

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5344**

Chapter 272, Laws of 2013

63rd Legislature  
2013 Regular Session

TRUSTS

EFFECTIVE DATE: 07/28/13

Passed by the Senate April 22, 2013  
YEAS 45 NAYS 3

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 15, 2013  
YEAS 97 NAYS 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Approved May 16, 2013, 2:18 p.m.

JAY INSLEE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5344** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

\_\_\_\_\_  
**Secretary**

FILED

May 17, 2013

**Secretary of State  
State of Washington**

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SENATE BILL 5344

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AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Mullet, Hobbs, Kline, Fain, and Benton

Read first time 01/28/13. Referred to Committee on Financial Institutions, Housing & Insurance.

1            AN ACT Relating to revising state statutes concerning trusts;  
2 amending RCW 11.36.010, 11.36.021, 11.96A.050, 11.96A.070, 11.96A.120,  
3 11.96A.125, 11.97.010, 11.98.005, 11.98.019, 11.98.039, 11.98.041,  
4 11.98.045, 11.98.051, 11.98.080, 11.103.040, 11.103.050, 11.96A.250,  
5 11.98.015, 11.98.078, 11.103.030, 11.106.010, 11.106.020, and  
6 11.118.050; adding new sections to chapter 11.98 RCW; creating a new  
7 section; and repealing RCW 11.98.090.

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

9            **Sec. 1.** RCW 11.36.010 and 1983 c 51 s 1 are each amended to read  
10 as follows:

11            (1) Except as provided in subsections (2), (3), and (4) of this  
12 section, the following persons are not qualified to act as personal  
13 representatives: Corporations, limited liability companies, limited  
14 liability partnerships, minors, persons of unsound mind, or persons who  
15 have been convicted of (a) any felony or ((of a misdemeanor)) (b) any  
16 crime involving moral turpitude((: PROVIDED, That)).

17            (2) Trust companies regularly organized under the laws of this  
18 state and national banks when authorized so to do may act as the  
19 personal representative of ((decedents' or incompetents' estates)) an

1 individual's estate or of the estate of an incapacitated person upon  
2 petition of any person having a right to such appointment and may act  
3 as ~~((executors))~~ personal representatives or guardians when so  
4 appointed by will(~~(:—PROVIDED—FURTHER,—That—professional—service~~  
5 ~~corporations—regularly—organized—under—the—laws—of—this—state—whose~~  
6 ~~shareholder—or—shareholders—are—exclusively—attorneys—may—act—as~~  
7 ~~personal—representatives))~~). No trust company or national bank may  
8 qualify as such ~~((executor))~~ personal representative or guardian under  
9 any will hereafter drawn by it or its agents or employees, and no  
10 salaried attorney of any such company may be allowed any attorney fee  
11 for probating any such will or in relation to the administration or  
12 settlement of any such estate, and no part of any attorney fee may  
13 inure, directly or indirectly, to the benefit of any trust company or  
14 national bank.

15 (3) Professional service corporations, professional limited  
16 liability companies, or limited liability partnerships, that are duly  
17 organized under the laws of this state and whose shareholders, members,  
18 or partners, respectively, are exclusively attorneys, may act as  
19 personal representatives.

20 (4) Any nonprofit corporation may act as personal representative if  
21 the articles of incorporation or bylaws of that corporation permit the  
22 action and the corporation is in compliance with all applicable  
23 provisions of Title 24 RCW.

24 (5) When any person to whom letters testamentary or of  
25 administration have been issued becomes disqualified to act because of  
26 becoming of unsound mind or being convicted of (a) any felony or (b)  
27 any crime ((~~or—misdemeanor~~)) involving moral turpitude, the court  
28 having jurisdiction ((~~shall~~)) must revoke his or her letters.

29 (6) A nonresident may be appointed to act as personal  
30 representative if the nonresident appoints an agent who is a resident  
31 of the county where such estate is being probated or who is an attorney  
32 of record of the estate, upon whom service of all papers may be made;  
33 such appointment to be made in writing and filed by the clerk with  
34 other papers of such estate; and, unless bond has been waived as  
35 provided by RCW 11.28.185, such nonresident personal representative  
36 ((~~shall~~)) must file a bond to be approved by the court.

1       **Sec. 2.** RCW 11.36.021 and 1991 c 72 s 1 are each amended to read  
2 as follows:

3       (1) The following may serve as trustees:

4       (a) Any suitable persons over the age of eighteen years, if not  
5 otherwise disqualified;

6       (b) Any trust company regularly organized under the laws of this  
7 state and national banks when authorized to do so;

8       (c) Any nonprofit corporation, if the articles of incorporation or  
9 bylaws of that corporation permit the action and if the corporation is  
10 in compliance with all applicable provisions of Title 24 RCW;

11       (d) Any professional service corporations (~~regularly~~),  
12 professional limited liability companies, or limited liability  
13 partnerships, that are duly organized under the laws of this state and  
14 whose (~~shareholder or~~) shareholders, members, or partners,  
15 respectively, are exclusively attorneys; (~~and~~)

16       (e) Any state or regional college or university, as those  
17 institutions are defined in RCW 28B.10.016;

18       (f) Any community or technical college, as those institutions are  
19 defined in RCW 28B.50.030; and

20       (g) Any other entity so authorized under the laws of the state of  
21 Washington.

22       (2) The following are disqualified to serve as trustees:

23       (a) Minors, persons of unsound mind, or persons who have been  
24 convicted of (i) any felony or (~~a misdemeanor~~) (ii) any crime  
25 involving moral turpitude; and

26       (b) A corporation organized under Title 23B RCW that is not  
27 authorized under the laws of the state of Washington to act as a  
28 fiduciary.

29       **Sec. 3.** RCW 11.96A.050 and 2011 c 327 s 6 are each amended to read  
30 as follows:

31       (1) Venue for proceedings pertaining to trusts (~~shall be~~) is:

32       (a) For testamentary trusts established under wills probated in the  
33 state of Washington, in the superior court of the county where the  
34 probate of the will is being administered or was completed or, in the  
35 alternative, the superior court of the county where any qualified  
36 beneficiary of the trust (~~entitled to notice under RCW 11.97.010~~) as

1 defined in section 8 of this act resides, the county where any trustee  
2 resides or has a place of business, or the county where any real  
3 property that is an asset of the trust is located; and

4 (b) For all other trusts, in the superior court of the county where  
5 any qualified beneficiary of the trust (~~entitled to notice under RCW~~  
6 ~~11.97.010~~) as defined in section 8 of this act resides, the county  
7 where any trustee resides or has a place of business, or the county  
8 where any real property that is an asset of the trust is located. If  
9 no county has venue for proceedings pertaining to a trust under the  
10 preceding sentence, then in any county.

11 (2) A party to a proceeding pertaining to a trust may request that  
12 venue be changed. If the request is made within four months of the  
13 giving of the first notice of a proceeding pertaining to the trust,  
14 except for good cause shown, venue must be moved to the county with the  
15 strongest connection to the trust as determined by the court,  
16 considering such factors as the residence of a qualified beneficiary of  
17 the trust (~~entitled to notice under RCW 11.97.010~~) as defined in  
18 section 8 of this act, the residence or place of business of a trustee,  
19 and the location of any real property that is an asset of the trust.

20 (3) Venue for proceedings subject to chapter 11.88 or 11.92 RCW  
21 (~~shall~~) must be determined under the provisions of those chapters.

22 (4) Venue for proceedings pertaining to the probate of wills, the  
23 administration and disposition of a decedent's property, including  
24 nonprobate assets, and any other matter not identified in subsection  
25 (1), (2), or (3) of this section, (~~shall~~) must be in any county in  
26 the state of Washington that the petitioner selects. A party to a  
27 proceeding may request that venue be changed if the request is made  
28 within four months of the mailing of the notice of appointment and  
29 pendency of probate required by RCW 11.28.237, and except for good  
30 cause shown, venue must be moved as follows:

31 (a) If the decedent was a resident of the state of Washington at  
32 the time of death, to the county of the decedent's residence; or

33 (b) If the decedent was not a resident of the state of Washington  
34 at the time of death, to any of the following:

35 (i) Any county in which any part of the probate estate might be;

36 (ii) If there are no probate assets, any county where any  
37 nonprobate asset might be; or

38 (iii) The county in which the decedent died.

1 (5) Once letters testamentary or of administration have been  
2 granted in the state of Washington, all orders, settlements, trials,  
3 and other proceedings under this title (~~(shall)~~) must be had or made in  
4 the county in which such letters have been granted unless venue is  
5 moved as provided in subsection (4) of this section.

6 (6) Venue for proceedings pertaining to powers of attorney  
7 (~~(shall)~~) must be in the superior court of the county of the  
8 principal's residence, except for good cause shown.

9 (7) If venue is moved, an action taken before venue is changed is  
10 not invalid because of the venue.

11 (8) Any request to change venue that is made more than four months  
12 after the commencement of the action may be granted in the discretion  
13 of the court.

14 **Sec. 4.** RCW 11.96A.070 and 2011 c 327 s 7 are each amended to read  
15 as follows:

16 (1)(a) A beneficiary of an express trust may not commence a  
17 proceeding against a trustee for breach of trust more than three years  
18 after the date a report was delivered in the manner provided in RCW  
19 11.96A.110 to the beneficiary or to a representative of the beneficiary  
20 (~~(was sent a report that)~~) if the report adequately disclosed the  
21 existence of a potential claim for breach of trust and informed the  
22 beneficiary of the time allowed for commencing a proceeding.

23 (b) A report adequately discloses the existence of a potential  
24 claim for breach of trust if it provides sufficient information so that  
25 the beneficiary or representative knows or should have known of the  
26 potential claim (~~(or should have inquired into its existence)~~). A  
27 report that includes (~~(the following information)~~) all of the items  
28 described in this subsection (b) that are relevant for the reporting  
29 period is presumed to have provided such sufficient information  
30 regarding the existence of potential claims for breach of trust for  
31 such period:

32 (i) A statement of receipts and disbursements of principal and  
33 income that have occurred during the accounting period;

34 (ii) A statement of the assets and liabilities of the trust and  
35 their values at the beginning and end of the period;

36 (iii) The trustee's compensation for the period;

1 (iv) The agents hired by the trustee, their relationship to the  
2 trustee, if any, and their compensation, for the period;

3 (v) Disclosure of any pledge, mortgage, option, or lease of trust  
4 property, or other agreement affecting trust property binding for a  
5 period of five years or more that was granted or entered into during  
6 the accounting period;

7 (vi) Disclosure of all transactions during the period that are  
8 equivalent to one of the types of transactions described in RCW  
9 11.98.078 or otherwise could have been affected by a conflict between  
10 the trustee's fiduciary and personal interests;

11 (vii) A statement that the recipient of the account information may  
12 petition the superior court pursuant to chapter 11.106 RCW to obtain  
13 review of the statement and of acts of the trustee disclosed in the  
14 statement; and

15 (viii) A statement that claims against the trustee for breach of  
16 trust may not be made after the expiration of three years from the date  
17 the (~~beneficiary receives the statement~~) trustee delivers the report  
18 in the manner provided in RCW 11.96A.110.

19 (c) If (a) of this subsection does not apply, a judicial proceeding  
20 by a beneficiary against a trustee for breach of trust must be  
21 commenced within three years after the first to occur of:

22 (i) The removal, resignation, or death of the trustee;

23 (ii) The termination of the beneficiary's interest in the trust; or

24 (iii) The termination of the trust.

25 (d) For purposes of this section, "express trust" does not include  
26 resulting trusts, constructive trusts, business trusts in which  
27 certificates of beneficial interest are issued to the beneficiary,  
28 investment trusts, voting trusts, trusts in the nature of mortgages or  
29 pledges, liquidation trusts, or trusts for the sole purpose of paying  
30 dividends, interest, interest coupons, salaries, wages, pensions, or  
31 profits, trusts created in deposits in any financial institution under  
32 chapter 30.22 RCW, unless any such trust that is created in writing  
33 specifically incorporates this chapter in whole or in part.

34 (2) Except as provided in RCW 11.96A.250 with respect to special  
35 representatives, an action against a personal representative for  
36 alleged breach of fiduciary duty by an heir, legatee, or other  
37 interested party must be brought before discharge of the personal  
38 representative.

1 (3) The legislature hereby confirms the long standing public policy  
2 of promoting the prompt and efficient resolution of matters involving  
3 trusts and estates. To further implement this policy, the legislature  
4 adopts the following statutory provisions in order to:

5 (a) Encourage and facilitate the participation of qualified  
6 individuals as special representatives;

7 (b) Serve the public's interest in having a prompt and efficient  
8 resolution of matters involving trusts or estates; and

9 (c) Promote complete and final resolution of proceedings involving  
10 trusts and estates.

11 (i) Actions against a special representative must be brought before  
12 the earlier of:

13 (A) Three years from the discharge of the special representative as  
14 provided in RCW 11.96A.250; or

15 (B) The entry of an order by a court of competent jurisdiction  
16 under RCW 11.96A.240 approving the written agreement executed by all  
17 interested parties in accord with the provisions of RCW 11.96A.220.

18 (ii) If a legal action is commenced against the special  
19 representative after the expiration of the period during which claims  
20 may be brought against the special representative as provided in (c)(i)  
21 of this subsection, alleging property damage, property loss, or other  
22 civil liability caused by or resulting from an alleged act or omission  
23 of the special representative arising out of or by reason of the  
24 special representative's duties or actions as special representative,  
25 the special representative (~~shall~~) must be indemnified: (A) From the  
26 assets held in the trust or comprising the estate involved in the  
27 dispute; and (B) by the persons bringing the legal action, for all  
28 expenses, attorneys' fees, judgments, settlements, decrees, or amounts  
29 due and owing or paid in satisfaction of or incurred in the defense of  
30 the legal action. To the extent possible, indemnification must be made  
31 first by the persons bringing the legal action, second from that  
32 portion of the trust or estate that is held for the benefit of, or has  
33 been distributed or applied to, the persons bringing the legal action,  
34 and third from the other assets held in the trust or comprising the  
35 estate involved in the dispute.

36 (4) The tolling provisions of RCW 4.16.190 apply to this chapter  
37 except that the running of a statute of limitations under subsection  
38 (1) or (2) of this section, or any other applicable statute of



1 limitations for any matter that is the subject of dispute under this  
2 chapter, is not tolled as to an individual who had a guardian ad litem,  
3 limited or general guardian of the estate, or a special representative  
4 to represent the person during the probate or dispute resolution  
5 proceeding.

6 **Sec. 5.** RCW 11.96A.120 and 2011 c 327 s 9 are each amended to read  
7 as follows:

8 ~~(1) ((With respect to a particular matter that affects a trust,~~  
9 ~~probate estate, guardianship estate, or property subject to a power of~~  
10 ~~attorney, in which the interests of such fiduciary estate and the~~  
11 ~~beneficiaries are not in conflict:))~~ Notice to a person who may  
12 represent and bind another person under this section has the same  
13 effect as if notice were given directly to the other person.

14 (2) The consent of a person who may represent and bind another  
15 person under this section is binding on the person represented unless  
16 the person represented objects to the representation before the consent  
17 would otherwise have become effective.

18 (3) The following limitations on the ability to serve as a virtual  
19 representative apply:

20 (a) A trustor may not represent and bind a beneficiary under this  
21 section with respect to the termination and modification of an  
22 irrevocable trust; and

23 (b) Representation of an incapacitated trustor with respect to his  
24 or her powers over a trust is subject to the provisions of RCW  
25 11.103.030, and chapters 11.96A, 11.88, and 11.92 RCW.

26 (4) To the extent there is no conflict of interest between the  
27 representative and the person represented or among those being  
28 represented with respect to the particular question or dispute:

29 (a) A guardian may represent and bind the estate that the guardian  
30 controls, subject to chapters 11.96A, 11.88, and 11.92 RCW;

31 (b) A guardian of the person may represent and bind the  
32 incapacitated person if a guardian of the incapacitated person's estate  
33 has not been appointed;

34 (c) An agent having authority to act with respect to the particular  
35 question or dispute may represent and bind the principal;

36 ~~((e))~~ (d) A trustee may represent and bind the beneficiaries of  
37 the trust; ((and

1       ~~(d)~~) (e) A personal representative of a decedent's estate may  
2 represent and bind persons interested in the estate(~~(-~~

3       ~~(2) This section is intended to adopt the common law concept of~~  
4 ~~virtual representation. This section supplements the common law~~  
5 ~~relating to the doctrine of virtual representation and shall not be~~  
6 ~~construed as limiting the application of that common law doctrine.~~

7       ~~(3) Any notice requirement in this title is satisfied if:~~

8       ~~(a)~~); and

9       (f) A parent may represent and bind the parent's minor or unborn  
10 child or children if a guardian for the child or children has not been  
11 appointed.

12       (5) Unless otherwise represented, a minor, incapacitated, or unborn  
13 individual, or a person whose identity or location is unknown and not  
14 reasonably ascertainable, may be represented by and bound by another  
15 having a substantially identical interest with respect to the  
16 particular question or dispute, but only to the extent there is no  
17 conflict of interest between the representative and the person  
18 represented with regard to the particular question or dispute.

19       (6) Where an interest ((in an estate, trust, or nonprobate asset or  
20 an interest that may be affected by a power of attorney)) has been  
21 given to persons who comprise a certain class upon the happening of a  
22 certain event, ((notice may be given to the living persons who would  
23 constitute the class if the event had happened immediately before the  
24 commencement of the proceeding requiring notice, and the persons shall  
25 virtually represent all other members of the class;

26       ~~(b)~~) the living persons who would constitute the class as of the  
27 date the representation is to be determined may virtually represent all  
28 other members of the class as of that date, but only to the extent that  
29 there is no conflict of interest between the representative and the  
30 person(s) represented with regard to the particular question or  
31 dispute.

32       (7) Where an interest ((in an estate, trust, or nonprobate asset or  
33 an interest that may be affected by a power of attorney)) has been  
34 given to a living person, and the same interest, or a share in it, is  
35 to pass to the surviving spouse or surviving domestic partner or to  
36 persons who are, or might be, the ((distributees,)) heirs, issue, or  
37 other kindred of that living person ((upon the happening of a future

1 event, notice may be given to that living person, and the living person  
2 shall virtually represent the surviving spouse or surviving domestic  
3 partner, distributees, heirs, issue, or other kindred of the person;

4 ~~(c))~~ or the distributees of the estate of that living person upon  
5 the happening of a future event, that living person may virtually  
6 represent the surviving spouse or surviving domestic partner, heirs,  
7 issue, or other kindred of the person, and the distributees of the  
8 estate of the person, but only to the extent that there is no conflict  
9 of interest between the representative and the person(s) represented  
10 with regard to the particular question or dispute.

11 (8) Except as otherwise provided in ((this)) subsection (7) of this  
12 section, where an interest ((in an estate, trust, or nonprobate asset  
13 or an interest that may be affected by a power of attorney)) has been  
14 given to a person or a class of persons, or both, upon the happening of  
15 any future event, and the same interest or a share of the interest is  
16 to pass to another person or class of persons, or both, upon the  
17 happening of an additional future event, ((notice may be given to)) the  
18 living person or persons who would take the interest upon the happening  
19 of the first event((, and the living person or persons shall)) may  
20 virtually represent the persons and classes of persons who might take  
21 on the happening of the additional future event((; and

22 ~~(d) The holder of a general power of appointment, exercisable~~  
23 ~~either during the power holder's life or by will, or a limited power of~~  
24 ~~appointment, exercisable either during the power holder's life or by~~  
25 ~~will, that excludes as possible appointees only the power holder, his~~  
26 ~~or her estate, his or her creditors, and the creditors of his or her~~  
27 ~~estate, may accept notice and virtually represent and bind persons~~  
28 ~~whose interests, as permissible appointees, takers in default, or~~  
29 ~~otherwise, are subject to the power, to the extent there is no conflict~~  
30 ~~of interest between the holder of the power of appointment and the~~  
31 ~~persons represented with respect to the particular question or dispute.~~

32 ~~(4) A party is not virtually represented by a person receiving~~  
33 ~~notice if a conflict of interest involving the matter is known to exist~~  
34 ~~between the notified person and the party)), but only to the extent~~  
35 that there is no conflict of interest between the representative and  
36 the person(s) represented with regard to the particular question or  
37 dispute.

1        ~~((+5+))~~ (9) To the extent there is no conflict of interest between  
2 the holder of the power of appointment and the persons represented with  
3 respect to the particular question or dispute, the holder of a lifetime  
4 or testamentary power of appointment may virtually represent and bind  
5 persons who are permissible appointees or takers in default (but only  
6 to the extent that they are permissible appointees in the case of a  
7 limited power of appointment) under the power, and who are not  
8 permissible distributees as defined in section 8 of this act.

9        (10) The attorney general may virtually represent and bind a  
10 charitable organization if:

11        (a) The charitable organization is not a qualified beneficiary as  
12 defined in section 8 of this act specified in the trust instrument or  
13 acting as trustee; or

14        (b) The charitable organization is a qualified beneficiary, but is  
15 not a permissible distributee, as those terms are defined in section 8  
16 of this act, and its beneficial interest in the trust is subject to  
17 change by the trustor or by a person designated by the trustor.

18        (11) An action taken by the court is conclusive and binding upon  
19 each person receiving actual or constructive notice or who is otherwise  
20 represented under this section.

21        (12) This section is intended to adopt the common law concept of  
22 virtual representation. This section supplements the common law  
23 relating to the doctrine of virtual representation and may not be  
24 construed as limiting the application of that common law doctrine.

25        **Sec. 6.** RCW 11.96A.125 and 2011 c 327 s 11 are each amended to  
26 read as follows:

27        The terms of a will or trust, even if unambiguous, may be reformed  
28 by judicial proceedings (~~or binding nonjudicial procedure~~) under this  
29 chapter to conform the terms to the intention of the testator or  
30 trustor if it is proved by clear, cogent, and convincing evidence (~~or~~  
31 ~~the parties to a binding nonjudicial agreement agree that there is~~  
32 ~~clear, cogent, and convincing evidence,~~) that both the intent of the  
33 testator or trustor and the terms of the will or trust were affected by  
34 a mistake of fact or law, whether in expression or inducement. This  
35 does not limit the ability to reform the will or trust using the  
36 binding nonjudicial procedures of RCW 11.96A.220.

1       **Sec. 7.** RCW 11.97.010 and 2011 c 327 s 12 are each amended to read  
2 as follows:

3       (~~(1)~~) The trustor of a trust may by the provisions of the trust  
4 relieve the trustee from any or all of the duties, restrictions, and  
5 liabilities which would otherwise be imposed by chapters 11.95, 11.98,  
6 11.100, and 11.104A RCW and RCW 11.106.020, or may alter or deny any or  
7 all of the privileges and powers conferred by those provisions; or may  
8 add duties, restrictions, liabilities, privileges, or powers to those  
9 imposed or granted by those provisions. If any specific provision of  
10 those chapters is in conflict with the provisions of a trust, the  
11 provisions of the trust control whether or not specific reference is  
12 made in the trust to any of those chapters, except as provided in RCW  
13 6.32.250, 11.96A.190, 19.36.020, section 8 of this act, 11.98.200  
14 through 11.98.240, section 16(1) of this act, 11.95.100 through  
15 11.95.150, and chapter 11.103 RCW. In no event may a trustee be  
16 relieved of the duty to act in good faith and with honest judgment (~~or~~  
17 ~~the duty to provide information to beneficiaries as required in this~~  
18 ~~section~~). Notwithstanding the breadth of discretion granted to a  
19 trustee in the terms of the trust, including the use of such terms as  
20 "absolute," "sole," or "uncontrolled," the trustee (~~shall~~) must  
21 exercise a discretionary power in good faith and in accordance with the  
22 terms and purposes of the trust and the interests of the beneficiaries.

23       (~~(2)~~ ~~Within sixty days after the date of acceptance of the~~  
24 ~~position of trustee of an irrevocable trust, or the date the trustee of~~  
25 ~~a formerly revocable trust acquires knowledge that the trust has become~~  
26 ~~irrevocable, whether by the death of the trustor or otherwise, the~~  
27 ~~trustee shall give notice of: (a) The existence of the trust, (b) the~~  
28 ~~identity of the trustor or trustors, (c) the trustee's name, address,~~  
29 ~~and telephone number, and (d) the right to request such information as~~  
30 ~~is reasonably necessary to enable the notified person to enforce his or~~  
31 ~~her rights under the trust, to all persons interested in the trust, as~~  
32 ~~defined in RCW 11.96A.030, and who would be entitled to notice under~~  
33 ~~RCW 11.96A.110 and 11.96A.120 if they were a party to judicial~~  
34 ~~proceedings regarding the trust. If any such person is a minor and no~~  
35 ~~guardian has been appointed for such person by any court, then such~~  
36 ~~notice may be given to a parent of the person. If a person otherwise~~  
37 ~~entitled to notice under this section is a charitable organization, and~~  
38 ~~the charitable organization's only interest in the trust is a future~~

1 interest that may be revoked, then such notice shall instead be given  
2 to the attorney general. A trustee who gives notice pursuant to this  
3 section satisfies the duty to inform the beneficiaries of the existence  
4 of the trust. The notice required under this subsection (2) applies  
5 only to irrevocable trusts created after December 31, 2011, and  
6 revocable trusts that become irrevocable after December 31, 2011,  
7 provided that all common law duties of a trustee to notify  
8 beneficiaries applicable to trusts created or that became irrevocable  
9 before such date are not affected.

10 (3) A trustee shall keep all persons interested in the trust, as  
11 defined in RCW 11.96A.030, and who would be entitled to notice under  
12 RCW 11.96A.110 and 11.96A.120 if they were a party to judicial  
13 proceedings regarding the trust, reasonably informed about the  
14 administration of the trust and of the material facts necessary for  
15 them to protect their interests. A report that contains the following  
16 is presumed to satisfy the trustee's duty to keep such persons  
17 reasonably informed for the relevant period of trust administration:

18 (a) A statement of receipts and disbursements of principal and  
19 income that have occurred during the accounting period;

20 (b) A statement of the assets and liabilities of the trust and  
21 their values at the beginning and end of the period;

22 (c) The trustee's compensation for the period;

23 (d) The agents hired by the trustee, their relationship to the  
24 trustee, if any, and their compensation, for the period;

25 (e) Disclosure of any pledge, mortgage, option, or lease of trust  
26 property, or other agreement affecting trust property binding for a  
27 period of five years or more that was granted or entered into during  
28 the accounting period;

29 (f) Disclosure of all transactions during the period that are  
30 equivalent to one of the types of transactions described in RCW  
31 11.98.078 or otherwise could have been affected by a conflict between  
32 the trustee's fiduciary and personal interests;

33 (g) A statement that the recipient of the account information may  
34 petition the superior court pursuant to chapter 11.106 RCW to obtain  
35 review of the statement and of acts of the trustee disclosed in the  
36 statement; and

37 (h) A statement that claims against the trustee for breach of trust

1 may not be made after the expiration of three years from the date the  
2 beneficiary receives the statement.

3 ~~(4) Unless unreasonable under the circumstances, a trustee shall~~  
4 ~~promptly respond to any beneficiary's request for information related~~  
5 ~~to the administration of the trust.~~

6 ~~(5) If a person entitled to notice under this section requests~~  
7 ~~information reasonably necessary to enable the notified person to~~  
8 ~~enforce his or her rights under the trust, then the trustee must~~  
9 ~~provide such information within sixty days of receipt of such request.~~  
10 ~~Delivery of the entire trust instrument to the persons entitled to~~  
11 ~~notice under this section who request information concerning the terms~~  
12 ~~of the trust reasonably necessary to enable the notified person to~~  
13 ~~enforce his or her rights under the trust is deemed to satisfy the~~  
14 ~~trustee's obligations under this subsection.)~~

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 11.98 RCW  
16 to be codified before RCW 11.98.005 to read as follows:

17 The definitions in this section apply throughout this chapter, and  
18 throughout this title where specifically referenced, unless the context  
19 clearly requires otherwise.

20 (1) "Permissible distributee" means a trust beneficiary who is  
21 currently eligible to receive distributions of trust income or  
22 principal, whether the distribution is mandatory or discretionary.

23 (2) "Qualified beneficiary" means a trust beneficiary who, on the  
24 date that such beneficiary's qualification is determined:

25 (a) Is a permissible distributee;

26 (b) Would be a permissible distributee if the interests of the  
27 distributees described in (a) of this subsection terminated on that  
28 date; or

29 (c) Would be a permissible distributee if the trust terminated on  
30 that date.

31 **Sec. 9.** RCW 11.98.005 and 2011 c 327 s 22 are each amended to read  
32 as follows:

33 (1) If provisions of a trust instrument designate Washington as the  
34 situs of the trust or designate Washington law to govern the trust or  
35 any of its terms, then the situs of the trust is Washington provided  
36 that one of the following conditions is met:

1 (a) A trustee has a place of business in or a trustee is a resident  
2 of Washington; or  
3 (b) More than an insignificant part of the trust administration  
4 occurs in Washington; or  
5 (c) The trustor resides in Washington at the time situs is being  
6 established, or resided in Washington at the time the trust became  
7 irrevocable; or  
8 (d) One or more of the qualified beneficiaries resides in  
9 Washington; or  
10 (e) An interest in real property located in Washington is an asset  
11 of the trust.  
12 (2)(a) Unless the trust instrument designates a state other than  
13 Washington as the situs of the trust and does not expressly authorize  
14 transfer of situs, the trustee may register the trust as a Washington  
15 trust if any of the factors in subsection (1)(a) through (e) of this  
16 section are present. The trustee (~~shall~~) must register the trust by  
17 filing with the clerk of the court in any county where venue lies for  
18 the trust under RCW 11.96A.050, a statement including the following  
19 information:  
20 (i) The name and address of the trustee;  
21 (ii) The date of the trust, name of the trustor, and name of the  
22 trust, if any;  
23 (iii) The factor or factors listed in subsection (1)(a) through (e)  
24 of this section that are present for the trust and which qualify the  
25 trust for registration.  
26 (b) Within five days of filing the registration with the court, the  
27 trustee (~~shall~~) must mail a copy of the registration to each (~~person~~  
28 ~~who would be entitled to notice under RCW 11.97.010 and~~) qualified  
29 beneficiary who has not waived notice of the registration, in writing,  
30 filed in the cause, together with a notice that must be in  
31 substantially the same form as set forth in this section. Persons  
32 receiving such notice (~~shall~~) have thirty days from the date of  
33 filing the registration to file a petition in the court objecting to  
34 such registration and requesting the court to issue an order that  
35 Washington is not the proper situs of the trust, and to serve a copy of  
36 such petition upon the trustee or the trustee's lawyer. If a petition  
37 objecting to the registration is filed within thirty days of the date  
38 of filing the registration, the trustee must request the court to fix



1 a time and place for the hearing of the petition and notify by mail,  
2 personal service or electronic transmission, if a valid consent to  
3 electronic transmission is in effect under the terms of RCW 11.96A.110,  
4 all ~~((persons who were entitled to notice of the registration))~~  
5 qualified beneficiaries of the time and place of the hearing, not less  
6 than ten days before the hearing on the petition.

7 (c) Unless a person receiving notice of the registration files a  
8 petition with the court objecting to the registration within thirty  
9 days of the date of filing the registration, the registration ~~((shall))~~  
10 will be deemed the equivalent of an order entered by the court  
11 declaring that the situs of the trust is Washington. After expiration  
12 of the thirty-day period following filing of the registration, the  
13 trustee may obtain a certificate of registration signed by the clerk,  
14 and issued under the seal of the court, which may be in the form  
15 specified in (d) of this subsection.

16 (d) Notice of registration and certificates of registration may be  
17 in the following form:

18 (i) Notice form:

19 NOTICE OF FILING OF REGISTRATION OF [NAME AND DATE OF TRUST] AS A  
20 WASHINGTON TRUST

21 NOTICE IS GIVEN that the attached Registration of Trust was filed  
22 by the undersigned in the above-entitled court on the . . . . day of  
23 . . . . ., 20. . . ; unless you file a petition in the above-entitled  
24 court objecting to such registration and requesting the court to issue  
25 an order that Washington is not the proper situs of the trust, and  
26 serve a copy thereof upon the trustee or the trustee's lawyer, within  
27 thirty days after the date of the filing, the registration will be  
28 deemed the equivalent of an order entered by the court declaring that  
29 the situs of the trust is Washington.

30 If you file and serve a petition within the period specified, the  
31 undersigned will request the court to fix a time and place for the  
32 hearing of your petition, and you will be notified of the time and  
33 place thereof, by mail, or personal service, not less than ten days  
34 before the hearing on the petition.

35 (ii) Certificate of Registration:

36 State of Washington, County of . . . . .  
37 In the superior court of the county of . . . . .

1       Whereas, the attached Registration of Trust was filed with this  
2 court on . . . ., the attached Notice of Filing Registration of Trust  
3 and Affidavit of Mailing Notice of Filing Registration of Trust were  
4 filed with this court on . . . ., and no objections to such  
5 Registration have been filed with this court, the trust known as  
6 . . . ., under trust agreement dated . . . ., between . . . . as  
7 Trustor and . . . . as Trustee, is hereby registered as a Washington  
8 trust.

9       Witness my hand and the seal of said court this . . . day of  
10 . . . . ., 20 . . . .

11       (3) If the instrument establishing a trust does not designate  
12 (~~Washington as the situs or designate Washington~~) any jurisdiction as  
13 the situs or designate any jurisdiction's governing law to apply to the  
14 trust, and the trustee of the trust has not registered the trust as  
15 allowed in subsection (2) of this section, the situs of the trust is  
16 Washington if (~~the~~) situs has not previously been established by any  
17 court proceeding and the additional conditions specified in this  
18 subsection (3) are met.

19       (a) For a testamentary trust, the situs of the trust is Washington  
20 if:

- 21       (i) The will was admitted to probate in Washington; or
- 22       (ii) The will has not been admitted to probate in Washington, but  
23 any trustee of the trust resides or has a place of business in  
24 Washington, any qualified beneficiary (~~entitled to notice under RCW~~  
25 ~~11.97.010~~) resides in Washington, or any real property that is an  
26 asset of the trust is located in Washington.

27       (b) For an inter vivos trust (~~where the trustor is domiciled in~~  
28 ~~Washington either when the trust becomes irrevocable or, in the case of~~  
29 ~~a revocable trust, when judicial proceedings under chapter 11.96A RCW~~  
30 ~~are commenced~~), the situs of the trust is Washington if:

31       (i) The trustor is living and Washington is the trustor's domicile  
32 or any of the trustees reside in or have a place of business in  
33 Washington; or

34       (ii) The trustor is deceased(~~(, situs has not previously been~~  
35 ~~established by any court proceeding,)~~); and:

- 36       (A) The trustor's will was admitted to probate in Washington; or
- 37       (B) The trustor's will was not admitted to probate in Washington,  
38 but any (~~person entitled to notice under RCW 11.97.010~~) qualified

1 beneficiary resides in Washington, any trustee resides or has a place  
2 of business in Washington, or any real property that is an asset of the  
3 trust is located in Washington.

4 (c) If the situs of the trust is not determined under (a) or (b) of  
5 this subsection, the determination regarding the situs of the trust is  
6 a matter for purposes of RCW 11.96A.030. Whether Washington is the  
7 situs (~~shall~~) must be determined by a court in a judicial proceeding  
8 conducted under RCW 11.96A.080 if:

9 (i) A trustee has a place of business in or a trustee is a resident  
10 of Washington; or

11 (ii) More than an insignificant part of the trust administration  
12 occurs in Washington; or

13 (iii) One or more of the qualified beneficiaries resides in  
14 Washington; or

15 (iv) An interest in real property located in Washington is an asset  
16 of the trust.

17 (d) Determination of situs under (c) of this subsection (3) cannot  
18 be made by nonjudicial agreement under RCW 11.96A.220.

19 NEW SECTION. Sec. 10. A new section is added to chapter 11.98 RCW  
20 to be codified between RCW 11.98.016 and 11.98.019 to read as follows:

21 (1) Except as otherwise provided in subsection (3) of this section,  
22 a person designated as trustee accepts the trusteeship:

23 (a) By substantially complying with a method of acceptance provided  
24 in the terms of the trust; or

25 (b) If the terms of the trust do not provide a method of acceptance  
26 or the method provided in the terms is not expressly made exclusive, by  
27 accepting delivery of the trust property, exercising powers or  
28 performing duties as trustee, or otherwise indicating acceptance of the  
29 trusteeship.

30 (2) A person designated as trustee who has not yet accepted the  
31 trusteeship may decline the trusteeship by delivering a written  
32 declination of the trusteeship to the trustor or, if the trustor is  
33 deceased or is incapacitated, to a successor trustee, if any, and if  
34 none, to a qualified beneficiary.

35 (3) A person designated as trustee, without accepting the  
36 trusteeship, may:

1 (a) Act to preserve the trust property if, within a reasonable time  
2 after acting, the person sends a written declination of the trusteeship  
3 to the trustor or, if the trustor is dead or is incapacitated, to a  
4 successor trustee, if any, and if none, to a qualified beneficiary; and  
5 (b) Inspect or investigate trust property to determine potential  
6 liability under environmental or other law or for any other purpose.

7 **Sec. 11.** RCW 11.98.019 and 1985 c 30 s 42 are each amended to read  
8 as follows:

9 Any trustee may, by written instrument delivered to any then acting  
10 co-trustee and to the ~~((current — adult — income — beneficiaries))~~  
11 permissible distributees of the trust, relinquish to any extent and  
12 upon any terms any or all of the trustee's powers, rights, authorities,  
13 or discretions that are or may be tax sensitive in that they cause or  
14 may cause adverse tax consequences to the trustee or the trust. Any  
15 trustee not relinquishing such a power, right, authority, or discretion  
16 and upon whom it is conferred continues to have full power to exercise  
17 it.

18 **Sec. 12.** RCW 11.98.039 and 2011 c 327 s 21 are each amended to  
19 read as follows:

20 (1) Where a vacancy occurs in the office of the trustee and there  
21 is a successor trustee who is willing to serve as trustee and (a) is  
22 named in the governing instrument as successor trustee or (b) has been  
23 selected to serve as successor trustee under the procedure established  
24 in the governing instrument for the selection of a successor trustee,  
25 the outgoing trustee, or any other interested party, ~~((shall))~~ must  
26 give notice of such vacancy, whether arising because of the trustee's  
27 resignation or because of any other reason, and of the successor  
28 trustee's agreement to serve as trustee, to each ~~((adult distributee or~~  
29 ~~permissible distributee of trust income or of trust principal or of~~  
30 ~~both trust income and trust principal. If there are no such adults, no~~  
31 ~~notice need be given))~~ permissible distributee. The successor trustee  
32 named in the governing instrument or selected pursuant to the procedure  
33 therefor established in the governing instrument ~~((shall be))~~ is  
34 entitled to act as trustee except for good cause or disqualification.  
35 The successor trustee ~~((shall serve))~~ is deemed to have accepted the

1 trusteeship as of the effective date of the discharge of the  
2 predecessor trustee as provided in RCW 11.98.041.

3 (2) Where a vacancy exists or occurs in the office of the trustee  
4 and there is no successor trustee who is named in the governing  
5 instrument or who has been selected to serve as successor trustee under  
6 the procedure established in the governing instrument for the selection  
7 of a successor trustee, and who is willing to serve as trustee, then  
8 all parties with an interest in the trust may agree to a nonjudicial  
9 change of the trustee under RCW 11.96A.220. The successor trustee  
10 (~~shall serve~~) is deemed to have accepted the trusteeship as of the  
11 effective date of the discharge of the predecessor trustee as provided  
12 in RCW 11.98.041 or, in circumstances where there is no predecessor  
13 trustee, as of the effective date of the trustee's appointment.

14 (3) When there is a desire to name one or more cotrustees to serve  
15 with the existing trustee, then all parties with an interest in the  
16 trust may agree to the nonjudicial addition of one or more cotrustees  
17 under RCW 11.96A.220. The additional cotrustee (~~shall serve~~) is  
18 deemed to have accepted the trusteeship as of the effective date of the  
19 cotrustee's appointment.

20 (4) Unless subsection (1), (2), or (3) of this section applies, any  
21 beneficiary of a trust, the trustor, if alive, or the trustee may  
22 petition the superior court having jurisdiction for the appointment or  
23 change of a trustee or cotrustee under the procedures provided in RCW  
24 11.96A.080 through 11.96A.200: (a) Whenever the office of trustee  
25 becomes vacant; (b) upon filing of a petition of resignation by a  
26 trustee; or (c) for any other reasonable cause.

27 (5) For purposes of this subsection, the term fiduciary includes  
28 both trustee and personal representative.

29 (a) Except as otherwise provided in the governing instrument, a  
30 successor fiduciary, absent actual knowledge of a breach of fiduciary  
31 duty: (i) Is not liable for any act or omission of a predecessor  
32 fiduciary and is not obligated to inquire into the validity or  
33 propriety of any such act or omission; (ii) is authorized to accept as  
34 conclusively accurate any accounting or statement of assets tendered to  
35 the successor fiduciary by a predecessor fiduciary; and (iii) is  
36 authorized to receipt only for assets actually delivered and has no  
37 duty to make further inquiry as to undisclosed assets of the trust or  
38 estate.

1 (b) Nothing in this section relieves a successor fiduciary from  
2 liability for retaining improper investments, nor does this section in  
3 any way bar the successor fiduciary, trust beneficiaries, or other  
4 party in interest from bringing an action against a predecessor  
5 fiduciary arising out of the acts or omissions of the predecessor  
6 fiduciary, nor does it relieve the successor fiduciary of liability for  
7 its own acts or omissions except as specifically stated or authorized  
8 in this section.

9 (6) A change of trustee to a foreign trustee does not change the  
10 situs of the trust. Transfer of situs of a trust to another  
11 jurisdiction requires compliance with RCW 11.98.005 and RCW 11.98.045  
12 through 11.98.055.

13 **Sec. 13.** RCW 11.98.041 and 1985 c 30 s 141 are each amended to  
14 read as follows:

15 Where a vacancy occurs in the office of trustee under the  
16 circumstances described in RCW 11.98.039 (1) or (2), the outgoing  
17 trustee (~~(shall be)~~) is discharged upon the agreement of all parties  
18 entitled to notice or upon the expiration of thirty days after notice  
19 is given of such vacancy as required by the applicable subsection of  
20 RCW 11.98.039, whichever occurs first, or if no notice is required  
21 under RCW 11.98.039(1), upon the date the vacancy occurs, unless before  
22 the effective date of such discharge a petition is filed under RCW  
23 11.98.039(~~(+3)~~) (4) regarding the appointment or change of a trustee  
24 of the trust. Where a petition is filed under RCW 11.98.039(~~(+3)~~) (4)  
25 regarding the appointment or change of a trustee, the superior court  
26 having jurisdiction may discharge the trustee from the trust and may  
27 appoint a successor trustee upon such terms as the court may require.

28 **Sec. 14.** RCW 11.98.045 and 2011 c 327 s 23 are each amended to  
29 read as follows:

30 (1) If a trust is a Washington trust under RCW 11.98.005, a trustee  
31 may transfer the situs of the trust to a jurisdiction other than  
32 Washington if the trust instrument so provides or in accordance with  
33 RCW 11.98.051 or 11.98.055.

34 (2) Transfer under this section is permitted only if:

35 (a) The transfer would facilitate the economic and convenient  
36 administration of the trust;

1 (b) The transfer would not materially impair the interests of the  
2 qualified beneficiaries or others interested in the trust;

3 (c) The transfer does not violate the terms of the trust;

4 (d) The new trustee is qualified and able to administer the trust  
5 or such assets on the terms set forth in the trust; and

6 (e) The trust meets at least one condition for situs listed in RCW  
7 11.98.005(1) with respect to the new jurisdiction.

8 (3) Acceptance of such transfer by a foreign corporate trustee or  
9 trust company under this section or RCW 11.98.051 or 11.98.055  
10 (~~shall~~) may not be construed to be doing a "trust business" as  
11 described in RCW 30.08.150(9).

12 **Sec. 15.** RCW 11.98.051 and 2011 c 327 s 24 are each amended to  
13 read as follows:

14 (1) The trustee may transfer trust situs (a) in accordance with RCW  
15 11.96A.220; or (b) by giving written notice to (~~those persons entitled~~  
16 ~~to notice as provided for under RCW 11.96A.110 and to~~) the attorney  
17 general in the case of a charitable trust subject to chapter 11.110 RCW  
18 and to the qualified beneficiaries not less than sixty days before  
19 initiating the transfer. The notice must:

20 (a) State the name and mailing address of the trustee;

21 (b) Include a copy of the governing instrument of the trust;

22 (c) Include a statement of assets and liabilities of the trust  
23 dated within ninety days of the notice;

24 (d) State the name and mailing address of the trustee to whom the  
25 trust will be transferred together with evidence that the trustee has  
26 agreed to accept the trust in the manner provided by law of the new  
27 situs. The notice must also contain a statement of the trustee's  
28 qualifications and the name of the court, if any, having jurisdiction  
29 of that trustee or in which a proceeding with respect to the  
30 administration of the trust may be heard;

31 (e) State the facts supporting the requirements of RCW  
32 11.98.045(2);

33 (f) Advise the (~~beneficiaries~~) recipients of the notice of the  
34 date, not less than sixty days after the giving of the notice, by which  
35 (~~the beneficiary~~) such recipients must notify the trustee of an  
36 objection to the proposed transfer; and

1 (g) Include a form on which the recipient may (~~indicate consent or~~  
2 ~~objection~~) object to the proposed transfer.

3 (2) If the date upon which the (~~beneficiaries~~) right to object  
4 to the transfer expires without receipt by the trustee of any  
5 objection, the trustee may transfer the trust situs as provided in the  
6 notice. If the trust was registered under RCW 11.98.045(2), the  
7 trustee must file a notice of transfer of situs and termination of  
8 registration with the court of the county where the trust was  
9 registered.

10 (3) The authority of a trustee under this section to transfer a  
11 trust's situs terminates if a (~~beneficiary~~) recipient of the notice  
12 notifies the trustee of an objection to the proposed transfer on or  
13 before the date specified in the notice.

14 (4) A change of trust situs does not authorize a change of trustee.  
15 Change of trustee of a trust requires compliance with RCW 11.98.039.

16 NEW SECTION. Sec. 16. A new section is added to chapter 11.98 RCW  
17 between RCW 11.98.070 and 11.98.080 to read as follows:

18 (1) A trustee must keep all qualified beneficiaries of a trust  
19 reasonably informed about the administration of the trust and of the  
20 material facts necessary for them to protect their interests. Unless  
21 unreasonable under the circumstances, a trustee must promptly respond  
22 to any beneficiary's request for information related to the  
23 administration of the trust. The trustee is deemed to have satisfied  
24 the request of a qualified beneficiary who requests information  
25 concerning the terms of the trust reasonably necessary to enable such  
26 beneficiary to enforce his or her rights under the trust if the trustee  
27 provides a copy of the entire trust instrument. If a qualified  
28 beneficiary must compel production of information from the trustee by  
29 order of the court, then the court may order costs, including  
30 reasonable attorneys' fees, to be awarded to such beneficiary pursuant  
31 to RCW 11.96A.150.

32 (2)(a) Except to the extent waived or modified as provided in  
33 subsection (5) of this section, within sixty days after the date of  
34 acceptance of the position of trustee, the trustee must give notice to  
35 the qualified beneficiaries of the trust of:

36 (i) The existence of the trust;

37 (ii) The identity of the trustor or trustors;



1 (iii) The trustee's name, address, and telephone number; and  
2 (iv) The right to request such information as is reasonably  
3 necessary to enable the notified person to enforce his or her rights  
4 under the trust.

5 (b) The notice required under this subsection (2) applies only to  
6 irrevocable trusts created after December 31, 2011, and revocable  
7 trusts that become irrevocable after December 31, 2011.

8 (3) Despite any other provision of this section, and except to the  
9 extent waived or modified as provided in subsection (5) of this  
10 section, the trustee may not be required to provide any information  
11 described in subsection (1) or (2) of this section to any beneficiary  
12 of a trust other than the trustor's spouse or domestic partner if:

- 13 (a) Such spouse or domestic partner has capacity;
- 14 (b) Such spouse or domestic partner is the only permissible  
15 distributee of the trust; and
- 16 (c) All of the other qualified beneficiaries of the trust are the  
17 descendants of the trustor and the trustor's spouse or domestic  
18 partner.

19 (4) While the trustor of a revocable trust is living, no  
20 beneficiary other than the trustor is entitled to receive any  
21 information under this section.

22 (5) The trustor may waive or modify the notification requirements  
23 of subsections (2) and (3) of this section in the trust document or in  
24 a separate writing, made at any time, that is delivered to the trustee.

25 **Sec. 17.** RCW 11.98.080 and 1999 c 42 s 621 are each amended to  
26 read as follows:

- 27 (1)~~(a)~~ (a) Two or more trusts may be consolidated if:
  - 28 ~~((a))~~ (i) The trusts so provide; or
  - 29 ~~((b))~~ (ii) Whether provided in the trusts or not, ~~((in accordance~~  
30 ~~with subsection (2) of this section, if all interested persons consent~~  
31 ~~as provided in subsection (2)(b) of this section and the requirements~~  
32 ~~of subsection (1)(d) of this section are satisfied; or~~  
33 ~~(c) Whether provided in the trusts or not, in accordance with~~  
34 ~~subsection (3) of this section if the requirements of subsection (1)(d)~~  
35 ~~of this section are satisfied;~~  
36 (d)) the requirements of subsection (2), (3), or (4) of this  
37 section are satisfied.

1        (b) Consolidation under subsection (2) ~~((or))~~, (3), or (4) of this  
2 section is permitted only if:

3        (i) The dispositive provisions of each trust to be consolidated are  
4 substantially similar;

5        (ii) Consolidation is not inconsistent with the intent of the  
6 trustor with regard to any trust to be consolidated; and

7        (iii) Consolidation would facilitate administration of the trusts  
8 and would not materially impair the interests of the beneficiaries ~~((+~~  
9 ~~e+))~~.

10       (c) Trusts may be consolidated whether created inter vivos or by  
11 will, by the same or different instruments, by the same or different  
12 trustors, whether the trustees are the same, and regardless of where  
13 the trusts were created or administered.

14       ~~((The trustees of two or more trusts may consolidate the trusts~~  
15 ~~on such terms and conditions as appropriate without court approval as~~  
16 ~~provided in RCW 11.96A.220.))~~

17       (a) ~~((The — trustee — shall — give — written — notice — of — proposed~~  
18 ~~consolidation — by — personal — service — or — by — certified — mail — to — the))~~ A  
19 trustee must deliver sixty days in advance written notice of a proposed  
20 consolidation in the manner provided in RCW 11.96A.110 to the qualified  
21 beneficiaries of every trust affected by the consolidation ~~((as~~  
22 ~~provided in RCW 11.96A.110))~~ and to any trustee of such trusts who does  
23 not join in the notice. The notice ~~((shall))~~ must: (i) State the name  
24 and mailing address of the trustee; (ii) include a copy of the  
25 governing instrument of each trust to be consolidated; (iii) include a  
26 statement of assets and liabilities of each trust to be consolidated,  
27 dated within ninety days of the notice; (iv) fully describe the terms  
28 and manner of consolidation; and (v) state the reasons supporting the  
29 requirements of subsection (1) ~~((+d+))~~ (b) of this section. The notice  
30 ~~((shall))~~ must advise the recipient of the right to petition for a  
31 judicial determination of the proposed consolidation as provided in  
32 subsection ~~((+3+))~~ (4) of this section ~~((— The notice shall include a~~  
33 ~~form on which consent or objection to the proposed consolidation may be~~  
34 ~~indicated.~~

35       ~~(b) — If — the — trustee — receives — written — consent — to — the — proposed~~  
36 ~~consolidation from all persons entitled to notice as provided in RCW~~  
37 ~~11.96A.110 or from their representatives, the trustee may consolidate~~  
38 ~~the trusts as provided in the notice. Any person dealing with the~~

1 trustee of the resulting consolidated trust is entitled to rely on the  
2 authority of that trustee to act and is not obliged to inquire into the  
3 validity or propriety of the consolidation under this section.

4 ~~(3)(a) Any trustee, beneficiary, or special representative may~~  
5 ~~petition the superior court of the county in which the principal place~~  
6 ~~of administration of a trust is located for an order consolidating two~~  
7 ~~or more trusts under RCW 11.96A.080 through 11.96A.200. If nonjudicial~~  
8 ~~consolidation has been commenced pursuant to subsection (2) of this~~  
9 ~~section, a petition may be filed under this section unless the trustee~~  
10 ~~has received all necessary consents. The principal place of~~  
11 ~~administration of the trust is the trustee's usual place of business~~  
12 ~~where the records pertaining to the trust are kept, or the trustee's~~  
13 ~~residence if the trustee has no such place of business)), and must~~  
14 indicate that the recipient has thirty days to object to the proposed  
15 consolidation.

16 (b) If the trustee receives written objection to the proposed  
17 consolidation from any trustee or beneficiary entitled to notice or  
18 from their representatives within the objection period provided in  
19 subsection (a) of this section, the trustee(s) may not consolidate the  
20 trusts as provided in the notice, though an objection does not preclude  
21 the trustee or a beneficiary's right to petition for a judicial  
22 determination of the proposed consolidation as provided in subsection  
23 (4) of this section. If the trustee does not receive any objection  
24 within the objection period provided above, then the trustee may  
25 consolidate the trusts, and such will be deemed the equivalent of an  
26 order entered by the court declaring that the trusts were combined in  
27 the manner provided in the initial notice.

28 (3) The trustees of two or more trusts may consolidate the trusts  
29 on such terms and conditions as appropriate without court approval as  
30 provided in RCW 11.96A.220.

31 (4)(a) Any trustee, beneficiary, or special representative may  
32 petition the superior court of the county in which the situs of a trust  
33 is located for an order consolidating two or more trusts under RCW  
34 11.96A.080 through 11.96A.200.

35 (b) At the conclusion of the hearing, if the court finds that the  
36 requirements of subsection (1)((~~d~~)) (b) of this section have been  
37 satisfied, it may direct consolidation of two or more trusts on such

1 terms and conditions as appropriate. The court in its discretion may  
2 provide for payment from one or more of the trusts of reasonable fees  
3 and expenses for any party to the proceeding.

4 ~~((4))~~ (5) This section applies to all trusts whenever created.  
5 Any person dealing with the trustee of the resulting consolidated trust  
6 is entitled to rely on the authority of that trustee to act and is not  
7 obliged to inquire into the validity or propriety of the consolidation  
8 under this section.

9 ~~((5))~~ (6) For powers of fiduciaries to divide trusts, see RCW  
10 11.108.025.

11 NEW SECTION. **Sec. 18.** RCW 11.98.090 (Nonliability of third  
12 persons without knowledge of breach) and 1985 c 30 s 52 are each  
13 repealed.

14 **Sec. 19.** RCW 11.103.040 and 2011 c 327 s 37 are each amended to  
15 read as follows:

16 While ~~((a trust is revocable by the trustor,))~~ the trustor of a  
17 revocable trust is living, the rights of the beneficiaries are subject  
18 to the control of, and the duties of the trustee are owed exclusively  
19 to, the trustor. If a revocable trust has more than one trustor, the  
20 duties of the trustee are owed to all of the living trustors having the  
21 right to revoke the trust.

22 **Sec. 20.** RCW 11.103.050 and 2011 c 327 s 38 are each amended to  
23 read as follows:

24 (1) A person may commence a judicial proceeding to contest the  
25 validity of a trust that was revocable at the trustor's death within  
26 the earlier of:

27 (a) Twenty-four months after the trustor's death; or

28 (b) Four months after the trustee sent to the person by personal  
29 service, mail, or in an electronic transmission if there is a consent  
30 of the recipient to electronic transmission then in effect under the  
31 terms of RCW 11.96A.110, a notice ~~((with the information required in~~  
32 ~~RCW 11.97.010, and))~~ including:

33 (i) The name and date of the trust;

34 (ii) The identity of the trustor or trustors;

35 (iii) The trustee's name, address, and telephone number; and

1        (iv) Notice of the time allowed for commencing a proceeding.

2        (2) Upon the death of the trustor of a trust that was revocable at  
3 the trustor's death, the trustee may proceed to distribute the trust  
4 property in accordance with the terms of the trust, unless:

5        (a) The trustee knows of a pending judicial proceeding contesting  
6 the validity of the trust; or

7        (b) A potential contestant has notified the trustee of a possible  
8 judicial proceeding to contest the trust and a judicial proceeding is  
9 commenced within sixty days after the contestant sent the notification.

10       (3) A beneficiary of a trust that is determined to have been  
11 invalid is liable to return any distribution received.

12       **Sec. 21.** RCW 11.96A.250 and 2001 c 14 s 3 are each amended to read  
13 as follows:

14       (1)(a) (~~The personal representative or trustee may petition the~~  
15 ~~court having jurisdiction over the matter for the appointment of a~~  
16 ~~special representative to represent a person who is interested in the~~  
17 ~~estate or trust and~~) Any party or the parent of a minor or unborn  
18 party may petition the court for the appointment of a special  
19 representative to represent a party: (i) Who is a minor; (ii) who is  
20 (~~incompetent or disabled~~) incapacitated without an appointed guardian  
21 of his or her estate; (iii) who is yet unborn or unascertained; or (iv)  
22 whose identity or address is unknown. The petition may be heard by the  
23 court without notice.

24       (b) In appointing the special representative the court shall give  
25 due consideration and deference to any nomination(s) made in the  
26 petition, the special skills required in the representation, and the  
27 need for a representative who will act independently and prudently.  
28 The nomination of a person as special representative by the (~~personal~~  
29 ~~representative or trustee~~) petitioner and the person's willingness to  
30 serve as special representative are not grounds by themselves for  
31 finding a lack of independence, however, the court may consider any  
32 interests that the nominating (~~fiduciary~~) party may have in the  
33 estate or trust in making the determination.

34       (c) The special representative may enter into a binding agreement  
35 on behalf of the person or beneficiary. The special representative may  
36 be appointed for more than one person or class of persons if the

1 interests of such persons or class are not in conflict. The petition  
2 (~~shall~~) must be verified. The petition and order appointing the  
3 special representative may be in the following form:

4 CAPTION PETITION FOR APPOINTMENT  
5 OF CASE OF SPECIAL REPRESENTATIVE  
6 UNDER RCW 11.96A.250

7 The undersigned petitioner petitions the court for the appointment  
8 of a special representative in accordance with RCW 11.96A.250 and shows  
9 the court as follows:

10 1. Petitioner. Petitioner . . . [is the qualified and presently  
11 acting (personal representative) (trustee) of the above (estate)  
12 (trust) having been named (personal representative) (trustee) under  
13 (describe will and reference probate order or describe trust  
14 instrument)] or [is the (describe relationship of the petitioner to the  
15 party to be represented or to the matter at issue).]

16 2. (~~Issue Concerning (Estate) (Trust) Administration~~) Matter. A  
17 question concerning (~~administration of the (estate) (trust)~~) . . .  
18 has arisen as to (describe issue, for example: Related to  
19 interpretation, construction, administration, distribution). The  
20 (~~issues are appropriate for determination under RCW 11.96A.250.~~

21 3. ~~Beneficiaries. The beneficiaries of the (estate) (trust)~~  
22 ~~include persons who are unborn, unknown, or unascertained persons, or~~  
23 ~~who are under eighteen years of age)~~ issue is a matter as defined in  
24 RCW 11.96A.030 and is appropriate for determination under RCW  
25 11.96A.210 through 11.96A.250.

26 3. Party/Parties to be Represented. This matter involves (include  
27 description of asset(s) and related beneficiaries and/or interested  
28 parties). Resolution of this matter will require the involvement of  
29 . . . . (name of person or class of persons), who is/are (minors),  
30 (incapacitated and without an appointed guardian), (unborn or  
31 unascertained) (whose identity or address is unknown).

32 4. Special Representative. The nominated special representative  
33 . . . is a lawyer licensed to practice before the courts of this state  
34 or an individual with special skill or training in the administration  
35 of estates or trusts. The nominated special representative does not  
36 have an interest in the (~~affected estate or trust~~) matter and is not  
37 related to any person interested in the (~~estate or trust~~) matter.  
38 The nominated special representative is willing to serve. The

1 petitioner has no reason to believe that the nominated special  
2 representative will not act in an independent and prudent manner and in  
3 the best interests of the represented parties. (It is recommended that  
4 the petitioner also include information specifying the particular  
5 skills of the nominated special representative that relate to the  
6 matter in issue.)

7 5. Resolution. Petitioner desires to achieve a resolution of the  
8 questions that have arisen (~~(concerning the (estate) (trust))~~) in this  
9 matter. Petitioner believes that proceeding in accordance with the  
10 procedures permitted under RCW 11.96A.210 through 11.96A.250 would be  
11 in the best interests of the (~~((estate) (trust) and the beneficiaries)~~)  
12 parties, including the party requiring a special representative.

13 6. Request of Court. Petitioner requests that . . .(~~(T)~~) . . . an  
14 attorney licensed to practice in the State of Washington(~~(-)~~),

15 (OR)

16 . . . . an individual with special skill or training in the  
17 administration of estates or trusts  
18 be appointed special representative for (~~(those beneficiaries who are~~  
19 ~~not yet adults, as well as for the unborn, unknown, and unascertained~~  
20 ~~beneficiaries)~~) . . . (describe party or parties being represented),  
21 who is/are (minors), (incapacitated and without an appointed guardian),  
22 (unborn or unascertained) (whose identity or address is unknown), as  
23 provided under RCW 11.96A.250.

24 DATED this . . . day of . . . . ., . . . . .

25 . . . . .  
26 (Petitioner (~~(or petitioner's~~  
27 ~~legal representative)~~))

28 VERIFICATION

29 I certify under penalty of perjury under the laws of the state of  
30 Washington that the foregoing is true and correct.

31 DATED . . . . ., (~~(2000)~~) 20.., at . . . . ., Washington.

32 . . . . .  
33 (Petitioner or other person  
34 having knowledge)

35 CAPTION ORDER FOR APPOINTMENT

2 THIS MATTER having come on for hearing before this Court on  
3 Petition for Appointment of Special Representative filed herein, and it  
4 appearing that it would be in the best interests of the (~~(estate)~~  
5 ~~(trust)~~) parties related to the matter described in the Petition to  
6 appoint a special representative to address the issues that have arisen  
7 (~~(concerning the (estate) (trust))~~) in the matter and the Court finding  
8 that the facts stated in the Petition are true, now, therefore,

9 IT IS ORDERED that . . . is appointed under RCW 11.96A.250 as  
10 special representative (~~(for the (estate) (trust) beneficiaries who are~~  
11 ~~not yet adult age, and for unborn, unknown, or unascertained~~  
12 ~~beneficiaries to represent their respective interests in the (estate)~~  
13 ~~(trust))~~) (describe party or parties being represented) who is/are  
14 (minors), (incapacitated and without an appointed guardian), (unborn or  
15 unascertained) (whose identity or address is unknown), to represent  
16 their respective interests in the matter as provided in RCW 11.96A.250.  
17 The special representative shall be discharged of responsibility with  
18 respect to the matter as provided in RCW 11.96A.250. The special  
19 representative (~~(shall be)~~) is discharged of responsibility with  
20 respect to the (~~(estate) (trust)~~) matter at such time as a written  
21 agreement is executed resolving the present issues, all as provided in  
22 that statute, or if an agreement is not reached within six months from  
23 entry of this Order, the special representative appointed under this  
24 Order (~~(shall be)~~) is discharged of responsibility, subject to  
25 subsequent reappointment under RCW 11.96A.250.

26 DONE IN OPEN COURT this . . . day of . . . . ., . . . . .

27 . . . . .  
28 JUDGE/COURT COMMISSIONER

29 (2) Upon appointment by the court, the special representative  
30 (~~(shall)~~) must file a certification made under penalty of perjury in  
31 accordance with RCW 9A.72.085 that he or she (a) is not interested in  
32 the (~~(estate or trust)~~) matter; (b) is not related to any person  
33 interested in the (~~(estate or trust)~~) matter; (c) is willing to serve;  
34 and (d) will act independently, prudently, and in the best interests of  
35 the represented parties.

36 (3) The special representative must be a lawyer licensed to  
37 practice before the courts of this state or an individual with special



1 skill or training in the administration of estates or trusts. The  
2 special representative may not have an interest in the (~~affected~~  
3 ~~estate or trust~~) matter, and may not be related to a person interested  
4 in the (~~estate or trust~~) matter. The special representative is  
5 entitled to reasonable compensation for services that must be paid from  
6 the principal of (~~the estate or trust whose beneficiaries are~~  
7 ~~represented~~) an asset involved in the matter.

8 (4) The special representative (~~shall be~~) is discharged from any  
9 responsibility and (~~shall~~) will have no further duties with respect  
10 to the (~~estate or trust~~) matter or with respect to any (~~person~~  
11 ~~interested in the estate or trust~~) party, on the earlier of: (a) The  
12 expiration of six months from the date the special representative was  
13 appointed unless the order appointing the special representative  
14 provides otherwise, or (b) the execution of the written agreement by  
15 all parties or their virtual representatives. Any action against a  
16 special representative must be brought within the time limits provided  
17 by RCW 11.96A.070(3)(c)(i).

18 **Sec. 22.** RCW 11.98.015 and 2011 c 327 s 20 are each amended to  
19 read as follows:

20 Except as otherwise provided in chapter 11.118 RCW or by another  
21 statute, the following rules apply:

22 (1) A trust may be created for a noncharitable purpose without a  
23 definite or definitely ascertainable beneficiary or for a noncharitable  
24 but otherwise valid purpose to be selected by the trustee. The trust  
25 may not be enforced for longer than the time period specified in RCW  
26 11.98.130 as the period during which a trust cannot be deemed to  
27 violate the rule against perpetuities;

28 (2) A trust authorized by this section may be enforced by a person  
29 appointed in the terms of the trust or, if no person is so appointed,  
30 by a person appointed by the court. Such person is considered to be a  
31 permissible distributee of the trust; and

32 (3) Property of a trust authorized by this section may be applied  
33 only to its intended use, except to the extent the court determines  
34 that the value of the trust property exceeds the amount required for  
35 the intended use. Except as otherwise provided in the terms of the  
36 trust, property not required for the intended use must be distributed  
37 to the trustor, if then living, otherwise to the trustor's successors

1 in interest. Successors in interest include the beneficiaries under  
2 the trustor's will, if the trustor has a will, or, in the absence of an  
3 effective will provision, the trustor's heirs.

4 **Sec. 23.** RCW 11.98.078 and 2011 c 327 s 32 are each amended to  
5 read as follows:

6 (1) A trustee (~~shall~~) must administer the trust solely in the  
7 interests of the beneficiaries.

8 (2) Subject to the rights of persons dealing with or assisting the  
9 trustee as provided in RCW (~~11.98.090~~) 11.98.105, a sale,  
10 encumbrance, or other transaction involving the investment or  
11 management of trust property entered into by the trustee for the  
12 trustee's own personal account or which is otherwise affected by a  
13 conflict between the trustee's fiduciary and personal interests is  
14 voidable by a beneficiary affected by the transaction unless:

15 (a) The transaction was authorized by the terms of the trust;

16 (b) The transaction was approved by the court or approved in a  
17 nonjudicial binding agreement in compliance with RCW 11.96A.210 through  
18 11.96A.250;

19 (c) The beneficiary did not commence a judicial proceeding within  
20 the time allowed by RCW 11.96A.070;

21 (d) The beneficiary consented to the trustee's conduct, ratified  
22 the transaction, or released the trustee in compliance with RCW  
23 11.98.108; or

24 (e) The transaction involves a contract entered into or claim  
25 acquired by the trustee before the person became or contemplated  
26 becoming trustee.

27 (3)(a) A sale, encumbrance, or other transaction involving the  
28 investment or management of trust property is presumed to be "otherwise  
29 affected" by a conflict between fiduciary and personal interests under  
30 this section if it is entered into by the trustee with:

31 (i) The trustee's spouse or registered domestic partner;

32 (ii) The trustee's descendants, siblings, parents, or their spouses  
33 or registered domestic partners;

34 (iii) An agent or attorney of the trustee; or

35 (iv) A corporation or other person or enterprise in which the  
36 trustee, or a person that owns a significant interest in the trustee,  
37 has an interest that might affect the trustee's best judgment.

1 (b) The presumption is rebutted if the trustee establishes that the  
2 conflict did not adversely affect the interests of the beneficiaries.

3 (4) A sale, encumbrance, or other transaction involving the  
4 investment or management of trust property entered into by the trustee  
5 for the trustee's own personal account that is voidable under  
6 subsection (2) of this section may be voided by a beneficiary without  
7 further proof.

8 (5) An investment by a trustee in securities of an investment  
9 company or investment trust to which the trustee, or its affiliate,  
10 provides services in a capacity other than as trustee is not presumed  
11 to be affected by a conflict between personal and fiduciary interests  
12 if the investment complies with the prudent investor rule of chapter  
13 11.100 RCW. In addition to its compensation for acting as trustee, the  
14 trustee may be compensated by the investment company or investment  
15 trust for providing those services out of fees charged to the trust.  
16 If the trustee receives compensation from the investment company or  
17 investment trust for providing investment advisory or investment  
18 management services, the trustee must at least annually notify the  
19 (~~persons entitled under RCW 11.106.020 to receive a copy of the~~  
20 ~~trustee's annual report of the rate and method by which that~~  
21 ~~compensation was determined~~) permissible distributees of the rate and  
22 method by which that compensation was determined. The obligation of  
23 the trustee to provide the notice described in this section may be  
24 waived or modified by the trustor in the trust document or in a  
25 separate writing, made at any time, that is delivered to the trustee.

26 (6) The following transactions, if fair to the beneficiaries,  
27 cannot be voided under this section:

28 (a) An agreement between a trustee and a beneficiary relating to  
29 the appointment or compensation of the trustee;

30 (b) Payment of reasonable compensation to the trustee and any  
31 affiliate providing services to the trust, provided total compensation  
32 is reasonable;

33 (c) A transaction between a trust and another trust, decedent's  
34 estate, or guardianship of which the trustee is a fiduciary or in which  
35 a beneficiary has an interest;

36 (d) A deposit of trust money in a regulated financial-service  
37 institution operated by the trustee or its affiliate;

1 (e) A delegation and any transaction made pursuant to the  
2 delegation from a trustee to an agent that is affiliated or associated  
3 with the trustee; or

4 (f) Any loan from the trustee or its affiliate.

5 (7) The court may appoint a special fiduciary to make a decision  
6 with respect to any proposed transaction that might violate this  
7 section if entered into by the trustee.

8 (8) If a trust has two or more beneficiaries, the trustee (~~shall~~)  
9 must act impartially in administering the trust and distributing the  
10 trust property, giving due regard to the beneficiaries' respective  
11 interests.

12 **Sec. 24.** RCW 11.103.030 and 2011 c 327 s 36 are each amended to  
13 read as follows:

14 (1) Unless the terms of a trust expressly provide that the trust is  
15 revocable, the trustor may not revoke or amend the trust.

16 (2) If a revocable trust is created or funded by more than one  
17 trustor and unless the trust agreement provides otherwise:

18 (a) To the extent the trust consists of community property, the  
19 trust may be revoked by either spouse or either domestic partner acting  
20 alone but may be amended only by joint action of both spouses or both  
21 domestic partners;

22 (b) To the extent the trust consists of property other than  
23 community property, each trustor may revoke or amend the trust with  
24 regard to the portion of the trust property attributable to that  
25 trustor's contribution;

26 (c) The character of community property or separate property is  
27 unaffected by its transfer to and from a revocable trust; and

28 (d) Upon the revocation or amendment of the trust by fewer than all  
29 of the trustors, the trustee (~~shall~~) must promptly notify the other  
30 trustors of the revocation or amendment.

31 (3) The trustor may revoke or amend a revocable trust:

32 (a) By substantial compliance with a method provided in the terms  
33 of the trust; or

34 (b)(i) If the terms of the trust do not provide a method or the  
35 method provided in the terms is not expressly made exclusive, by:

36 (A) A later will or codicil that expressly refers to the trust or

1 specifically devises property that would otherwise have passed  
2 according to the terms of the trust; or

3 (B) A written instrument signed by the trustor evidencing intent to  
4 revoke or amend.

5 (ii) The requirements of chapter 11.11 RCW do not apply to  
6 revocation or amendment of a revocable trust under (b)(i) of this  
7 subsection.

8 (4) Upon revocation of a revocable trust, the trustee (~~shall~~)  
9 must deliver the trust property as the trustor directs.

10 (5) A trustor's powers with respect to (~~revocation, amendment, or~~  
11 ~~distribution of trust property may be exercised by an agent under a~~  
12 ~~power of attorney only to the extent expressly authorized by the terms~~  
13 ~~of the power)) the revocation or amendment of a trust or distribution  
14 of the property of a trust, may be exercised by the trustor's agent  
15 under a power of attorney only to the extent specified in the power of  
16 attorney document, as provided in RCW 11.94.050(1) and to the extent  
17 consistent with or expressly authorized by the trust agreement.~~

18 (6) A guardian of the trustor may exercise a trustor's powers with  
19 respect to revocation, amendment, or distribution of trust property  
20 only with the approval of the court supervising the guardianship  
21 pursuant to RCW 11.92.140.

22 (7) A trustee who does not know that a trust has been revoked or  
23 amended is not liable to the trustor or trustor's successors in  
24 interest for distributions made and other actions taken on the  
25 assumption that the trust had not been amended or revoked.

26 (8) This section does not limit or affect operation of RCW  
27 11.96A.220 through 11.96A.240.

28 **Sec. 25.** RCW 11.106.010 and 1985 c 30 s 95 are each amended to  
29 read as follows:

30 This chapter does not apply to resulting trusts, constructive  
31 trusts, business trusts where certificates of beneficial interest are  
32 issued to the beneficiaries, investment trusts, voting trusts,  
33 insurance trusts prior to the death of the insured, trusts in the  
34 nature of mortgages or pledges(~~, trusts created by judgment or decree~~  
35 ~~of a federal court or of the superior court when not sitting in~~  
36 ~~probate)), liquidation trusts or trusts for the sole purpose of paying~~

1 dividends, interest or interest coupons, salaries, wages or pensions;  
2 nor does this chapter apply to personal representatives.

3 **Sec. 26.** RCW 11.106.020 and 1985 c 30 s 96 are each amended to  
4 read as follows:

5 The trustee or trustees appointed by any will, deed, or agreement  
6 executed (~~(shall)~~) must mail or deliver at least annually to each  
7 (~~(adult income trust beneficiary)~~) permissible distributee, as defined  
8 in section 8 of this act, a written itemized statement of all current  
9 receipts and disbursements made by the trustee of the funds of the  
10 trust both principal and income, and upon the request of any such  
11 beneficiary (~~(shall)~~) must furnish the beneficiary an itemized  
12 statement of all property then held by that trustee, and may also file  
13 any such statement in the superior court of the county in which the  
14 trustee or one of the trustees resides.

15 **Sec. 27.** RCW 11.118.050 and 2001 c 327 s 6 are each amended to  
16 read as follows:

17 The intended use of the principal or income can be enforced by a  
18 person designated for that purpose in the trust instrument, by the  
19 person having custody of an animal that is a beneficiary of the trust,  
20 or by a person appointed by a court upon application to it by any  
21 person. Such person is considered to be a permissible distributee, as  
22 defined in section 8 of this act, of the trust. A person with an  
23 interest in the welfare of the animal may petition for an order  
24 appointing or removing a person designated or appointed to enforce the  
25 trust.

26 NEW SECTION. **Sec. 28.** Except as otherwise provided in this act:

27 (1) This act applies to all trusts created before, on, or after  
28 January 1, 2013;

29 (2) This act applies to all judicial proceedings concerning trusts  
30 commenced on or after January 1, 2013;

31 (3) An action taken before January 1, 2013, is not affected by this  
32 act; and

33 (4) If a right is acquired, extinguished, or barred upon the  
34 expiration of a prescribed period that has commenced to run under any

1 other statute before January 1, 2013, that statute continues to apply  
2 to the right even if it has been repealed or superseded.

Passed by the Senate April 22, 2013.

Passed by the House April 15, 2013.

Approved by the Governor May 16, 2013.

Filed in Office of Secretary of State May 17, 2013.