

SB 5297 - S AMD 17
By Senator Kline

ADOPTED 02/10/2010

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

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

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

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

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

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

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

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

24 (f) (~~(If the decedent died intestate,~~) The names(~~)~~) and
25 addresses (if known)(~~)~~) of each heir, legatee, and
26 devisee of the decedent to whom the personal representative is required
27 to give notice as provided in this section and, if the decedent died
28 intestate, the relationship of each heir to the decedent, together with
29 the distributive share of each heir; and

1 (g) The amount of fees paid or to be paid to each of the following:
2 (i) Personal representative or representatives; (ii) lawyer or lawyers;
3 (iii) appraiser or appraisers; and (iv) accountant or accountants; and
4 that the personal representative believes the fees to be reasonable and
5 does not intend to obtain court approval of the amount of the fees or
6 to submit an estate accounting to the court for approval.

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

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

30
31 CAPTION NOTICE OF FILING OF
32 OF DECLARATION OF COMPLETION
33 CASE OF PROBATE

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

25 If you file and serve a petition within the period
26 specified, ((the undersigned will)) then within such period
27 you must also request the court to fix a time and place for
28 the hearing of your petition, and ((you will be notified))
29 must provide notice of the time and place thereof to the
30 personal representative or the personal representative's
31 lawyer and to each heir, legatee, and devisee to whom the
32 personal representative sent a copy of this Declaration of
33 Completion of Probate, by mail((:)) or personal service, not
34 less than ten days before the hearing on the petition.

1 entry of a decree of distribution in accordance with chapter 11.76 RCW
2 for all legal intents and purposes.

3 (5) A declaration of completion of probate will not have the effect
4 provided in subsection (4) of this section if within thirty days from
5 the date of its filing an heir, devisee, or legatee of a decedent:

6 (a) Petitions the court either for an order requiring the personal
7 representative to obtain court approval of the amount of fees paid or
8 to be paid to the personal representative, lawyers, appraisers, or
9 accountants, or for an order requiring an accounting, or both;

10 (b) Petitions the court to fix a time and place for the hearing of
11 the petition. Such request may be included in the petition referenced
12 in (a) of this subsection;

13 (c) Serves a copy of the petition(s) on the personal representative
14 or the personal representative's lawyer and on each heir, legatee, and
15 devisee to whom the personal representative sent a copy of the
16 declaration of completion of probate at least ten days before the
17 hearing on the petition; and

18 (d) Files proof of service of the petition(s) with the court within
19 thirty-five days after the filing of the declaration of completion of
20 probate.

21 (6) In those instances where the personal representative has been
22 required to furnish bond, and a declaration of completion is filed
23 pursuant to this section, any bond furnished by the personal
24 representative (~~shall be~~) is automatically discharged upon the
25 discharge of the personal representative.

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

28 (1) The personal representative retains the powers to: Deal with
29 the taxing authority of any federal, state, or local government; hold
30 a reserve in an amount not to exceed three thousand dollars, for the
31 determination and payment of any additional taxes, interest, and
32 penalties, and of all reasonable expenses related directly or
33 indirectly to such determination or payment; pay from the reserve the
34 reasonable expenses, including compensation for services rendered or
35 goods provided by the personal representative or by the personal
36 representative's employees, independent contractors, and other agents,
37 in addition to any taxes, interest, or penalties assessed by a taxing

1 authority; receive and hold any credit, including interest, from any
2 taxing authority; and distribute the residue of the reserve to the
3 intended beneficiaries of the reserve; if:

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

6 The personal representative has completed the
7 administration of the decedent's estate without court
8 intervention, and the estate is ready to be closed, except for
9 the determination of taxes and of interest and penalties
10 thereon as permitted under this section;

11 and

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

14 CAPTION NOTICE OF FILING OF
15 OF DECLARATION OF COMPLETION
16 CASE OF PROBATE

17 NOTICE IS GIVEN that the attached Declaration of
18 Completion of Probate was filed by the undersigned in the
19 above-entitled court on the . . . day of , ;
20 unless you file a petition in the above-entitled court
21 requesting the court to approve the reasonableness of the fees,
22 or for an accounting, or both, and to set a time and date for
23 a hearing on the petition, and serve a copy thereof upon the
24 personal representative or the personal representative's
25 lawyer, and on each heir, legatee, and devisee to whom the
26 personal representative sent a copy of this Declaration of
27 Completion of Probate, within thirty days after the date of the
28 filing:

29 (i) The (~~schedule~~) amount of fees paid or to be paid
30 set forth in the Declaration of Completion of Probate will be
31 deemed reasonable;

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

35 (iii) The acts that the personal representative
36 performed before the Declaration of Completion of Probate was

1 filed will be deemed approved, and the personal representative
2 will be automatically discharged without further order of the
3 court with respect to all such acts; and

4 (iv) The personal representative will retain the power
5 to deal with the taxing authorities, together with \$. . . . for
6 the determination and payment of all remaining tax obligations.
7 Only that portion of the reserve that remains after the
8 settlement of any tax liability, and the payment of any
9 expenses associated with such settlement, will be distributed
10 to the persons legally entitled to the reserve.

11 (2) If the requirements in subsection (1) of this section are met,
12 the personal representative is discharged from all claims other than
13 those relating to the settlement of any tax obligations and the actual
14 distribution of the reserve, at the effective date of the declaration
15 of completion. The personal representative is discharged from
16 liability from the settlement of any tax obligations and the
17 distribution of the reserve, and the personal representative's powers
18 cease, thirty days after the personal representative has mailed to
19 those persons who would have shared in the distribution of the reserve
20 had the reserve remained intact and has filed with the court copies of
21 checks or receipts showing how the reserve was in fact distributed,
22 unless a person with an interest in the reserve petitions the court
23 earlier within the thirty-day period for an order requiring an
24 accounting of the reserve or an order determining the reasonableness,
25 or lack of reasonableness, of distributions made from the reserve. If
26 the personal representative has been required to furnish a bond, any
27 bond furnished by the personal representative is automatically
28 discharged upon the final discharge of the personal representative."

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29 On page 1, line 1 of the title, after "Relating to" strike the
30 remainder of the title and insert "the procedure for filing a

1 declaration of completion of probate; and amending RCW 11.68.110 and
2 11.68.114."

EFFECT: In current law, many of the substantive requirements governing the procedures for providing notice to beneficiaries for the completion of probate and release of the personal representative of the estate is contained in the suggested notice form, rather than in statute. The striking amendment incorporates the substantive notice requirements into statute, as well as the form. Additionally, the striking amendment makes a technical correction by including a second statute related to the notice provisions being amended to provide consistent notice requirements for the declaration of completion of probate.

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