

RCW 11.40.040 "Reasonably ascertainable" creditor—Definition—Reasonable diligence—Presumptions—Petition for order. (1) For purposes of RCW 11.40.051, a "reasonably ascertainable" creditor of the decedent is one that the personal representative would discover upon exercise of reasonable diligence. The personal representative is deemed to have exercised reasonable diligence upon conducting a reasonable review of the decedent's correspondence, including correspondence received after the date of death, and financial records, including personal financial statements, loan documents, checkbooks, bank statements, and income tax returns, that are in the possession of or reasonably available to the personal representative.

(2) If the personal representative conducts the review, the personal representative is presumed to have exercised reasonable diligence to ascertain creditors of the decedent and any creditor not ascertained in the review is presumed not reasonably ascertainable within the meaning of RCW 11.40.051. These presumptions may be rebutted only by clear, cogent, and convincing evidence.

(3) The personal representative may evidence the review and resulting presumption by filing with the court an affidavit regarding the facts referred to in this section. The personal representative may petition the court for an order declaring that the personal representative has made a review and that any creditors not known to the personal representative are not reasonably ascertainable. The petition must be filed under RCW 11.96A.080 and the notice specified under RCW 11.96A.110 must also be given by publication. [1999 c 42 s 607; 1997 c 252 s 10; 1994 c 221 s 28; 1974 ex.s. c 117 s 36; 1965 c 145 s 11.40.040. Prior: 1917 c 156 s 110; RRS s 1480; prior: Code 1881 s 1470; 1854 p 281 s 83.]

Effective date—1999 c 42: See RCW 11.96A.902.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

Effective dates—1994 c 221: See note following RCW 11.100.035.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Order of payment of debts: RCW 11.76.110.