

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1078

Chapter 291, Laws of 1993

53rd Legislature
1993 Regular Session

NONPROBATE TRANSFER AT DEATH PROVISIONS

EFFECTIVE DATE: 7/25/93

Passed by the House April 19, 1993
Yeas 95 Nays 1

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 6, 1993
Yeas 47 Nays 0

JOEL PRITCHARD
President of the Senate

Approved May 12, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1078** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 12, 1993 - 10:16 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 1078

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Appelwick, Padden, Ludwig, Orr and Johanson

Read first time 01/13/93. Referred to Committee on Judiciary.

1 AN ACT Relating to nontestamentary characterization of interests
2 passing at death; reenacting and amending RCW 11.62.010; adding new
3 sections to chapter 11.02 RCW; and repealing RCW 11.02.090.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 11.62.010 and 1988 c 64 s 25 and 1988 c 29 s 2 are
6 each reenacted and amended to read as follows:

7 (1) At any time after forty days from the date of a decedent's
8 death, any person who is indebted to or who has possession of any
9 personal property belonging to the decedent or to the decedent and his
10 or her surviving spouse as a community, which debt or personal property
11 is an asset which is subject to probate, shall pay such indebtedness or
12 deliver such personal property, or so much of either as is claimed, to
13 a person claiming to be a successor of the decedent upon receipt of
14 proof of death and of an affidavit made by said person which meets the
15 requirements of subsection (2) of this section.

16 (2) An affidavit which is to be made pursuant to this section shall
17 state:

18 (a) The claiming successor's name and address, and that the
19 claiming successor is a "successor" as defined in RCW 11.62.005;

1 (b) That the decedent was a resident of the state of Washington on
2 the date of his death;

3 (c) That the value of the decedent's entire estate subject to
4 probate, not including the surviving spouse's community property
5 interest in any assets which are subject to probate in the decedent's
6 estate, wherever located, less liens and encumbrances, does not exceed
7 (~~the amount specified in RCW 6.13.030~~) sixty thousand dollars;

8 (d) That forty days have elapsed since the death of the decedent;

9 (e) That no application or petition for the appointment of a
10 personal representative is pending or has been granted in any
11 jurisdiction;

12 (f) That all debts of the decedent including funeral and burial
13 expenses have been paid or provided for;

14 (g) A description of the personal property and the portion thereof
15 claimed, together with a statement that such personal property is
16 subject to probate;

17 (h) That the claiming successor has given written notice, either by
18 personal service or by mail, identifying his or her claim, and
19 describing the property claimed, to all other successors of the
20 decedent, and that at least ten days have elapsed since the service or
21 mailing of such notice; and

22 (i) That the claiming successor is either personally entitled to
23 full payment or delivery of the property claimed or is entitled to full
24 payment or delivery thereof on the behalf and with the written
25 authority of all other successors who have an interest therein.

26 (3) A transfer agent of any security shall change the registered
27 ownership of the security claimed from the decedent to the person
28 claiming to be the successor with respect to such security upon the
29 presentation of proof of death and of an affidavit made by such person
30 which meets the requirements of subsection (2) of this section. Any
31 governmental agency required to issue certificates of ownership or of
32 license registration to personal property shall issue a new certificate
33 of ownership or of license registration to a person claiming to be a
34 successor of the decedent upon receipt of proof of death and of an
35 affidavit made by such person which meets the requirements of
36 subsection (2) of this section.

37 (4) No release from any Washington state or local taxing authority
38 may be required before any assets or debts are paid or delivered to a
39 successor of a decedent as required under this section.

1 NEW SECTION. **Sec. 2.** (1) An otherwise effective written
2 instrument of transfer may not be deemed testamentary solely because of
3 a provision for a nonprobate transfer at death in the instrument.

4 (2) "Provision for a nonprobate transfer at death" as used in
5 subsection (1) of this section includes, but is not limited to, a
6 written provision that:

7 (a) Money or another benefit up to that time due to, controlled, or
8 owned by a decedent before death must be paid after the decedent's
9 death to a person whom the decedent designates either in the instrument
10 or a separate writing, including a will, executed at any time;

11 (b) Money or another benefit due or to become due under the
12 instrument ceases to be payable in the event of the death of the
13 promisee or the promisor before payment or demand; or

14 (c) Property, controlled by or owned by the decedent before death,
15 that is the subject of the instrument passes to a person the decedent
16 designates either in the instrument or in a separate writing, including
17 a will, executed at any time.

18 (3) "Otherwise effective written instrument of transfer" as used in
19 subsection (1) of this section means: An insurance policy; a contract
20 of employment; a bond; a mortgage; a promissory note; a certified or
21 uncertified security; an account agreement; a compensation plan; a
22 pension plan; an individual retirement plan; an employee benefit plan;
23 a joint tenancy; a community property agreement; a trust; a conveyance;
24 a deed of gift; a contract; or another written instrument of a similar
25 nature that would be effective if it did not contain provision for a
26 nonprobate transfer at death.

27 (4) This section only eliminates a requirement that instruments of
28 transfer comply with formalities for executing wills under chapter
29 11.12 RCW. This section does not make a written instrument effective
30 as a contract, gift, conveyance, deed, or trust that would not
31 otherwise be effective as such for reasons other than failure to comply
32 with chapter 11.12 RCW.

33 (5) This section does not limit the rights of a creditor under
34 other laws of this state.

35 NEW SECTION. **Sec. 3.** A provision in a lease of a safety deposit
36 repository to the effect that two or more persons have access to the
37 repository, or that purports to create a joint tenancy in the
38 repository or in the contents of the repository, or that purports to

1 vest ownership of the contents of the repository in the surviving
2 lessee, is ineffective to create joint ownership of the contents of the
3 repository or to transfer ownership at death of one of the lessees to
4 the survivor. Ownership of the contents of the repository and
5 devolution of title to those contents is determined according to rules
6 of law without regard to the lease provisions.

7 NEW SECTION. **Sec. 4.** RCW 11.02.090 and 1974 ex.s. c 117 s 54 are
8 each repealed.

9 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act are each added
10 to chapter 11.02 RCW.

Passed the House April 19, 1993.

Passed the Senate April 6, 1993.

Approved by the Governor May 12, 1993.

Filed in Office of Secretary of State May 12, 1993.