classification by the assessor upon occurrence of any of
23 the following:

24 (a) Receipt of notice from the owner to remove all or a portion of
25 the classification;

26 (b) Sale or transfer to an ownership, except a transfer that
27 resulted from a default in loan payments made to or secured by a
28 governmental agency that intends to or is required by law or regulation
29 to resell the property for the same use as before, making all or a
30 portion of the land exempt from ad valorem taxation;

31 (c) Sale or transfer of all or a portion of the land to a new
32 owner, unless the new owner has signed a notice of classification
33 continuance, except transfer to an owner who is an heir or devisee of
34 a deceased owner (~~shall~~) or transfer by a transfer on death deed does
35 not, by itself, result in removal of classification. The notice of
36 continuance (~~shall~~) must be on a form prepared by the department. If
37 the notice of continuance is not signed by the new owner and attached

1 to the real estate excise tax affidavit, all additional taxes
2 calculated pursuant to subsection (4) of this section (~~shall~~) become
3 due and payable by the seller or transferor at time of sale. The
4 auditor (~~shall~~) may not accept an instrument of conveyance regarding
5 classified land for filing or recording unless the new owner has signed
6 the notice of continuance or the additional tax has been paid, as
7 evidenced by the real estate excise tax stamp affixed thereto by the
8 treasurer. The seller, transferor, or new owner may appeal the new
9 assessed valuation calculated under subsection (4) of this section to
10 the county board of equalization in accordance with the provisions of
11 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
12 equalization to hear these appeals;

13 (d)(i) Determination by the assessor, after giving the owner
14 written notice and an opportunity to be heard, that all or a portion of
15 the land no longer meets the criteria for classification under this
16 chapter. The criteria for classification pursuant to this chapter
17 continue to apply after classification has been granted.

18 (ii) The granting authority, upon request of an assessor, (~~shall~~)
19 must provide reasonable assistance to the assessor in making a
20 determination whether the land continues to meet the qualifications of
21 RCW 84.34.020 (1) or (3). The assistance (~~shall~~) must be provided
22 within thirty days of receipt of the request.

23 (2) Land may not be removed from classification because of:

24 (a) The creation, sale, or transfer of forestry riparian easements
25 under RCW 76.13.120; or

26 (b) The creation, sale, or transfer of a fee interest or a
27 conservation easement for the riparian open space program under RCW
28 76.09.040.

29 (3) Within thirty days after the removal of all or a portion of the
30 land from current use classification under subsection (1) of this
31 section, the assessor (~~shall~~) must notify the owner in writing,
32 setting forth the reasons for the removal. The seller, transferor, or
33 owner may appeal the removal to the county board of equalization in
34 accordance with the provisions of RCW 84.40.038. The removal notice
35 must explain the steps needed to appeal the removal decision, including
36 when a notice of appeal must be filed, where the forms may be obtained,
37 and how to contact the county board of equalization.

1 (4) Unless the removal is reversed on appeal, the assessor
2 (~~shall~~) must revalue the affected land with reference to its true and
3 fair value on January 1st of the year of removal from classification.
4 Both the assessed valuation before and after the removal of
5 classification (~~shall~~) must be listed and taxes (~~shall~~) must be
6 allocated according to that part of the year to which each assessed
7 valuation applies. Except as provided in subsection (6) of this
8 section, an additional tax, applicable interest, and penalty (~~shall~~)
9 must be imposed which (~~shall-be~~) are due and payable to the treasurer
10 thirty days after the owner is notified of the amount of the additional
11 tax. As soon as possible, the assessor (~~shall~~) must compute the
12 amount of additional tax, applicable interest, and penalty and the
13 treasurer (~~shall~~) must mail notice to the owner of the amount thereof
14 and the date on which payment is due. The amount of the additional
15 tax, applicable interest, and penalty (~~shall~~) must be determined as
16 follows:

17 (a) The amount of additional tax (~~shall-be~~) is equal to the
18 difference between the property tax paid as "open space land," "farm
19 and agricultural land," or "timber land" and the amount of property tax
20 otherwise due and payable for the seven years last past had the land
21 not been so classified;

22 (b) The amount of applicable interest (~~shall-be~~) is equal to the
23 interest upon the amounts of the additional tax paid at the same
24 statutory rate charged on delinquent property taxes from the dates on
25 which the additional tax could have been paid without penalty if the
26 land had been assessed at a value without regard to this chapter;

27 (c) The amount of the penalty (~~shall-be~~) is as provided in RCW
28 84.34.080. The penalty (~~shall~~) may not be imposed if the removal
29 satisfies the conditions of RCW 84.34.070.

30 (5) Additional tax, applicable interest, and penalty(~~, shall~~)
31 become a lien on the land (~~which shall attach~~) that attaches at the
32 time the land is removed from classification under this chapter and
33 (~~shall~~) have priority to and (~~shall~~) must be fully paid and
34 satisfied before any recognizance, mortgage, judgment, debt, obligation
35 or responsibility to or with which the land may become charged or
36 liable. This lien may be foreclosed upon expiration of the same period
37 after delinquency and in the same manner provided by law for
38 foreclosure of liens for delinquent real property taxes as provided in

1 RCW 84.64.050. Any additional tax unpaid on its due date (~~shall~~)
2 will thereupon become delinquent. From the date of delinquency until
3 paid, interest (~~shall~~) must be charged at the same rate applied by
4 law to delinquent ad valorem property taxes.

5 (6) The additional tax, applicable interest, and penalty specified
6 in subsection (4) of this section (~~shall~~) may not be imposed if the
7 removal of classification pursuant to subsection (1) of this section
8 resulted solely from:

9 (a) Transfer to a government entity in exchange for other land
10 located within the state of Washington;

11 (b)(i) A taking through the exercise of the power of eminent
12 domain, or (ii) sale or transfer to an entity having the power of
13 eminent domain in anticipation of the exercise of such power, said
14 entity having manifested its intent in writing or by other official
15 action;

16 (c) A natural disaster such as a flood, windstorm, earthquake, or
17 other such calamity rather than by virtue of the act of the landowner
18 changing the use of the property;

19 (d) Official action by an agency of the state of Washington or by
20 the county or city within which the land is located which disallows the
21 present use of the land;

22 (e) Transfer of land to a church when the land would qualify for
23 exemption pursuant to RCW 84.36.020;

24 (f) Acquisition of property interests by state agencies or agencies
25 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
26 purposes enumerated in those sections. At such time as these property
27 interests are not used for the purposes enumerated in RCW 84.34.210 and
28 64.04.130 the additional tax specified in subsection (4) of this
29 section (~~shall~~) must be imposed;

30 (g) Removal of land classified as farm and agricultural land under
31 RCW 84.34.020(2)(f);

32 (h) Removal of land from classification after enactment of a
33 statutory exemption that qualifies the land for exemption and receipt
34 of notice from the owner to remove the land from classification;

35 (i) The creation, sale, or transfer of forestry riparian easements
36 under RCW 76.13.120;

37 (j) The creation, sale, or transfer of a conservation easement of

1 private forest lands within unconfined channel migration zones or
2 containing critical habitat for threatened or endangered species under
3 RCW 76.09.040;

4 (k) The sale or transfer of land within two years after the death
5 of the owner of at least a fifty percent interest in the land if the
6 land has been assessed and valued as classified forest land, designated
7 as forest land under chapter 84.33 RCW, or classified under this
8 chapter continuously since 1993. The date of death shown on a death
9 certificate is the date used for the purposes of this subsection
10 (6)(k); or

11 (l)(i) The discovery that the land was classified under this
12 chapter in error through no fault of the owner. For purposes of this
13 subsection (6)(l), "fault" means a knowingly false or misleading
14 statement, or other act or omission not in good faith, that contributed
15 to the approval of classification under this chapter or the failure of
16 the assessor to remove the land from classification under this chapter.

17 (ii) For purposes of this subsection (6), the discovery that land
18 was classified under this chapter in error through no fault of the
19 owner is not the sole reason for removal of classification pursuant to
20 subsection (1) of this section if an independent basis for removal
21 exists. Examples of an independent basis for removal include the owner
22 changing the use of the land or failing to meet any applicable income
23 criteria required for classification under this chapter.

24 NEW SECTION. **Sec. 29.** Section 23 of this act takes effect if the
25 Washington uniform power of attorney act (House/Senate Bill No. . . .)
26 is not enacted during the 2014 regular legislative session.

27 NEW SECTION. **Sec. 30.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 31.** Sections 1 through 17 of this act
32 constitute a new chapter in Title 64 RCW."

ADOPTED 03/07/2014

1 On page 1, line 2 of the title, after "death;" strike the remainder
2 of the title and insert "amending RCW 11.07.010, 11.11.010, 11.18.200,
3 11.86.011, 11.94.050, 82.45.010, 82.45.197, 82.45.150, and 84.33.140;
4 reenacting and amending RCW 11.02.005 and 84.34.108; adding a new
5 chapter to Title 64 RCW; and providing a contingent effective date."

EFFECT: Preserves the state's authority to pursue recovery from a Medicaid recipient's estate by authorizing a lien to be placed on the recipient's property within 24 months after their death.

--- END ---