

2 SSB 6785 - S AMD 898
3 By Senators Sheahan and Johnson

4 NOT ADOPTED 03/16/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 11.02.005 and 2001 c 320 s 1 are each amended to read
8 as follows:

9 When used in this title, unless otherwise required from the
10 context:

11 (1) "Personal representative" includes executor, administrator,
12 special administrator, and guardian or limited guardian and special
13 representative.

14 (2) "Net estate" refers to the real and personal property of a
15 decedent exclusive of homestead rights, exempt property, the family
16 allowance and enforceable claims against, and debts of, the deceased or
17 the estate.

18 (3) "Representation" refers to a method of determining distribution
19 in which the takers are in unequal degrees of kinship with respect to
20 the intestate, and is accomplished as follows: After first determining
21 who, of those entitled to share in the estate, are in the nearest
22 degree of kinship, the estate is divided into equal shares, the number
23 of shares being the sum of the number of persons who survive the
24 intestate who are in the nearest degree of kinship and the number of
25 persons in the same degree of kinship who died before the intestate but
26 who left issue surviving the intestate; each share of a deceased person
27 in the nearest degree shall be divided among those of the deceased
28 person's issue who survive the intestate and have no ancestor then
29 living who is in the line of relationship between them and the
30 intestate, those more remote in degree taking together the share which
31 their ancestor would have taken had he or she survived the intestate.
32 Posthumous children are considered as living at the death of their
33 parent.

34 (4) "Issue" includes all the lawful lineal descendants of the
35 ancestor and all lawfully adopted children.

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

5 (6) "Heirs" denotes those persons, including the surviving spouse,
6 who are entitled under the statutes of intestate succession to the real
7 and personal property of a decedent on the decedent's death intestate.

8 (7) "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 (8) "Will" means an instrument validly executed as required by RCW
13 11.12.020.

14 (9) "Codicil" means a will that modifies or partially revokes an
15 existing earlier will. A codicil need not refer to or be attached to
16 the earlier will.

17 (10) "Guardian" or "limited guardian" means a personal
18 representative of the person or estate of an incompetent or disabled
19 person as defined in RCW 11.88.010 and the term may be used in lieu of
20 "personal representative" wherever required by context.

21 (11) "Administrator" means a personal representative of the estate
22 of a decedent and the term may be used in lieu of "personal
23 representative" wherever required by context.

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

27 (13) "Special administrator" means a personal representative of the
28 estate of a decedent appointed for limited purposes and the term may be
29 used in lieu of "personal representative" wherever required by context.

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

33 (15) "Nonprobate asset" means those rights and interests of a
34 person having beneficial ownership of an asset that pass on the
35 person's death under a written instrument or arrangement other than the
36 person's will. "Nonprobate asset" includes, but is not limited to, a
37 right or interest passing under a joint tenancy with right of
38 survivorship, joint bank account with right of survivorship, payable on
39 death or trust bank account, transfer on death security or security

1 account, deed or conveyance if possession has been postponed until the
2 death of the person, trust of which the person is grantor and that
3 becomes effective or irrevocable only upon the person's death,
4 community property agreement, individual retirement account or bond, or
5 note or other contract the payment or performance of which is affected
6 by the death of the person. "Nonprobate asset" does not include: A
7 payable-on-death provision of a life insurance policy, annuity, or
8 other similar contract, or of an employee benefit plan; a right or
9 interest passing by descent and distribution under chapter 11.04 RCW;
10 a right or interest if, before death, the person has irrevocably
11 transferred the right or interest, the person has waived the power to
12 transfer it or, in the case of contractual arrangement, the person has
13 waived the unilateral right to rescind or modify the arrangement; or a
14 right or interest held by the person solely in a fiduciary capacity.
15 For the definition of "nonprobate asset" relating to revocation of a
16 provision for a former spouse upon dissolution of marriage or
17 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For
18 the definition of "nonprobate asset" relating to revocation of a
19 provision for a former spouse upon dissolution of marriage or
20 declaration of invalidity of marriage, see RCW 11.07.010(5). For the
21 definition of "nonprobate asset" relating to testamentary disposition
22 of nonprobate assets, see RCW 11.11.010(7).

23 (16) "Internal Revenue Code" (~~((means the United States Internal~~
24 ~~Revenue Code of 1986, as amended or renumbered as of January 1, 2001))~~)
25 is given the same meaning as provided in RCW 83.100.020.

26 (17) 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 deemed to refer to the comparable or corresponding
30 provisions of section 2057 of the Internal Revenue Code, as added by
31 section 6006(b) of the Internal Revenue Service Restructuring Act of
32 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
33 "exclusion" shall be deemed to mean the section 2057 deduction.

34 Words that import the singular number may also be applied to the
35 plural of persons and things.

36 Words importing the masculine gender only may be extended to
37 females also.

1 **Sec. 2.** RCW 83.100.020 and 2001 c 320 s 15 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "Decedent" means a deceased individual;

5 (2) "Department" means the department of revenue, the director of
6 that department, or any employee of the department exercising authority
7 lawfully delegated to him by the director;

8 (3) "Federal credit" means (a) for a transfer, the maximum amount
9 of the credit for state taxes allowed by section 2011 of the Internal
10 Revenue Code; and (b) for a generation-skipping transfer, the maximum
11 amount of the credit for state taxes allowed by section 2604 of the
12 Internal Revenue Code;

13 (4) "Federal return" means any tax return required by chapter 11 or
14 13 of the Internal Revenue Code;

15 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11
16 of the Internal Revenue Code; and (b) for a generation-skipping
17 transfer, the tax under chapter 13 of the Internal Revenue Code;

18 (6) "Generation-skipping transfer" means a "generation-skipping
19 transfer" as defined and used in section 2611 of the Internal Revenue
20 Code;

21 (7) "Gross estate" means "gross estate" as defined and used in
22 section 2031 of the Internal Revenue Code;

23 (8) "Nonresident" means a decedent who was domiciled outside
24 Washington at his death;

25 (9) "Person" means any individual, estate, trust, receiver,
26 cooperative association, club, corporation, company, firm, partnership,
27 joint venture, syndicate, or other entity and, to the extent permitted
28 by law, any federal, state, or other governmental unit or subdivision
29 or agency, department, or instrumentality thereof;

30 (10) "Person required to file the federal return" means any person
31 required to file a return required by chapter 11 or 13 of the Internal
32 Revenue Code, such as the personal representative of an estate; or a
33 transferor, trustee, or beneficiary of a generation-skipping transfer;
34 or a qualified heir with respect to qualified real property, as defined
35 and used in section 2032A(c) of the Internal Revenue Code;

36 (11) "Property" means (a) for a transfer, property included in the
37 gross estate; and (b) for a generation-skipping transfer, all real and
38 personal property subject to the federal tax;

1 (12) "Resident" means a decedent who was domiciled in Washington at
2 time of death;

3 (13) "Transfer" means "transfer" as used in section 2001 of the
4 Internal Revenue Code, or a disposition or cessation of qualified use
5 as defined and used in section 2032A(c) of the Internal Revenue Code;

6 (14) "Trust" means "trust" under Washington law and any arrangement
7 described in section 2652 of the Internal Revenue Code; and

8 (15) "Internal Revenue Code" means, for the purposes of this
9 chapter and RCW 83.110.010, the United States Internal Revenue Code of
10 1986, as amended or renumbered as of January 1, (~~2001~~) 2002.

11 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act apply
12 retroactively to January 1, 2002."

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16 On page 1, line 1 of the title, after "to" strike the remainder of
17 the title and insert "updating state law to conform to changes in
18 federal estate tax; amending RCW 11.02.005 and 83.100.020; and creating
19 a new section."

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