

RCW 11.130.435 Powers of conservator requiring court approval.

(1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under RCW 11.130.370(4) and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

- (a) Make a gift, except a gift of de minimis value;
- (b) Sell, encumber an interest in, or surrender a lease to the primary dwelling of the individual subject to conservatorship;
- (c) Sell, or encumber an interest in, any other real estate;
- (d) Convey, release, or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy or tenancy by the entireties;
- (e) Exercise or release a power of appointment;
- (f) Create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the individual subject to conservatorship;
- (g) Exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;
- (h) Exercise a right to a quasi-community property share under RCW 26.16.230 or a right to an elective share under other law in the estate of a deceased spouse or domestic partner of the individual subject to conservatorship or renounce or disclaim a property interest;
- (i) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under RCW 11.130.555(5);
- (j) Make, modify, amend, or revoke the will of the individual subject to conservatorship in compliance with chapter 11.12 RCW;
- (k) Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;
- (l) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;
- (m) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;
- (n) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the term of the conservatorship; and
- (o) Structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties.

(2) In approving a conservator's exercise of a power listed in subsection (1) of this section, the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(3) To determine under subsection (2) of this section the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator. The court also shall consider:

(a) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;

(b) Possible reduction of income, estate, inheritance, or other tax liabilities;

(c) Eligibility for governmental assistance;

(d) The previous pattern of giving or level of support provided by the individual;

(e) Any existing estate plan or lack of estate plan of the individual;

(f) The life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and

(g) Any other relevant factor.

(4) A conservator may not revoke or amend a power of attorney for finances executed by the individual subject to conservatorship. If a power of attorney for finances is in effect, a decision of the agent within the scope of the agent's authority takes precedence over that of the conservator, unless the court orders otherwise. The court has authority to revoke or amend any power of attorney executed by the adult. [2020 c 312 § 218; 2019 c 437 § 414.]

Effective dates—2020 c 312: See note following RCW 11.130.915.