

RCW 11.68.090 Nonintervention powers—Powers, duties, restrictions, and liabilities—Effect of will provisions. (1) Except as otherwise provided in this chapter, a personal representative with nonintervention powers has:

(a) All powers that are granted by common law or statute to a personal representative without nonintervention powers or that a court supervising the settlement and administration of a decedent's estate may grant to a personal representative without nonintervention powers;

(b) The power to borrow money on the general credit of the estate;

(c) The power to mortgage, encumber, lease, sell, exchange, convey, assign, and otherwise transfer the decedent's real and personal property;

(d) The power to perform the decedent's contracts;

(e) The power to determine the persons entitled to the estate; to partition property, sell property, and/or distribute property pro rata or nonpro rata, and otherwise to administer and settle the decedent's estate;

(f) The powers, privileges, and limitations of liability of a trustee under chapters 11.98, 11.100, and 11.102 RCW and under the principles of equity with regard to the assets of the estate, both real and personal;

(g) Any further power appropriate to the exercise or nonexercise of a power granted under this subsection (1); and

(h) The right and authority to exercise the powers under this subsection (1) without an order of the court and without notice to, direction from, approval by, confirmation by, or intervention of any court.

(2) Except as otherwise provided in this chapter, a personal representative with nonintervention powers has the same duties, restrictions, and liabilities as a personal representative without nonintervention powers and shall act for the benefit of all persons interested in the estate, as defined in RCW 11.96A.030(6) relative to a decedent's estate, except that:

(a) A personal representative with nonintervention powers may act without an order of the court and without notice to, direction from, approval by, confirmation by, or intervention of any court;

(b) A personal representative with nonintervention powers has no duty to follow the procedures of RCW 11.76.010 through 11.76.080 or chapter 11.56 RCW; and

(c) A personal representative with nonintervention powers must exercise a discretionary power in good faith, with honest judgment, and in accordance with the terms and purposes of the probated will and the interests of the beneficiaries.

(3) Except as provided in subsection (4) of this section, a testator may by will:

(a) Add to, alter, or deny any or all of the powers and privileges conferred upon the personal representative with nonintervention powers to administer and settle the testator's estate by common law, statute, or the principles of equity; and

(b) Add to, alter, or remove any or all of the duties, restrictions, or liabilities imposed on a personal representative with nonintervention powers relative to the administration and settlement of the testator's estate by common law, statute, or the principles of equity.

(4) No testamentary provisions may limit the effect of RCW 6.32.250, 11.20.080, 11.48.010, 11.48.020 (although without the necessity of any order of a court), 11.48.030, 11.48.140, 11.68.065, 11.68.070, 11.68.080, 11.68.090, 11.76.110, 11.76.150, 11.76.160, 11.76.170, or 11.96A.190, or of chapters 11.36, 11.44, 11.54, and 11.108 RCW or any other laws that preserve a marital deduction from estate taxes; and in no event may a personal representative with nonintervention powers be relieved of the duty to act in good faith, with honest judgment, and in accordance with the terms and purposes of the probated will and the interests of the beneficiaries.

(5) The common law and the principles of equity supplement this chapter. [2021 c 140 § 4010; 2011 c 327 § 3; 2003 c 254 § 3; 1997 c 252 § 66; 1988 c 29 § 3; 1985 c 30 § 7. Prior: 1984 c 149 § 10; 1974 ex.s. c 117 § 21.]

Application—2021 c 140 §§ 4003-4017, 4023, 4024, and 4026: See note following RCW 11.48.130.

Application—Effective date—2011 c 327: See notes following RCW 11.103.020.

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

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

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