
Judiciary Committee

ESB 5297

Title: An act relating to the procedure for filing a declaration of completion of probate.

Brief Description: Concerning the procedure for filing a declaration of completion of probate.

Sponsors: Senators Kline and Delvin; by request of Washington State Bar Association.

Brief Summary of Engrossed Bill

- Changes certain procedures relating to a petition to approve the reasonableness of the fees paid by or to a personal representative who has nonintervention powers in a probate proceeding.
- Modifies statutory forms used to notify beneficiaries of the filing of a declaration of completion of probate.

Hearing Date: 2/17/10

Staff: Courtney Barnes (786-7194).

Background:

Washington law provides procedures for the settlement of a deceased person's estate. One of these procedures permits a personal representative of a decedent to petition the court for nonintervention powers. Absent objections or contrary provisions in the decedent's will, the court must grant the personal representative's petition and give the personal representative nonintervention powers.

A personal representative in a nonintervention probate can close an estate without seeking a decree from the court. The personal representative must file a declaration of completion of probate (declaration) and provide notice to certain heirs, legatees, or devisees (collectively, beneficiaries) within five days of filing the declaration. The notice form provided to beneficiaries is outlined in statute and varies depending on whether the personal representative retains any powers after the declaration is finalized.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Within 30 days of the filing of the declaration, a beneficiary may petition the court to approve the reasonableness of the fees paid by or to the personal representative or for an accounting of the estate. The beneficiary filing the petition must serve the personal representative or the personal representative's lawyer. The personal representative must request the court to set a hearing date and provide notice to the beneficiary petitioning the court of the hearing date.

If no beneficiary files a petition within 30 days of the filing of the declaration, the personal representative is automatically discharged and the declaration has the same effect as a final decree of distribution. The beneficiaries lose their ability to challenge the actions of the personal representative and all issues relating to the probate become final.

Summary of Bill:

A beneficiary petitioning the court to approve the reasonableness of the fees paid by or to the personal representative or for an accounting of the estate must serve a copy of the petition upon the beneficiaries to whom the personal representative sent a copy of the declaration. The burden of requesting the court to set a hearing date is shifted to the petitioner.

The petitioner must provide notice of hearing time and place at least 10 days before the hearing on the petition. This notice must be provided to the personal representative or personal representative's lawyer, and to the beneficiaries to whom the personal representative provided a copy of the declaration of completion. The petitioner must also file proof of service with court within 35 days after the filing of the declaration.

If the petitioner files the petition but fails to serve a copy of the petition and provide notice of the hearing time and place to the required parties, the acts of the personal representative will be approved by the court and the personal representative will be automatically discharged as provided in statute.

The statutory forms used to notify beneficiaries of the filing of the declaration are modified to incorporate changes made by the bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.