

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1117

Chapter 58, Laws of 2014

63rd Legislature
2014 Regular Session

REAL PROPERTY--TRANSFER ON DEATH

EFFECTIVE DATE: 06/12/14 - Except for Section 23, which is contingent.

Passed by the House March 11, 2014
Yeas 91 Nays 7

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2014
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 27, 2014, 9:37 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1117** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 27, 2014

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1117

AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By House Judiciary (originally sponsored by Representatives Hansen, Rodne, and Pedersen; by request of Uniform Laws Commission)

READ FIRST TIME 02/07/13.

1 AN ACT Relating to the transfer of real property by deed taking
2 effect at the grantor's death; amending RCW 11.07.010, 11.11.010,
3 11.18.200, 11.86.011, 11.94.050, 82.45.010, 82.45.197, 82.45.150, and
4 84.33.140; reenacting and amending RCW 11.02.005 and 84.34.108; adding
5 a new chapter to Title 64 RCW; and providing a contingent effective
6 date.

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

8 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be cited as
9 the Washington uniform real property transfer on death act.

10 NEW SECTION. **Sec. 2.** DEFINITIONS. The following definitions in
11 this section apply throughout this chapter unless the context clearly
12 requires otherwise.

13 (1) "Beneficiary" means a person that receives property under a
14 transfer on death deed.

15 (2) "Designated beneficiary" means a person designated to receive
16 property in a transfer on death deed.

17 (3) "Joint owner" means an individual who owns property
18 concurrently with one or more other individuals with a right of

1 survivorship. The term includes a joint tenant with a right to
2 survivorship. The term does not include a tenant in common or owner of
3 community property.

4 (4) "Person" means an individual, corporation, business trust,
5 estate, trust, partnership, limited liability company, association,
6 joint venture, public corporation, government or governmental
7 subdivision, agency, or instrumentality, or any other legal or
8 commercial entity.

9 (5) "Property" means an interest in real property located in this
10 state which is transferable on the death of the owner.

11 (6) "Transfer on death deed" means a deed authorized under this
12 chapter.

13 (7) "Transferor" means an individual who makes a transfer on death
14 deed.

15 NEW SECTION. **Sec. 3.** APPLICABILITY. This chapter applies to a
16 transfer on death deed made before, on, or after the effective date of
17 this section by a transferor dying on or after the effective date of
18 this section.

19 NEW SECTION. **Sec. 4.** NONEXCLUSIVITY. The chapter does not affect
20 any method of transferring property otherwise permitted under the law
21 of this state.

22 NEW SECTION. **Sec. 5.** TRANSFER ON DEATH DEED AUTHORIZED. An
23 individual may transfer property to one or more beneficiaries effective
24 at the transferor's death by a transfer on death deed. A transfer on
25 death deed may not be used to effect a deed in lieu of foreclosure of
26 a deed of trust.

27 NEW SECTION. **Sec. 6.** TRANSFER ON DEATH DEED REVOCABLE. A
28 transfer on death deed is revocable even if the deed or another
29 instrument contains a contrary provision.

30 NEW SECTION. **Sec. 7.** TRANSFER ON DEATH DEED NONTESTAMENTARY. A
31 transfer on death deed is nontestamentary.

1 NEW SECTION. **Sec. 8.** CAPACITY OF TRANSFEROR. The capacity
2 required to make or revoke a transfer on death deed is the same as the
3 capacity required to make a will.

4 NEW SECTION. **Sec. 9.** REQUIREMENTS. A transfer on death deed:

5 (1) Except as otherwise provided in subsection (2) of this section,
6 must contain the essential elements and formalities of a properly
7 recordable inter vivos deed;

8 (2) Must state that the transfer to the designated beneficiary is
9 to occur at the transferor's death; and

10 (3) Must be recorded before the transferor's death in the public
11 records in the office of the auditor of the county where the property
12 is located.

13 NEW SECTION. **Sec. 10.** NOTICE, DELIVERY, ACCEPTANCE, CONSIDERATION
14 NOT REQUIRED. A transfer on death deed is effective without:

15 (1) Notice or delivery to or acceptance by the designated
16 beneficiary during the transferor's life; or

17 (2) Consideration.

18 NEW SECTION. **Sec. 11.** REVOCATION BY INSTRUMENT AUTHORIZED;
19 REVOCATION BY ACT NOT PERMITTED. (1) Subject to subsection (2) of this
20 section, an instrument is effective to revoke a recorded transfer on
21 death deed, or any part of it, only if the instrument:

22 (a) Is one of the following:

23 (i) A transfer on death deed that revokes the deed or part of the
24 deed expressly or by inconsistency;

25 (ii) An instrument of revocation that expressly revokes the deed or
26 part of the deed; or

27 (iii) An inter vivos deed that expressly revokes the transfer on
28 death deed or part of the deed; and

29 (b) Is acknowledged by the transferor after the acknowledgment of
30 the deed being revoked and recorded before the transferor's death in
31 the public records in the office of the county auditor of the county
32 where the deed is recorded.

33 (2) If a transfer on death deed is made by more than one
34 transferor:

1 (a) Revocation by a transferor does not affect the deed as to the
2 interest of another transferor;

3 (b) A deed of joint owners is revoked only if it is revoked by all
4 of the joint owners living at the time that the revocation is recorded;
5 and

6 (c) A deed of community property by both spouses or by both
7 domestic partners is revoked only if it is revoked by both of the
8 spouses or domestic partners, provided that if only one of the spouses
9 or domestic partners is then surviving, that spouse or domestic partner
10 may revoke the deed.

11 (3) After a transfer on death deed is recorded, it may not be
12 revoked by a revocatory act on the deed.

13 (4) This section does not limit the effect of an inter vivos
14 transfer of the property.

15 NEW SECTION. **Sec. 12.** EFFECT OF TRANSFER ON DEATH DEED DURING
16 TRANSFEROR'S LIFE. During a transferor's life, a transfer on death
17 deed does not:

18 (1) Affect an interest or right of the transferor or any other
19 owner, including the right to transfer or encumber the property;

20 (2) Affect an interest or right of a transferee, even if the
21 transferee has actual or constructive notice of the deed;

22 (3) Affect an interest or right of a secured or unsecured creditor
23 or future creditor of the transferor, even if the creditor has actual
24 or constructive notice of the deed;

25 (4) Affect the transferor's or designated beneficiary's eligibility
26 for any form of public assistance;

27 (5) Create a legal or equitable interest in favor of the designated
28 beneficiary; or

29 (6) Subject the property to claims or process of a creditor of the
30 designated beneficiary.

31 NEW SECTION. **Sec. 13.** EFFECT OF TRANSFER ON DEATH DEED AT
32 TRANSFEROR'S DEATH. (1) Except as otherwise provided in this section,
33 or in RCW 11.07.010, and 11.05A.030, on the death of the transferor,
34 the following rules apply to property that is the subject of a transfer
35 on death deed and owned by the transferor at death:

1 (a) Subject to (b) of this subsection, the interest in the property
2 is transferred to the designated beneficiary in accordance with the
3 deed.

4 (b) The interest of a designated beneficiary is contingent on the
5 designated beneficiary surviving the transferor. The interest of a
6 designated beneficiary that fails to survive the transferor lapses.

7 (c) Subject to (d) of this subsection, concurrent interests are
8 transferred to the beneficiaries in equal and undivided shares with no
9 right of survivorship.

10 (d) If the transferor has identified two or more designated
11 beneficiaries to receive concurrent interests in the property, the
12 share of one which lapses or fails for any reason is transferred to the
13 other, or to the others in proportion to the interest of each in the
14 remaining part of the property held concurrently.

15 (2) Subject to chapter 65.08 RCW, a beneficiary takes the property
16 subject to all conveyances, encumbrances, assignments, contracts,
17 mortgages, liens, and other interests to which the property is subject
18 at the transferor's death, including liens recorded within twenty-four
19 months after the transferor's death under RCW 41.05A.090 and
20 43.20B.080. For purposes of this subsection and chapter 65.08 RCW, the
21 recording of the transfer on death deed is deemed to have occurred at
22 the transferor's death.

23 (3) If a transferor is a joint owner and is:

24 (a) Survived by one or more other joint owners, the property that
25 is the subject of a transfer on death deed belongs to the surviving
26 joint owner or owners with right of survivorship; or

27 (b) The last surviving joint owner, the transfer on death deed is
28 effective.

29 (4) If the property that is the subject of a transfer on death deed
30 is community property and:

31 (a) The transferor is married and is not joined in the deed by the
32 transferor's spouse or is in a registered domestic partnership and is
33 not joined in the deed by the transferor's domestic partner, the
34 transferor's interest in the property is transferred to the designated
35 beneficiary in accordance with the deed on the transferor's death; or

36 (b) The transferor is married and is joined in the deed by the
37 transferor's spouse, or is in a registered domestic partnership and is
38 joined in the deed by the transferor's domestic partner, and:

1 (i) Is survived by the transferor's spouse or domestic partner, the
2 deed is not effective upon the transferor's death; or

3 (ii) Is the surviving spouse or domestic partner, the transfer on
4 death deed is effective on the transferor's death with respect to the
5 transferor's interest in the property as of the time of the
6 transferor's death.

7 (5) A transfer on death deed transfers property without covenant or
8 warranty of title even if the deed contains a contrary provision.

9 NEW SECTION. **Sec. 14.** DISCLAIMER. A beneficiary may disclaim all
10 or part of the beneficiary's interest as provided by chapter 11.86 RCW.

11 NEW SECTION. **Sec. 15.** LIABILITY FOR CREDITOR CLAIMS AND STATUTORY
12 ALLOWANCES. A beneficiary of a transfer on death deed is liable for an
13 allowed claim against the transferor's probate estate and statutory
14 allowances to a surviving spouse and children to the extent provided in
15 RCW 11.18.200, 11.42.085, and chapter 11.54 RCW.

16 NEW SECTION. **Sec. 16.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.
17 In applying and construing this uniform act, consideration must be
18 given to the need to promote uniformity of the law with respect to its
19 subject matter among the states that enact it.

20 NEW SECTION. **Sec. 17.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
21 AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes
22 the federal electronic signatures in global and national commerce act,
23 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or supersede
24 section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize
25 electronic delivery of any of the notices described in section 103(b)
26 of that act, 15 U.S.C. Sec. 7003(b).

27 **Sec. 18.** RCW 11.02.005 and 2011 c 327 s 1 are each reenacted and
28 amended to read as follows:

29 When used in this title, unless otherwise required from the
30 context:

31 (1) "Administrator" means a personal representative of the estate
32 of a decedent and the term may be used in lieu of "personal
33 representative" wherever required by context.

1 (2) "Codicil" means a will that modifies or partially revokes an
2 existing earlier will. A codicil need not refer to or be attached to
3 the earlier will.

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

8 (4) "Executor" means a personal representative of the estate of a
9 decedent appointed by will and the term may be used in lieu of
10 "personal representative" wherever required by context.

11 (5) "Guardian" or "limited guardian" means a personal
12 representative of the person or estate of an incompetent or disabled
13 person as defined in RCW 11.88.010 and the term may be used in lieu of
14 "personal representative" wherever required by context.

15 (6) "Heirs" denotes those persons, including the surviving spouse
16 or surviving domestic partner, who are entitled under the statutes of
17 intestate succession to the real and personal property of a decedent on
18 the decedent's death intestate.

19 (7) "Internal revenue code" means the United States internal
20 revenue code of 1986, as amended or renumbered as of January 1, 2001.

21 (8) "Issue" means all the lineal descendants of an individual. An
22 adopted individual is a lineal descendant of each of his or her
23 adoptive parents and of all individuals with regard to which each
24 adoptive parent is a lineal descendant. A child conceived prior to the
25 death of a parent but born after the death of the deceased parent is
26 considered to be the surviving issue of the deceased parent for
27 purposes of this title.

28 (9) "Net estate" refers to the real and personal property of a
29 decedent exclusive of homestead rights, exempt property, the family
30 allowance and enforceable claims against, and debts of, the deceased or
31 the estate.

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

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

23 (11) "Personal representative" includes executor, administrator,
24 special administrator, and guardian or limited guardian and special
25 representative.

26 (12) "Real estate" includes, except as otherwise specifically
27 provided herein, all lands, tenements, and hereditaments, and all
28 rights thereto, and all interest therein possessed and claimed in fee
29 simple, or for the life of a third person.

30 (13) "Representation" refers to a method of determining
31 distribution in which the takers are in unequal degrees of kinship with
32 respect to a decedent, and is accomplished as follows: After first
33 determining who, of those entitled to share in the estate, are in the
34 nearest degree of kinship, the estate is divided into equal shares, the
35 number of shares being the sum of the number of persons who survive the
36 decedent who are in the nearest degree of kinship and the number of
37 persons in the same degree of kinship who died before the decedent but
38 who left issue surviving the decedent; each share of a deceased person

1 in the nearest degree (~~shall~~) must be divided among those of the
2 deceased person's issue who survive the decedent and have no ancestor
3 then living who is in the line of relationship between them and the
4 decedent, those more remote in degree taking together the share which
5 their ancestor would have taken had he or she survived the decedent.

6 (14) References to "section 2033A" of the internal revenue code in
7 wills, trust agreements, powers of appointment, beneficiary
8 designations, and other instruments governed by or subject to this
9 title (~~shall-be~~) are deemed to refer to the comparable or
10 corresponding provisions of section 2057 of the internal revenue code,
11 as added by section 6006(b) of the internal revenue service
12 restructuring act of 1998 (H.R. 2676, P.L. 105-206); and references to
13 the section 2033A "exclusion" (~~shall-be~~) are deemed to mean the
14 section 2057 deduction.

15 (15) "Settlor" has the same meaning as provided for "trustor" in
16 this section.

17 (16) "Special administrator" means a personal representative of the
18 estate of a decedent appointed for limited purposes and the term may be
19 used in lieu of "personal representative" wherever required by context.

20 (17) "Surviving spouse" or "surviving domestic partner" does not
21 include an individual whose marriage to or state registered domestic
22 partnership with the decedent has been terminated, dissolved, or
23 invalidated unless, by virtue of a subsequent marriage or state
24 registered domestic partnership, he or she is married to or in a
25 domestic partnership with the decedent at the time of death. A decree
26 of separation that does not terminate the status of spouses or domestic
27 partners is not a dissolution or invalidation for purposes of this
28 subsection.

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

32 (19) "Trustor" means a person, including a testator, who creates,
33 or contributes property to, a trust.

34 (20) "Will" means an instrument validly executed as required by RCW
35 11.12.020.

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

1 Words importing the masculine gender only may be extended to
2 females also.

3 **Sec. 19.** RCW 11.07.010 and 2008 c 6 s 906 are each amended to read
4 as follows:

5 (1) This section applies to all nonprobate assets, wherever
6 situated, held at the time of entry of a decree of dissolution of
7 marriage or state registered domestic partnership or a declaration of
8 invalidity or certification of termination of a state registered
9 domestic partnership.

10 (2)(a) If a marriage or state registered domestic partnership is
11 dissolved or invalidated, or a state registered domestic partnership
12 terminated, a provision made prior to that event that relates to the
13 payment or transfer at death of the decedent's interest in a nonprobate
14 asset in favor of or granting an interest or power to the decedent's
15 former spouse or state registered domestic partner, is revoked. A
16 provision affected by this section must be interpreted, and the
17 nonprobate asset affected passes, as if the former spouse or former
18 state registered domestic partner, failed to survive the decedent,
19 having died at the time of entry of the decree of dissolution or
20 declaration of invalidity or termination of state registered domestic
21 partnership.

22 (b) This subsection does not apply if and to the extent that:

23 (i) The instrument governing disposition of the nonprobate asset
24 expressly provides otherwise;

25 (ii) The decree of dissolution, declaration of invalidity, or other
26 court order requires that the decedent maintain a nonprobate asset for
27 the benefit of a former spouse or former state registered domestic
28 partner or children of the marriage or domestic partnership, payable on
29 the decedent's death either outright or in trust, and other nonprobate
30 assets of the decedent fulfilling such a requirement for the benefit of
31 the former spouse or former state registered domestic partner or
32 children of the marriage or domestic partnership do not exist at the
33 decedent's death;

34 (iii) A court order requires that the decedent maintain a
35 nonprobate asset for the benefit of another, payable on the decedent's
36 death either outright or in a trust, and other nonprobate assets of the

1 decedent fulfilling such a requirement do not exist at the decedent's
2 death; or

3 (iv) If not for this subsection, the decedent could not have
4 effected the revocation by unilateral action because of the terms of
5 the decree, declaration, termination of state registered domestic
6 partnership, or for any other reason, immediately after the entry of
7 the decree of dissolution, declaration of invalidity, or termination of
8 state registered domestic partnership.

9 (3)(a) A payor or other third party in possession or control of a
10 nonprobate asset at the time of the decedent's death is not liable for
11 making a payment or transferring an interest in a nonprobate asset to
12 a decedent's former spouse or state registered domestic partner, whose
13 interest in the nonprobate asset is revoked under this section, or for
14 taking another action in reliance on the validity of the instrument
15 governing disposition of the nonprobate asset, before the payor or
16 other third party has actual knowledge of the dissolution or other
17 invalidation of marriage or termination of the state registered
18 domestic partnership. A payor or other third party is liable for a
19 payment or transfer made or other action taken after the payor or other
20 third party has actual knowledge of a revocation under this section.

21 (b) This section does not require a payor or other third party to
22 pay or transfer a nonprobate asset to a beneficiary designated in a
23 governing instrument affected by the dissolution or other invalidation
24 of marriage or termination of state registered domestic partnership, or
25 to another person claiming an interest in the nonprobate asset, if the
26 payor or third party has actual knowledge of the existence of a dispute
27 between the former spouse or former state registered domestic partner,
28 and the beneficiaries or other persons concerning rights of ownership
29 of the nonprobate asset as a result of the application of this section
30 among the former spouse or former state registered domestic partner,
31 and the beneficiaries or among other persons, or if the payor or third
32 party is otherwise uncertain as to who is entitled to the nonprobate
33 asset under this section. In such a case, the payor or third party
34 may, without liability, notify in writing all beneficiaries or other
35 persons claiming an interest in the nonprobate asset of either the
36 existence of the dispute or its uncertainty as to who is entitled to
37 payment or transfer of the nonprobate asset. The payor or third party

1 may also, without liability, refuse to pay or transfer a nonprobate
2 asset in such a circumstance to a beneficiary or other person claiming
3 an interest until the time that either:

4 (i) All beneficiaries and other interested persons claiming an
5 interest have consented in writing to the payment or transfer; or

6 (ii) The payment or transfer is authorized or directed by a court
7 of proper jurisdiction.

8 (c) Notwithstanding subsections (1) and (2) of this section and (a)
9 and (b) of this subsection, a payor or other third party having actual
10 knowledge of the existence of a dispute between beneficiaries or other
11 persons concerning rights to a nonprobate asset as a result of the
12 application of this section may condition the payment or transfer of
13 the nonprobate asset on execution, in a form and with security
14 acceptable to the payor or other third party, of a bond in an amount
15 that is double the fair market value of the nonprobate asset at the
16 time of the decedent's death or the amount of an adverse claim,
17 whichever is the lesser, or of a similar instrument to provide security
18 to the payor or other third party, indemnifying the payor or other
19 third party for any liability, loss, damage, costs, and expenses for
20 and on account of payment or transfer of the nonprobate asset.

21 (d) As used in this subsection, "actual knowledge" means, for a
22 payor or other third party in possession or control of the nonprobate
23 asset at or following the decedent's death, written notice to the payor
24 or other third party, or to an officer of a payor or third party in the
25 course of his or her employment, received after the decedent's death
26 and within a time that is sufficient to afford the payor or third party
27 a reasonable opportunity to act upon the knowledge. The notice must
28 identify the nonprobate asset with reasonable specificity. The notice
29 also must be sufficient to inform the payor or other third party of the
30 revocation of the provisions in favor of the decedent's spouse or state
31 registered domestic partner, by reason of the dissolution or
32 invalidation of marriage or termination of state registered domestic
33 partnership, or to inform the payor or third party of a dispute
34 concerning rights to a nonprobate asset as a result of the application
35 of this section. Receipt of the notice for a period of more than
36 thirty days is presumed to be received within a time that is sufficient
37 to afford the payor or third party a reasonable opportunity to act upon
38 the knowledge, but receipt of the notice for a period of less than five

1 business days is presumed not to be a sufficient time for these
2 purposes. These presumptions may be rebutted only by clear and
3 convincing evidence to the contrary.

4 (4)(a) A person who purchases a nonprobate asset from a former
5 spouse, former state registered domestic partner, or other person, for
6 value and without actual knowledge, or who receives from a former
7 spouse, former state registered domestic partner, or other person
8 payment or transfer of a nonprobate asset without actual knowledge and
9 in partial or full satisfaction of a legally enforceable obligation, is
10 neither obligated under this section to return the payment, property,
11 or benefit nor is liable under this section for the amount of the
12 payment or the value of the nonprobate asset. However, a former
13 spouse, former state registered domestic partner, or other person who,
14 with actual knowledge, not for value, or not in satisfaction of a
15 legally enforceable obligation, receives payment or transfer of a
16 nonprobate asset to which that person is not entitled under this
17 section is obligated to return the payment or nonprobate asset, or is
18 personally liable for the amount of the payment or value of the
19 nonprobate asset, to the person who is entitled to it under this
20 section.

21 (b) As used in this subsection, "actual knowledge" means, for a
22 person described in (a) of this subsection who purchases or receives a
23 nonprobate asset from a former spouse, former state registered domestic
24 partner, or other person, personal knowledge or possession of documents
25 relating to the revocation upon dissolution or invalidation of marriage
26 of provisions relating to the payment or transfer at the decedent's
27 death of the nonprobate asset, received within a time after the
28 decedent's death and before the purchase or receipt that is sufficient
29 to afford the person purchasing or receiving the nonprobate asset
30 reasonable opportunity to act upon the knowledge. Receipt of the
31 personal knowledge or possession of the documents for a period of more
32 than thirty days is presumed to be received within a time that is
33 sufficient to afford the payor or third party a reasonable opportunity
34 to act upon the knowledge, but receipt of the notice for a period of
35 less than five business days is presumed not to be a sufficient time
36 for these purposes. These presumptions may be rebutted only by clear
37 and convincing evidence to the contrary.

1 (5)(a) As used in this section, "nonprobate asset" means those
2 rights and interests of a person having beneficial ownership of an
3 asset that pass on the person's death under only the following written
4 instruments or arrangements other than the decedent's will:

5 ~~((a))~~ (i) A payable-on-death provision of a life insurance
6 policy, employee benefit plan, annuity or similar contract, or
7 individual retirement account, unless provided otherwise by controlling
8 federal law;

9 ~~((b))~~ (ii) A payable-on-death, trust, or joint with right of
10 survivorship bank account;

11 ~~((c))~~ (iii) A trust of which the person is a grantor and that
12 becomes effective or irrevocable only upon the person's death;

13 ~~((d))~~ (iv) Transfer on death beneficiary designations of a
14 transfer on death or pay on death security, or joint tenancy or joint
15 tenancy with right of survivorship designations of a security, if such
16 designations are authorized under Washington law;

17 ~~((e))~~ (v) A transfer on death, pay on death, joint tenancy, or
18 joint tenancy with right of survivorship brokerage account;

19 ~~((f))~~ (vi) A transfer on death deed;

20 (vii) Unless otherwise specifically provided therein, a contract
21 wherein payment or performance under that contract is affected by the
22 death of the person; or

23 ~~((g))~~ (viii) Unless otherwise specifically provided therein, any
24 other written instrument of transfer, within the meaning of RCW
25 11.02.091(3), containing a provision for the nonprobate transfer of an
26 asset at death.

27 (b) For the general definition in this title of "nonprobate asset,"
28 see RCW 11.02.005~~((+15))~~ (10) and for the definition of "nonprobate
29 asset" relating to testamentary disposition of nonprobate assets, see
30 RCW 11.11.010(7). For the purposes of this chapter, a "bank account"
31 includes an account into or from which cash deposits and withdrawals
32 can be made, and includes demand deposit accounts, time deposit
33 accounts, money market accounts, or certificates of deposit, maintained
34 at a bank, savings and loan association, credit union, brokerage house,
35 or similar financial institution.

36 (6) This section is remedial in nature and applies as of July 25,
37 1993, to decrees of dissolution and declarations of invalidity entered

1 after July 24, 1993, and this section applies as of January 1, 1995, to
2 decrees of dissolution and declarations of invalidity entered before
3 July 25, 1993.

4 **Sec. 20.** RCW 11.11.010 and 2008 c 6 s 909 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1)(a) "Actual knowledge" means:

9 (i) For a financial institution, whether acting as personal
10 representative or otherwise, or other third party in possession or
11 control of a nonprobate asset, receipt of written notice that: (A)
12 Complies with RCW 11.11.050; (B) pertains to the testamentary
13 disposition or ownership of a nonprobate asset in its possession or
14 control; and (C) is received by the financial institution or third
15 party after the death of the owner in a time sufficient to afford the
16 financial institution or third party a reasonable opportunity to act
17 upon the knowledge; and

18 (ii) For a personal representative that is not a financial
19 institution, personal knowledge or possession of documents relating to
20 the testamentary disposition or ownership of a nonprobate asset of the
21 owner sufficient to afford the personal representative reasonable
22 opportunity to act upon the knowledge, including reasonable opportunity
23 for the personal representative to provide the written notice under RCW
24 11.11.050.

25 (b) For the purposes of (a) of this subsection, notice of more than
26 thirty days is presumed to be notice that is sufficient to afford the
27 party a reasonable opportunity to act upon the knowledge, but notice of
28 less than five business days is presumed not to be a sufficient notice
29 for these purposes. These presumptions may be rebutted only by clear
30 and convincing evidence to the contrary.

31 (2) "Beneficiary" means the person designated to receive a
32 nonprobate asset upon the death of the owner by means other than the
33 owner's will.

34 (3) "Broker" means a person defined as a broker or dealer under the
35 federal securities laws.

36 (4) "Date of will" means, as to any nonprobate asset, the date of

1 signature of the will or codicil that refers to the asset and disposes
2 of it.

3 (5) "Designate" means a written means by which the owner selects a
4 beneficiary, including but not limited to instruments under contractual
5 arrangements and registration of accounts, and "designation" means the
6 selection.

7 (6) "Financial institution" means: A bank, trust company, mutual
8 savings bank, savings and loan association, credit union, broker, or
9 issuer of stock or its transfer agent.

10 (7)(a) "Nonprobate asset" means a nonprobate asset within the
11 meaning of RCW 11.02.005, but excluding the following:

12 (i) A right or interest in real property passing under a joint
13 tenancy with right of survivorship;

14 (ii) A deed or conveyance for which possession has been postponed
15 until the death of the owner;

16 (iii) A transfer on death deed;

17 (iv) A right or interest passing under a community property
18 agreement; and

19 ~~((iv))~~ (v) An individual retirement account or bond.

20 (b) For the definition of "nonprobate asset" relating to revocation
21 of a provision for a former spouse or former domestic partner upon
22 dissolution of marriage or state registered domestic partnership or
23 declaration of invalidity of marriage or state registered domestic
24 partnership, see RCW 11.07.010(5).

25 (8) "Owner" means a person who, during life, has beneficial
26 ownership of the nonprobate asset.

27 (9) "Request" means a request by the beneficiary for transfer of a
28 nonprobate asset after the death of the owner, if it complies with all
29 conditions of the arrangement, including reasonable special
30 requirements concerning necessary signatures and regulations of the
31 financial institution or other third party, or by the personal
32 representative of the owner's estate or the testamentary beneficiary,
33 if it complies with the owner's will and any additional conditions of
34 the financial institution or third party for such transfer.

35 (10) "Testamentary beneficiary" means a person named under the
36 owner's will to receive a nonprobate asset under this chapter,
37 including but not limited to the trustee of a testamentary trust.

1 (11) "Third party" means a person, including a financial
2 institution, having possession of or control over a nonprobate asset at
3 the death of the owner, including the trustee of a revocable living
4 trust and surviving joint tenant or tenants.

5 **Sec. 21.** RCW 11.18.200 and 1999 c 42 s 605 are each amended to
6 read as follows:

7 (1) Unless expressly exempted by statute, a beneficiary of a
8 nonprobate asset that was subject to satisfaction of the decedent's
9 general liabilities immediately before the decedent's death takes the
10 asset subject to liabilities, claims, estate taxes, and the fair share
11 of expenses of administration reasonably incurred by the personal
12 representative in the transfer of or administration upon the asset.
13 The beneficiary of such an asset is liable to account to the personal
14 representative to the extent necessary to satisfy liabilities, claims,
15 the asset's fair share of expenses of administration, and the asset's
16 share of any applicable estate taxes under chapter (~~(83.110)~~) 83.110A
17 RCW. Before making demand that a beneficiary of a nonprobate asset
18 account to the personal representative, the personal representative
19 (~~shall~~) must give notice to the beneficiary, in the manner provided
20 in chapter 11.96A RCW, that the beneficiary is liable to account under
21 this section.

22 (2) The following rules govern in applying subsection (1) of this
23 section:

24 (a) A beneficiary of property passing at death under a community
25 property agreement takes the property subject to the decedent's
26 liabilities, claims, estate taxes, and administration expenses as
27 described in subsection (1) of this section. However, assets existing
28 as community or separate property immediately before the decedent's
29 death under the community property agreement are subject to the
30 decedent's liabilities and claims to the same extent that they would
31 have been had they been assets of the probate estate.

32 (b) A beneficiary of property held in joint tenancy form with right
33 of survivorship, including without limitation United States savings
34 bonds or similar obligations, takes the property subject to the
35 decedent's liabilities, claims, estate taxes, and administration
36 expenses as described in subsection (1) of this section to the extent

1 of the decedent's beneficial ownership interest in the property
2 immediately before death.

3 (c) A beneficiary of payable-on-death or trust bank accounts,
4 bonds, securities, or similar obligations, including without limitation
5 United States bonds or similar obligations, takes the property subject
6 to the decedent's liabilities, claims, estate taxes, and administration
7 expenses as described in subsection (1) of this section, to the extent
8 of the decedent's beneficial ownership interest in the property
9 immediately before death.

10 (d) A beneficiary of a transfer on death deed or of deeds or
11 conveyances made by the decedent if possession has been postponed until
12 the death of the decedent takes the property subject to the decedent's
13 liabilities, claims, estate taxes, and administration expenses as
14 described in subsection (1) of this section, to the extent of the
15 decedent's beneficial ownership interest in the property immediately
16 before death.

17 (e) A trust for the decedent's use of which the decedent is the
18 grantor is subject to the decedent's liabilities, claims, estate taxes,
19 and administration expenses as described in subsection (1) of this
20 section, to the same extent as the trust was subject to claims of the
21 decedent's creditors immediately before death under RCW 19.36.020.

22 (f) A trust not for the use of the grantor but of which the
23 decedent is the grantor and that becomes effective or irrevocable only
24 upon the decedent's death is subject to the decedent's claims,
25 liabilities, estate taxes, and expenses of administration as described
26 in subsection (1) of this section.

27 (g) Anything in this section to the contrary notwithstanding,
28 nonprobate assets that existed as community property immediately before
29 the decedent's death are subject to the decedent's liabilities and
30 claims to the same extent that they would have been had they been
31 assets of the probate estate.

32 (h) The liability of a beneficiary of life insurance is governed by
33 chapter 48.18 RCW.

34 (i) The liability of a beneficiary of pension or retirement
35 employee benefits is governed by chapter 6.15 RCW.

36 (j) An inference may not be drawn from (a) through (i) of this
37 subsection that a beneficiary of nonprobate assets other than those
38 assets specifically described in (a) through (i) of this subsection

1 does or does not take the assets subject to claims, liabilities, estate
2 taxes, and administration expenses as described in subsection (1) of
3 this section.

4 (3) Nothing in this section derogates from the rights of a person
5 interested in the estate to recover any applicable estate tax under
6 chapter ((83.110)) 83.110A RCW or from the liability of any beneficiary
7 for estate tax under chapter ((83.110)) 83.110A RCW.

8 (4) Nonprobate assets that may be responsible for the satisfaction
9 of the decedent's general liabilities and claims abate together with
10 the probate assets of the estate in accord with chapter 11.10 RCW.

11 **Sec. 22.** RCW 11.86.011 and 1989 c 34 s 1 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Beneficiary" means the person entitled, but for the person's
16 disclaimer, to take an interest.

17 (2) "Interest" includes the whole of any property, real or
18 personal, legal or equitable, or any fractional part, share, or
19 particular portion or specific assets thereof, any vested or contingent
20 interest in any such property, any power to appoint, consume, apply, or
21 expend property, or any other right, power, privilege, or immunity
22 relating to property. "Interest" includes, but is not limited to, an
23 interest created in any of the following manners:

- 24 (a) By intestate succession;
- 25 (b) Under a will;
- 26 (c) Under a trust;
- 27 (d) By succession to a disclaimed interest;
- 28 (e) By virtue of an election to take against a will;
- 29 (f) By creation of a power of appointment;
- 30 (g) By exercise or nonexercise of a power of appointment;
- 31 (h) By an inter vivos gift, whether outright or in trust;
- 32 (i) By surviving the death of a depositor of a trust or P.O.D.
33 account within the meaning of RCW 30.22.040;
- 34 (j) Under an insurance or annuity contract;
- 35 (k) By surviving the death of another joint tenant;
- 36 (l) Under an employee benefit plan;
- 37 (m) Under an individual retirement account, annuity, or bond;

1 (n) Under a community property agreement; (~~(or)~~)

2 (o) By surviving the death of a transferor of a transfer on death
3 deed; or

4 (p) Any other interest created by any testamentary or inter vivos
5 instrument or by operation of law.

6 (3) "Creator of the interest" means a person who establishes,
7 declares, or otherwise creates an interest.

8 (4) "Disclaimer" means any writing which declines, refuses,
9 renounces, or disclaims any interest that would otherwise be taken by
10 a beneficiary.

11 (5) "Disclaimant" means a beneficiary who executes a disclaimer on
12 his or her own behalf or a person who executes a disclaimer on behalf
13 of a beneficiary.

14 (6) "Person" means an individual, corporation, government,
15 governmental subdivision or agency, business trust, estate, trust,
16 partnership, association, or other entity.

17 (7)(a) "Date of the transfer" means:

18 (~~(a)~~) (i) For an inter vivos transfer, the date of the creation
19 of the interest; or

20 (~~(b)~~) (ii) For a transfer upon the death of the creator of the
21 interest, the date of the death of the creator.

22 (b) A joint tenancy interest of a deceased joint tenant (~~shall~~
23 ~~be~~) is deemed to be transferred at the death of the joint tenant
24 rather than at the creation of the joint tenancy.

25 **Sec. 23.** RCW 11.94.050 and 2011 c 327 s 4 are each amended to read
26 as follows:

27 (1) Although a designated attorney-in-fact or agent has all powers
28 of absolute ownership of the principal, or the document has language to
29 indicate that the attorney-in-fact or agent (~~shall have~~) has all the
30 powers the principal would have if alive and competent, the attorney-
31 in-fact or agent (~~shall~~) does not have the power to make, amend,
32 alter, or revoke the principal's wills or codicils, and (~~shall~~) does
33 not have the power, unless specifically provided otherwise in the
34 document: To make, amend, alter, or revoke any of the principal's life
35 insurance, annuity, or similar contract beneficiary designations,
36 employee benefit plan beneficiary designations, trust agreements,
37 registration of the principal's securities in beneficiary form, payable

1 on death or transfer on death beneficiary designations, designation of
2 persons as joint tenants with right of survivorship with the principal
3 with respect to any of the principal's property, community property
4 agreements, transfer on death deeds, or any other provisions for
5 nonprobate transfer at death contained in nontestamentary instruments
6 described in RCW 11.02.091; to make any gifts of property owned by the
7 principal; to exercise the principal's rights to distribute property in
8 trust or cause a trustee to distribute property in trust to the extent
9 consistent with the terms of the trust agreement; to make transfers of
10 property to any trust (whether or not created by the principal) unless
11 the trust benefits the principal alone and does not have dispositive
12 provisions which are different from those which would have governed the
13 property had it not been transferred into the trust; or to disclaim
14 property.

15 (2) Nothing in subsection (1) of this section prohibits an
16 attorney-in-fact or agent from making any transfer of resources not
17 prohibited under chapter 74.09 RCW when the transfer is for the purpose
18 of qualifying the principal for medical assistance or the limited
19 casualty program for the medically needy.

20 **Sec. 24.** RCW 82.45.010 and 2010 1st sp.s. c 23 s 207 are each
21 amended to read as follows:

22 (1) As used in this chapter, the term "sale" has its ordinary
23 meaning and includes any conveyance, grant, assignment, quitclaim, or
24 transfer of the ownership of or title to real property, including
25 standing timber, or any estate or interest therein for a valuable
26 consideration, and any contract for such conveyance, grant, assignment,
27 quitclaim, or transfer, and any lease with an option to purchase real
28 property, including standing timber, or any estate or interest therein
29 or other contract under which possession of the property is given to
30 the purchaser, or any other person at the purchaser's direction, and
31 title to the property is retained by the vendor as security for the
32 payment of the purchase price. The term also includes the grant,
33 assignment, quitclaim, sale, or transfer of improvements constructed
34 upon leased land.

35 (2)(a) The term "sale" also includes the transfer or acquisition
36 within any twelve-month period of a controlling interest in any entity

1 with an interest in real property located in this state for a valuable
2 consideration.

3 (b) For the sole purpose of determining whether, pursuant to the
4 exercise of an option, a controlling interest was transferred or
5 acquired within a twelve-month period, the date that the option
6 agreement was executed is the date on which the transfer or acquisition
7 of the controlling interest is deemed to occur. For all other purposes
8 under this chapter, the date upon which the option is exercised is the
9 date of the transfer or acquisition of the controlling interest.

10 (c) For purposes of this subsection, all acquisitions of persons
11 acting in concert must be aggregated for purposes of determining
12 whether a transfer or acquisition of a controlling interest has taken
13 place. The department must adopt standards by rule to determine when
14 persons are acting in concert. In adopting a rule for this purpose,
15 the department must consider the following:

16 (i) Persons must be treated as acting in concert when they have a
17 relationship with each other such that one person influences or
18 controls the actions of another through common ownership; and

19 (ii) When persons are not commonly owned or controlled, they must
20 be treated as acting in concert only when the unity with which the
21 purchasers have negotiated and will consummate the transfer of
22 ownership interests supports a finding that they are acting as a single
23 entity. If the acquisitions are completely independent, with each
24 purchaser buying without regard to the identity of the other
25 purchasers, then the acquisitions are considered separate acquisitions.

26 (3) The term "sale" does not include:

27 (a) A transfer by gift, devise, or inheritance.

28 (b) A transfer by transfer on death deed, to the extent that it is
29 not in satisfaction of a contractual obligation of the decedent owed to
30 the recipient of the property.

31 (c) A transfer of any leasehold interest other than of the type
32 mentioned above.

33 ((+e)) (d) A cancellation or forfeiture of a vendee's interest in
34 a contract for the sale of real property, whether or not such contract
35 contains a forfeiture clause, or deed in lieu of foreclosure of a
36 mortgage.

37 ((+d)) (e) The partition of property by tenants in common by
38 agreement or as the result of a court decree.

1 ~~((e))~~ (f) The assignment of property or interest in property from
2 one spouse or one domestic partner to the other spouse or other
3 domestic partner in accordance with the terms of a decree of
4 dissolution of marriage or state registered domestic partnership or in
5 fulfillment of a property settlement agreement.

6 ~~((f))~~ (g) The assignment or other transfer of a vendor's interest
7 in a contract for the sale of real property, even though accompanied by
8 a conveyance of the vendor's interest in the real property involved.

9 ~~((g))~~ (h) Transfers by appropriation or decree in condemnation
10 proceedings brought by the United States, the state or any political
11 subdivision thereof, or a municipal corporation.

12 ~~((h))~~ (i) A mortgage or other transfer of an interest in real
13 property merely to secure a debt, or the assignment thereof.

14 ~~((i))~~ (j) Any transfer or conveyance made pursuant to a deed of
15 trust or an order of sale by the court in any mortgage, deed of trust,
16 or lien foreclosure proceeding or upon execution of a judgment, or deed
17 in lieu of foreclosure to satisfy a mortgage or deed of trust.

18 ~~((j))~~ (k) A conveyance to the federal housing administration or
19 veterans administration by an authorized mortgagee made pursuant to a
20 contract of insurance or guaranty with the federal housing
21 administration or veterans administration.

22 ~~((k))~~ (l) A transfer in compliance with the terms of any lease or
23 contract upon which the tax as imposed by this chapter has been paid or
24 where the lease or contract was entered into prior to the date this tax
25 was first imposed.

26 ~~((l))~~ (m) The sale of any grave or lot in an established
27 cemetery.

28 ~~((m))~~ (n) A sale by the United States, this state or any
29 political subdivision thereof, or a municipal corporation of this
30 state.

31 ~~((n))~~ (o) A sale to a regional transit authority or public
32 corporation under RCW 81.112.320 under a sale/leaseback agreement under
33 RCW 81.112.300.

34 ~~((o))~~ (p) A transfer of real property, however effected, if it
35 consists of a mere change in identity or form of ownership of an entity
36 where there is no change in the beneficial ownership. These include
37 transfers to a corporation or partnership which is wholly owned by the
38 transferor and/or the transferor's spouse or domestic partner or

1 children of the transferor or the transferor's spouse or domestic
2 partner. However, if thereafter such transferee corporation or
3 partnership voluntarily transfers such real property, or such
4 transferor, spouse or domestic partner, or children of the transferor
5 or the transferor's spouse or domestic partner voluntarily transfer
6 stock in the transferee corporation or interest in the transferee
7 partnership capital, as the case may be, to other than (i) the
8 transferor and/or the transferor's spouse or domestic partner or
9 children of the transferor or the transferor's spouse or domestic
10 partner, (ii) a trust having the transferor and/or the transferor's
11 spouse or domestic partner or children of the transferor or the
12 transferor's spouse or domestic partner as the only beneficiaries at
13 the time of the transfer to the trust, or (iii) a corporation or
14 partnership wholly owned by the original transferor and/or the
15 transferor's spouse or domestic partner or children of the transferor
16 or the transferor's spouse or domestic partner, within three years of
17 the original transfer to which this exemption applies, and the tax on
18 the subsequent transfer has not been paid within sixty days of becoming
19 due, excise taxes become due and payable on the original transfer as
20 otherwise provided by law.

21 ~~((p))~~ (q)(i) A transfer that for federal income tax purposes does
22 not involve the recognition of gain or loss for entity formation,
23 liquidation or dissolution, and reorganization, including but not
24 limited to nonrecognition of gain or loss because of application of 26
25 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
26 revenue code of 1986, as amended.

27 (ii) However, the transfer described in ~~((p))~~ (q)(i) of this
28 subsection cannot be preceded or followed within a twelve-month period
29 by another transfer or series of transfers, that, when combined with
30 the otherwise exempt transfer or transfers described in ~~((p))~~ (q)(i)
31 of this subsection, results in the transfer of a controlling interest
32 in the entity for valuable consideration, and in which one or more
33 persons previously holding a controlling interest in the entity receive
34 cash or property in exchange for any interest the person or persons
35 acting in concert hold in the entity. This subsection (3)~~((p))~~
36 (q)(ii) does not apply to that part of the transfer involving property
37 received that is the real property interest that the person or persons
38 originally contributed to the entity or when one or more persons who

1 did not contribute real property or belong to the entity at a time when
2 real property was purchased receive cash or personal property in
3 exchange for that person or persons' interest in the entity. The real
4 estate excise tax under this subsection (3)((~~p~~)) (q)(ii) is imposed
5 upon the person or persons who previously held a controlling interest
6 in the entity.

7 ((~~q~~)) (r) A qualified sale of a manufactured/mobile home
8 community, as defined in RCW 59.20.030, that takes place on or after
9 June 12, 2008, but before December 31, 2018.

10 **Sec. 25.** RCW 82.45.197 and 2008 c 269 s 1 are each amended to read
11 as follows:

12 In order to receive an exemption from the tax in this chapter on
13 real property transferred as a result of inheritance under RCW
14 82.45.010(3)(a), the following documentation must be provided:

15 (1) If the property is being transferred under the terms of a
16 community property agreement, a copy of the recorded agreement and a
17 certified copy of the death certificate;

18 (2) If the property is being transferred under the terms of a trust
19 instrument, a certified copy of the death certificate and a copy of the
20 trust instrument showing the authority of the grantor;

21 (3) If the property is being transferred under the terms of a
22 probated will, a certified copy of the letters testamentary or in the
23 case of intestate administration, a certified copy of the letters of
24 administration showing that the grantor is the court-appointed
25 executor, executrix, or administrator, and a certified copy of the
26 death certificate;

27 (4) In the case of joint tenants with right of survivorship and
28 remainder interests, a certified copy of the death certificate is
29 recorded to perfect title;

30 (5) If the property is being transferred pursuant to a court order,
31 a certified copy of the court order requiring the transfer, and
32 confirming that the grantor is required to do so under the terms of the
33 order; ((~~or~~))

34 (6) If the community property interest of the decedent is being
35 transferred to a surviving spouse or surviving domestic partner absent
36 the documentation set forth in subsections (1) through (5) of this
37 section, a certified copy of the death certificate and a signed

1 affidavit from the surviving spouse or surviving domestic partner
2 affirming that he or she is the sole and rightful heir to the property;
3 or

4 (7) If the property is being transferred pursuant to a transfer on
5 death deed, a certified copy of the death certificate is recorded to
6 perfect title.

7 **Sec. 26.** RCW 82.45.150 and 1996 c 149 s 6 are each amended to read
8 as follows:

9 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,
10 82.32.140, 82.32.270, and 82.32.090 (1) and (~~(8)~~) (10), applies to
11 the tax imposed by this chapter, in addition to any other provisions of
12 law for the payment and enforcement of the tax imposed by this chapter.
13 The department of revenue (~~shall~~) must by rule provide for the
14 effective administration of this chapter. The rules (~~shall~~) must
15 prescribe and furnish a real estate excise tax affidavit form verified
16 by both the seller and the buyer, or agents of each, to be used by each
17 county, or the department, as the case may be, in the collection of the
18 tax imposed by this chapter, except that an affidavit given in
19 connection with grant of an easement or right-of-way to a gas,
20 electrical, or telecommunications company, as defined in RCW 80.04.010,
21 or to a public utility district or cooperative that distributes
22 electricity, need be verified only on behalf of the company, district,
23 or cooperative and except that a transfer on death deed need be
24 verified only on behalf of the transferor. The department of revenue
25 (~~shall~~) must annually conduct audits of transactions and affidavits
26 filed under this chapter.

27 **Sec. 27.** RCW 84.33.140 and 2013 2nd sp.s. c 11 s 13 are each
28 amended to read as follows:

29 (1) When land has been designated as forest land under RCW
30 84.33.130, a notation of the designation must be made each year upon
31 the assessment and tax rolls. A copy of the notice of approval
32 together with the legal description or assessor's parcel numbers for
33 the land must, at the expense of the applicant, be filed by the
34 assessor in the same manner as deeds are recorded.

35 (2) In preparing the assessment roll as of January 1, 2002, for
36 taxes payable in 2003 and each January 1st thereafter, the assessor

1 must list each parcel of designated forest land at a value with respect
 2 to the grade and class provided in this subsection and adjusted as
 3 provided in subsection (3) of this section. The assessor must compute
 4 the assessed value of the land using the same assessment ratio applied
 5 generally in computing the assessed value of other property in the
 6 county. Values for the several grades of bare forest land are as
 7 follows:

8	LAND	OPERABILITY	VALUES
9	GRADE	CLASS	PER ACRE
10		1	\$234
11	1	2	229
12		3	217
13		4	157
14		1	198
15	2	2	190
16		3	183
17		4	132
18		1	154
19	3	2	149
20		3	148
21		4	113
22		1	117
23	4	2	114
24		3	113
25		4	86
26		1	85
27	5	2	78
28		3	77
29		4	52
30		1	43
31	6	2	39
32		3	39
33		4	37
34		1	21
35	7	2	21
36		3	20

3 (3) On or before December 31, 2001, the department must adjust by
4 rule under chapter 34.05 RCW, the forest land values contained in
5 subsection (2) of this section in accordance with this subsection, and
6 must certify the adjusted values to the assessor who will use these
7 values in preparing the assessment roll as of January 1, 2002. For the
8 adjustment to be made on or before December 31, 2001, for use in the
9 2002 assessment year, the department must:

10 (a) Divide the aggregate value of all timber harvested within the
11 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
12 volume for the same period, as determined from the harvester excise tax
13 returns filed with the department under RCW 84.33.074; and

14 (b) Divide the aggregate value of all timber harvested within the
15 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
16 volume for the same period, as determined from the harvester excise tax
17 returns filed with the department under RCW 84.33.074; and

18 (c) Adjust the forest land values contained in subsection (2) of
19 this section by a percentage equal to one-half of the percentage change
20 in the average values of harvested timber reflected by comparing the
21 resultant values calculated under (a) and (b) of this subsection.

22 (4) For the adjustments to be made on or before December 31, 2002,
23 and each succeeding year thereafter, the same procedure described in
24 subsection (3) of this section must be followed using harvester excise
25 tax returns filed under RCW 84.33.074. However, this adjustment must
26 be made to the prior year's adjusted value, and the five-year periods
27 for calculating average harvested timber values must be successively
28 one year more recent.

29 (5) Land graded, assessed, and valued as forest land must continue
30 to be so graded, assessed, and valued until removal of designation by
31 the assessor upon the occurrence of any of the following:

- 32 (a) Receipt of notice from the owner to remove the designation;
- 33 (b) Sale or transfer to an ownership making the land exempt from ad
34 valorem taxation;

35 (c) Sale or transfer of all or a portion of the land to a new
36 owner, unless the new owner has signed a notice of forest land
37 designation continuance, except transfer to an owner who is an heir or

1 devisee of a deceased owner or transfer by a transfer on death deed,
2 does not, by itself, result in removal of designation. The signed
3 notice of continuance must be attached to the real estate excise tax
4 affidavit provided for in RCW 82.45.150. The notice of continuance
5 must be on a form prepared by the department. If the notice of
6 continuance is not signed by the new owner and attached to the real
7 estate excise tax affidavit, all compensating taxes calculated under
8 subsection (11) of this section are due and payable by the seller or
9 transferor at time of sale. The auditor may not accept an instrument
10 of conveyance regarding designated forest land for filing or recording
11 unless the new owner has signed the notice of continuance or the
12 compensating tax has been paid, as evidenced by the real estate excise
13 tax stamp affixed thereto by the treasurer. The seller, transferor, or
14 new owner may appeal the new assessed valuation calculated under
15 subsection (11) of this section to the county board of equalization in
16 accordance with the provisions of RCW 84.40.038. Jurisdiction is
17 hereby conferred on the county board of equalization to hear these
18 appeals;

19 (d) Determination by the assessor, after giving the owner written
20 notice and an opportunity to be heard, that:

21 (i) The land is no longer primarily devoted to and used for growing
22 and harvesting timber. However, land may not be removed from
23 designation if a governmental agency, organization, or other recipient
24 identified in subsection (13) or (14) of this section as exempt from
25 the payment of compensating tax has manifested its intent in writing or
26 by other official action to acquire a property interest in the
27 designated forest land by means of a transaction that qualifies for an
28 exemption under subsection (13) or (14) of this section. The
29 governmental agency, organization, or recipient must annually provide
30 the assessor of the county in which the land is located reasonable
31 evidence in writing of the intent to acquire the designated land as
32 long as the intent continues or within sixty days of a request by the
33 assessor. The assessor may not request this evidence more than once in
34 a calendar year;

35 (ii) The owner has failed to comply with a final administrative or
36 judicial order with respect to a violation of the restocking, forest
37 management, fire protection, insect and disease control, and forest

1 debris provisions of Title 76 RCW or any applicable rules under Title
2 76 RCW; or

3 (iii) Restocking has not occurred to the extent or within the time
4 specified in the application for designation of such land.

5 (6) Land may not be removed from designation if there is a
6 governmental restriction that prohibits, in whole or in part, the owner
7 from harvesting timber from the owner's designated forest land. If
8 only a portion of the parcel is impacted by governmental restrictions
9 of this nature, the restrictions cannot be used as a basis to remove
10 the remainder of the forest land from designation under this chapter.
11 For the purposes of this section, "governmental restrictions" includes:
12 (a) Any law, regulation, rule, ordinance, program, or other action
13 adopted or taken by a federal, state, county, city, or other
14 governmental entity; or (b) the land's zoning or its presence within an
15 urban growth area designated under RCW 36.70A.110.

16 (7) The assessor has the option of requiring an owner of forest
17 land to file a timber management plan with the assessor upon the
18 occurrence of one of the following:

- 19 (a) An application for designation as forest land is submitted; or
- 20 (b) Designated forest land is sold or transferred and a notice of
21 continuance, described in subsection (5)(c) of this section, is signed.

22 (8) If land is removed from designation because of any of the
23 circumstances listed in subsection (5)(a) through (c) of this section,
24 the removal applies only to the land affected. If land is removed from
25 designation because of subsection (5)(d) of this section, the removal
26 applies only to the actual area of land that is no longer primarily
27 devoted to the growing and harvesting of timber, without regard to any
28 other land that may have been included in the application and approved
29 for designation, as long as the remaining designated forest land meets
30 the definition of forest land contained in RCW 84.33.035.

31 (9) Within thirty days after the removal of designation as forest
32 land, the assessor must notify the owner in writing, setting forth the
33 reasons for the removal. The seller, transferor, or owner may appeal
34 the removal to the county board of equalization in accordance with the
35 provisions of RCW 84.40.038.

36 (10) Unless the removal is reversed on appeal a copy of the notice
37 of removal with a notation of the action, if any, upon appeal, together
38 with the legal description or assessor's parcel numbers for the land

1 removed from designation must, at the expense of the applicant, be
2 filed by the assessor in the same manner as deeds are recorded and a
3 notation of removal from designation must immediately be made upon the
4 assessment and tax rolls. The assessor must revalue the land to be
5 removed with reference to its true and fair value as of January 1st of
6 the year of removal from designation. Both the assessed value before
7 and after the removal of designation must be listed. Taxes based on
8 the value of the land as forest land are assessed and payable up until
9 the date of removal and taxes based on the true and fair value of the
10 land are assessed and payable from the date of removal from
11 designation.

12 (11) Except as provided in subsection (5)(c), (13), or (14) of this
13 section, a compensating tax is imposed on land removed from designation
14 as forest land. The compensating tax is due and payable to the
15 treasurer thirty days after the owner is notified of the amount of this
16 tax. As soon as possible after the land is removed from designation,
17 the assessor must compute the amount of compensating tax and mail a
18 notice to the owner of the amount of compensating tax owed and the date
19 on which payment of this tax is due. The amount of compensating tax is
20 equal to the difference between the amount of tax last levied on the
21 land as designated forest land and an amount equal to the new assessed
22 value of the land multiplied by the dollar rate of the last levy
23 extended against the land, multiplied by a number, in no event greater
24 than nine, equal to the number of years for which the land was
25 designated as forest land, plus compensating taxes on the land at
26 forest land values up until the date of removal and the prorated taxes
27 on the land at true and fair value from the date of removal to the end
28 of the current tax year.

29 (12) Compensating tax, together with applicable interest thereon,
30 becomes a lien on the land, which attaches at the time the land is
31 removed from designation as forest land and has priority and must be
32 fully paid and satisfied before any recognizance, mortgage, judgment,
33 debt, obligation, or responsibility to or with which the land may
34 become charged or liable. The lien may be foreclosed upon expiration
35 of the same period after delinquency and in the same manner provided by
36 law for foreclosure of liens for delinquent real property taxes as
37 provided in RCW 84.64.050. Any compensating tax unpaid on its due date

1 will thereupon become delinquent. From the date of delinquency until
2 paid, interest is charged at the same rate applied by law to delinquent
3 ad valorem property taxes.

4 (13) The compensating tax specified in subsection (11) of this
5 section may not be imposed if the removal of designation under
6 subsection (5) of this section resulted solely from:

7 (a) Transfer to a government entity in exchange for other forest
8 land located within the state of Washington;

9 (b) A taking through the exercise of the power of eminent domain,
10 or sale or transfer to an entity having the power of eminent domain in
11 anticipation of the exercise of such power;

12 (c) A donation of fee title, development rights, or the right to
13 harvest timber, to a government agency or organization qualified under
14 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
15 sections, or the sale or transfer of fee title to a governmental entity
16 or a nonprofit nature conservancy corporation, as defined in RCW
17 64.04.130, exclusively for the protection and conservation of lands
18 recommended for state natural area preserve purposes by the natural
19 heritage council and natural heritage plan as defined in chapter 79.70
20 RCW or approved for state natural resources conservation area purposes
21 as defined in chapter 79.71 RCW, or for acquisition and management as
22 a community forest trust as defined in chapter 79.155 RCW. At such
23 time as the land is not used for the purposes enumerated, the
24 compensating tax specified in subsection (11) of this section is
25 imposed upon the current owner;

26 (d) The sale or transfer of fee title to the parks and recreation
27 commission for park and recreation purposes;

28 (e) Official action by an agency of the state of Washington or by
29 the county or city within which the land is located that disallows the
30 present use of the land;

31 (f) The creation, sale, or transfer of forestry riparian easements
32 under RCW 76.13.120;

33 (g) The creation, sale, or transfer of a conservation easement of
34 private forest lands within unconfined channel migration zones or
35 containing critical habitat for threatened or endangered species under
36 RCW 76.09.040;

37 (h) The sale or transfer of land within two years after the death
38 of the owner of at least a fifty percent interest in the land if the

1 land has been assessed and valued as classified forest land, designated
2 as forest land under this chapter, or classified under chapter 84.34
3 RCW continuously since 1993. The date of death shown on a death
4 certificate is the date used for the purposes of this subsection
5 (13)(h); or

6 (i)(i) The discovery that the land was designated under this
7 chapter in error through no fault of the owner. For purposes of this
8 subsection (13)(i), "fault" means a knowingly false or misleading
9 statement, or other act or omission not in good faith, that contributed
10 to the approval of designation under this chapter or the failure of the
11 assessor to remove the land from designation under this chapter.

12 (ii) For purposes of this subsection (13), the discovery that land
13 was designated under this chapter in error through no fault of the
14 owner is not the sole reason for removal of designation under
15 subsection (5) of this section if an independent basis for removal
16 exists. An example of an independent basis for removal includes the
17 land no longer being devoted to and used for growing and harvesting
18 timber.

19 (14) In a county with a population of more than six hundred
20 thousand inhabitants or in a county with a population of at least two
21 hundred forty-five thousand inhabitants that borders Puget Sound as
22 defined in RCW 90.71.010, the compensating tax specified in subsection
23 (11) of this section may not be imposed if the removal of designation
24 as forest land under subsection (5) of this section resulted solely
25 from:

- 26 (a) An action described in subsection (13) of this section; or
- 27 (b) A transfer of a property interest to a government entity, or to
28 a nonprofit historic preservation corporation or nonprofit nature
29 conservancy corporation, as defined in RCW 64.04.130, to protect or
30 enhance public resources, or to preserve, maintain, improve, restore,
31 limit the future use of, or otherwise to conserve for public use or
32 enjoyment, the property interest being transferred. At such time as
33 the property interest is not used for the purposes enumerated, the
34 compensating tax is imposed upon the current owner.

35 **Sec. 28.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c
36 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as
37 follows:

1 (1) When land has once been classified under this chapter, a
2 notation of the classification (~~shall~~) must be made each year upon
3 the assessment and tax rolls and the land (~~shall~~) must be valued
4 pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a
5 portion of the classification by the assessor upon occurrence of any of
6 the following:

7 (a) Receipt of notice from the owner to remove all or a portion of
8 the classification;

9 (b) Sale or transfer to an ownership, except a transfer that
10 resulted from a default in loan payments made to or secured by a
11 governmental agency that intends to or is required by law or regulation
12 to resell the property for the same use as before, making all or a
13 portion of the land exempt from ad valorem taxation;

14 (c) Sale or transfer of all or a portion of the land to a new
15 owner, unless the new owner has signed a notice of classification
16 continuance, except transfer to an owner who is an heir or devisee of
17 a deceased owner (~~shall~~) or transfer by a transfer on death deed does
18 not, by itself, result in removal of classification. The notice of
19 continuance (~~shall~~) must be on a form prepared by the department. If
20 the notice of continuance is not signed by the new owner and attached
21 to the real estate excise tax affidavit, all additional taxes
22 calculated pursuant to subsection (4) of this section (~~shall~~) become
23 due and payable by the seller or transferor at time of sale. The
24 auditor (~~shall~~) may not accept an instrument of conveyance regarding
25 classified land for filing or recording unless the new owner has signed
26 the notice of continuance or the additional tax has been paid, as
27 evidenced by the real estate excise tax stamp affixed thereto by the
28 treasurer. The seller, transferor, or new owner may appeal the new
29 assessed valuation calculated under subsection (4) of this section to
30 the county board of equalization in accordance with the provisions of
31 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
32 equalization to hear these appeals;

33 (d)(i) Determination by the assessor, after giving the owner
34 written notice and an opportunity to be heard, that all or a portion of
35 the land no longer meets the criteria for classification under this
36 chapter. The criteria for classification pursuant to this chapter
37 continue to apply after classification has been granted.

1 (ii) The granting authority, upon request of an assessor, (~~shall~~)
2 must provide reasonable assistance to the assessor in making a
3 determination whether the land continues to meet the qualifications of
4 RCW 84.34.020 (1) or (3). The assistance (~~shall~~) must be provided
5 within thirty days of receipt of the request.

6 (2) Land may not be removed from classification because of:

7 (a) The creation, sale, or transfer of forestry riparian easements
8 under RCW 76.13.120; or

9 (b) The creation, sale, or transfer of a fee interest or a
10 conservation easement for the riparian open space program under RCW
11 76.09.040.

12 (3) Within thirty days after the removal of all or a portion of the
13 land from current use classification under subsection (1) of this
14 section, the assessor (~~shall~~) must notify the owner in writing,
15 setting forth the reasons for the removal. The seller, transferor, or
16 owner may appeal the removal to the county board of equalization in
17 accordance with the provisions of RCW 84.40.038. The removal notice
18 must explain the steps needed to appeal the removal decision, including
19 when a notice of appeal must be filed, where the forms may be obtained,
20 and how to contact the county board of equalization.

21 (4) Unless the removal is reversed on appeal, the assessor
22 (~~shall~~) must revalue the affected land with reference to its true and
23 fair value on January 1st of the year of removal from classification.
24 Both the assessed valuation before and after the removal of
25 classification (~~shall~~) must be listed and taxes (~~shall~~) must be
26 allocated according to that part of the year to which each assessed
27 valuation applies. Except as provided in subsection (6) of this
28 section, an additional tax, applicable interest, and penalty (~~shall~~)
29 must be imposed which (~~shall-be~~) are due and payable to the treasurer
30 thirty days after the owner is notified of the amount of the additional
31 tax. As soon as possible, the assessor (~~shall~~) must compute the
32 amount of additional tax, applicable interest, and penalty and the
33 treasurer (~~shall~~) must mail notice to the owner of the amount thereof
34 and the date on which payment is due. The amount of the additional
35 tax, applicable interest, and penalty (~~shall~~) must be determined as
36 follows:

37 (a) The amount of additional tax (~~shall-be~~) is equal to the
38 difference between the property tax paid as "open space land," "farm

1 and agricultural land," or "timber land" and the amount of property tax
2 otherwise due and payable for the seven years last past had the land
3 not been so classified;

4 (b) The amount of applicable interest (~~((shall be))~~) is equal to the
5 interest upon the amounts of the additional tax paid at the same
6 statutory rate charged on delinquent property taxes from the dates on
7 which the additional tax could have been paid without penalty if the
8 land had been assessed at a value without regard to this chapter;

9 (c) The amount of the penalty (~~((shall be))~~) is as provided in RCW
10 84.34.080. The penalty (~~((shall))~~) may not be imposed if the removal
11 satisfies the conditions of RCW 84.34.070.

12 (5) Additional tax, applicable interest, and penalty(~~((, shall))~~)
13 become a lien on the land (~~((which shall attach))~~) that attaches at the
14 time the land is removed from classification under this chapter and
15 (~~((shall))~~) have priority to and (~~((shall))~~) must be fully paid and
16 satisfied before any recognizance, mortgage, judgment, debt, obligation
17 or responsibility to or with which the land may become charged or
18 liable. This lien may be foreclosed upon expiration of the same period
19 after delinquency and in the same manner provided by law for
20 foreclosure of liens for delinquent real property taxes as provided in
21 RCW 84.64.050. Any additional tax unpaid on its due date (~~((shall))~~)
22 will thereupon become delinquent. From the date of delinquency until
23 paid, interest (~~((shall))~~) must be charged at the same rate applied by
24 law to delinquent ad valorem property taxes.

25 (6) The additional tax, applicable interest, and penalty specified
26 in subsection (4) of this section (~~((shall))~~) may not be imposed if the
27 removal of classification pursuant to subsection (1) of this section
28 resulted solely from:

29 (a) Transfer to a government entity in exchange for other land
30 located within the state of Washington;

31 (b)(i) A taking through the exercise of the power of eminent
32 domain, or (ii) sale or transfer to an entity having the power of
33 eminent domain in anticipation of the exercise of such power, said
34 entity having manifested its intent in writing or by other official
35 action;

36 (c) A natural disaster such as a flood, windstorm, earthquake, or
37 other such calamity rather than by virtue of the act of the landowner
38 changing the use of the property;

1 (d) Official action by an agency of the state of Washington or by
2 the county or city within which the land is located which disallows the
3 present use of the land;

4 (e) Transfer of land to a church when the land would qualify for
5 exemption pursuant to RCW 84.36.020;

6 (f) Acquisition of property interests by state agencies or agencies
7 or organizations qualified under RCW 84.34.210 and 64.04.130 for the
8 purposes enumerated in those sections. At such time as these property
9 interests are not used for the purposes enumerated in RCW 84.34.210 and
10 64.04.130 the additional tax specified in subsection (4) of this
11 section (~~shall~~) must be imposed;

12 (g) Removal of land classified as farm and agricultural land under
13 RCW 84.34.020(2)(f);

14 (h) Removal of land from classification after enactment of a
15 statutory exemption that qualifies the land for exemption and receipt
16 of notice from the owner to remove the land from classification;

17 (i) The creation, sale, or transfer of forestry riparian easements
18 under RCW 76.13.120;

19 (j) The creation, sale, or transfer of a conservation easement of
20 private forest lands within unconfined channel migration zones or
21 containing critical habitat for threatened or endangered species under
22 RCW 76.09.040;

23 (k) The sale or transfer of land within two years after the death
24 of the owner of at least a fifty percent interest in the land if the
25 land has been assessed and valued as classified forest land, designated
26 as forest land under chapter 84.33 RCW, or classified under this
27 chapter continuously since 1993. The date of death shown on a death
28 certificate is the date used for the purposes of this subsection
29 (6)(k); or

30 (l)(i) The discovery that the land was classified under this
31 chapter in error through no fault of the owner. For purposes of this
32 subsection (6)(l), "fault" means a knowingly false or misleading
33 statement, or other act or omission not in good faith, that contributed
34 to the approval of classification under this chapter or the failure of
35 the assessor to remove the land from classification under this chapter.

36 (ii) For purposes of this subsection (6), the discovery that land
37 was classified under this chapter in error through no fault of the
38 owner is not the sole reason for removal of classification pursuant to

1 subsection (1) of this section if an independent basis for removal
2 exists. Examples of an independent basis for removal include the owner
3 changing the use of the land or failing to meet any applicable income
4 criteria required for classification under this chapter.

5 NEW SECTION. **Sec. 29.** Section 23 of this act takes effect if the
6 Washington uniform power of attorney act (House/Senate Bill No. . . .)
7 is not enacted during the 2014 regular legislative session.

8 NEW SECTION. **Sec. 30.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 31.** Sections 1 through 17 of this act
13 constitute a new chapter in Title 64 RCW.

Passed by the House March 11, 2014.

Passed by the Senate March 7, 2014.

Approved by the Governor March 27, 2014.

Filed in Office of Secretary of State March 27, 2014.