

Chapter 26.16 RCW
RIGHTS AND LIABILITIES—COMMUNITY PROPERTY

Sections

- 26.16.010 Separate property of spouse.
- 26.16.020 Separate property of domestic partner.
- 26.16.030 Community property defined—Management and control.
- 26.16.040 Community realty subject to liens, execution.
- 26.16.050 Conveyances between spouses or domestic partners.
- 26.16.060 Power of attorney between spouses or domestic partners.
- 26.16.070 Powers of attorney as to separate estate.
- 26.16.080 Execution of conveyance under power.
- 26.16.090 Powers of attorney as to community estate.
- 26.16.095 Purchaser of community real property protected by record title.
- 26.16.100 Claim of spouse or domestic partner in community realty to be filed.
- 26.16.110 Cloud on title—Removal.
- 26.16.120 Agreements as to status.
- 26.16.125 Custody of children.
- 26.16.140 Earnings and accumulations of spouses or domestic partners living apart, minor children.
- 26.16.150 Rights of married persons or domestic partners in general.
- 26.16.160 Civil disabilities of wife abolished.
- 26.16.180 Spouses or domestic partners may sue each other.
- 26.16.190 Liability for acts of other spouse or other domestic partner.
- 26.16.200 Debts incurred before marriage or domestic partnership—Separate debts—Child support obligation—Liability.
- 26.16.205 Liability for family support—Support obligation of stepparent.
- 26.16.210 Burden of proof in transactions between spouses or domestic partners.
- 26.16.220 Quasi-community property defined.
- 26.16.230 Quasi-community property—Disposition at death.
- 26.16.240 Quasi-community property—Effect of lifetime transfers—Claims by surviving spouse or surviving domestic partner—Waiver.
- 26.16.250 Quasi-community property—Characterization limited to determination of disposition at death—Waiver by written agreement.

Assignment of future wages invalid without written consent of spouse: RCW 49.48.100.

Banks and trust companies—Deposits: Chapter 30A.20 RCW.

Cemeteries, morgues and human remains—Title and rights to cemetery plots: Chapter 68.32 RCW.

Crimes and punishment

bigamy: RCW 9A.64.010.

homicide by other person, when justifiable: RCW 9A.16.030.

Labor relations

child labor: Chapter 49.12 RCW.
hours of labor: Chapter 49.28 RCW.

Mental illness: Chapter 71.05 RCW.

Parties to actions—Spouse or domestic partner: RCW 4.08.030 and 4.08.040.

Privileged communications: RCW 5.60.060.

Probate and trust law: Title 11 RCW.

Public assistance: Title 74 RCW.

Tenancy in dower and by curtesy abolished: RCW 11.04.060.

Unemployment compensation, benefits and claims: Chapter 50.20 RCW.

Worker's compensation

actions at law for injury or death: Chapter 51.24 RCW.
right to and amount: Chapter 51.32 RCW.

RCW 26.16.010 Separate property of spouse. Property and pecuniary rights owned by a spouse before marriage and that acquired by him or her afterwards by gift, bequest, devise, descent, or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his or her spouse, and he or she may manage, lease, sell, convey, encumber or devise by will such property without his or her spouse joining in such management, alienation or encumbrance, as fully, and to the same extent or in the same manner as though he or she were unmarried. [2008 c 6 § 602; Code 1881 § 2408; RRS § 6890. Prior: See Reviser's note below.]

Reviser's note: For prior laws dealing with this subject see Laws 1879 pp 77-81; 1873 pp 450-455; 1871 pp 67-74; 1869 pp 318-323.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Construction: "The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of the state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object." [Code 1881 § 2417.]

"This chapter shall not be construed to operate retrospectively and any right established, accrued or accruing or in any thing done prior to the time this chapter goes into effect shall be governed by the law in force at the time such right was established or accrued." [Code 1881 § 2418.] This applies to RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Descent of separate real property: RCW 11.04.015.

Distribution of separate personal estate: RCW 11.04.015.

Rights of married persons or domestic partners in general: RCW 26.16.150.

RCW 26.16.020 Separate property of domestic partner. Property and pecuniary rights owned by a person in a state registered domestic partnership before registration of the domestic partnership or afterwards acquired by gift, bequest, devise, descent, or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his or her domestic partner, and he or she may manage, lease, sell, convey, encumber or devise by will such property without his or her domestic partner joining in such management, alienation, or encumbrance, as fully, to the same extent and in the same manner as though he or she were not in a state registered domestic partnership. [2008 c 6 § 603; Code 1881 § 2400; RRS § 6891. Prior: See Reviser's note following RCW 26.16.010.]

Reviser's note: See notes following RCW 26.16.010.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Civil disabilities of wife abolished: RCW 26.16.160.

Earnings of spouse or domestic partner and minor children living apart: RCW 26.16.140.

Exemption of separate property of married person from attachment and execution upon liability of spouse: RCW 6.15.040.

RCW 26.16.030 Community property defined—Management and control. Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage or after registration of a state registered domestic partnership by either domestic partner or either husband or wife or both, is community property. Either spouse or either domestic partner, acting alone, may manage and control community property, with a like power of disposition as the acting spouse or domestic partner has over his or her separate property, except:

(1) Neither person shall devise or bequeath by will more than one-half of the community property.

(2) Neither person shall give community property without the express or implied consent of the other.

(3) Neither person shall sell, convey, or encumber the community real property without the other spouse or other domestic partner joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses or both domestic partners.

(4) Neither person shall purchase or contract to purchase community real property without the other spouse or other domestic partner joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither person shall create a security interest other than a purchase money security interest as defined in *RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a

community mobile home unless the other spouse or other domestic partner joins in executing the security agreement or bill of sale, if any.

(6) Neither person shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses or both domestic partners participate in its management without the consent of the other: PROVIDED, That where only one spouse or one domestic partner participates in such management the participating spouse or participating domestic partner may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse or nonparticipating domestic partner. [2008 c 6 § 604; 1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Severability—1981 c 304: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 304 § 46.]

Community property—Homestead selection: RCW 6.13.020.

Descent and distribution of community property: RCW 11.04.015.

Quasi-community property defined: RCW 26.16.220.

Simultaneous death, uniform act: Chapter 11.05A RCW.

RCW 26.16.040 Community realty subject to liens, execution.

Community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon. [1972 ex.s. c 108 § 4; Code 1881 § 2410; RRS § 6893.]

Acknowledgments: Chapter 64.08 RCW.

Liens: Title 60 RCW.

RCW 26.16.050 Conveyances between spouses or domestic partners.

A spouse or domestic partner may give, grant, sell or convey directly to the other spouse or other domestic partner his or her community right, title, interest or estate in all or any portion of their community real property: And every deed made from one spouse to the other or one domestic partner to the other, shall operate to divest the real estate therein recited from any or every claim or demand as community property and shall vest the same in the grantee as separate property. The grantor in all such deeds, or the party releasing such

community interest or estate shall sign, seal, execute and acknowledge the deed as a single person without the joinder therein of the married party or party to a state registered domestic partnership therein named as grantee: PROVIDED, HOWEVER, That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. AND PROVIDED FURTHER, That any deeds of gift conveyances or releases of community estate by or between spouses or between domestic partners heretofore made but in which both spouses or both domestic partners have not joined as grantors, said deeds, where made in good faith and without intent to hinder, delay or defraud creditors, shall be and the same are hereby fully legalized as valid and binding. [2008 c 6 § 605; 1888 c 27 § 1; RRS § 10572.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Validating—1888 c 27: "All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate duly acknowledged conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney and acknowledged and certified in the manner provided herein, shall be valid and binding; provided, that any rights vested in third persons shall not be affected by anything in this section contained." [1888 c 27 § 5.] This applies to RCW 26.16.050 and 26.16.070 through 26.16.090.

Acknowledgments: Chapter 64.08 RCW.

*Burden of proof in transactions between spouses or domestic partners:
RCW 26.16.210.*

RCW 26.16.060 Power of attorney between spouses or domestic partners. A spouse or domestic partner may constitute the other his or her attorney-in-fact to manage, control or dispose of his or her property with the same power of revocation or substitution as could be exercised were they unmarried persons or were they not in a state registered domestic partnership. [2008 c 6 § 606; Code 1881 § 2403; No RRS.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.070 Powers of attorney as to separate estate. A spouse or domestic partner may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate both real and personal, without the other spouse or other domestic partner joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either spouse or either

domestic partner from appointing the other his or her attorney-in-fact for the purposes provided in this section. [2008 c 6 § 607; 1888 c 27 § 2; RRS § 10573.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.080 Execution of conveyance under power. Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried or not in a state registered domestic partnership. [2008 c 6 § 608; 1888 c 27 § 3; RRS § 10574.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.090 Powers of attorney as to community estate. A spouse or domestic partner may make and execute a letter of attorney to his or her spouse or domestic partner authorizing the sale or other disposition of his or her community interest or estate in the community property and as such attorney-in-fact to sign the name of such spouse or such domestic partner to any deed, conveyance, mortgage, lease or other encumbrance or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either spouse or either domestic partner may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate of either, or in the community estate held by such spouse or such domestic partner in any real property. And both spouses or both domestic partners owning community property may jointly execute a power of attorney to a third person authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate. [2008 c 6 § 609; 1888 c 27 § 4; RRS § 10575.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.095 Purchaser of community real property protected by record title. Whenever any person, married, in a state registered domestic partnership, or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual bona fide purchaser, a deed of such real estate from the person holding such legal record title to such actual bona fide purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated. [2008 c 6 § 610; 1891 c 151 § 1; RRS § 10577. Formerly RCW 64.04.080.] [SLC-RO-16]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Saving—1891 c 151: "In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions." [1891 c 151 § 4.] This applies to RCW 26.16.095 through 26.16.110.

RCW 26.16.100 Claim of spouse or domestic partner in community realty to be filed. A spouse or domestic partner having an interest in real estate, by virtue of the marriage relation or state registered domestic partnership, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the other spouse or other domestic partner, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the spouse or domestic partner, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either spouse or either domestic partner fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual bona fide purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse or other domestic partner. [2008 c 6 § 611; 1891 c 151 § 2; RRS § 10578.] [SLC-RO-16]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Recording of real property by county auditor: Chapters 65.04 and 65.08 RCW.

RCW 26.16.110 Cloud on title—Removal. The instrument in writing provided for in RCW 26.16.100 shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the

conveyances on record in the office of the auditor of the county where said real estate is situated. [1891 c 151 § 3; RRS § 10579.]

RCW 26.16.120 Agreements as to status. Nothing contained in any of the provisions of *this chapter or in any law of this state, shall prevent both spouses or both domestic partners from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by both spouses or both domestic partners by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner. Such agreement shall not derogate from the right of creditors; nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers or abusers under chapter 11.84 RCW. [2009 c 525 § 18; 2008 c 6 § 612; 1998 c 292 § 505; Code 1881 § 2416; RRS § 6894.]

***Reviser's note:** "this chapter", which is Code 1881, chapter CLXXXVIII, is codified as RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—Conflict with federal requirements—1998 c 292: See notes following RCW 41.04.273.

Effective dates—1998 c 292: See RCW 11.11.903.

Acknowledgments: Chapter 64.08 RCW.

Descent and distribution of community property: RCW 11.04.015.

Private seals abolished: RCW 64.04.090.

RCW 26.16.125 Custody of children. Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and one parent shall be as fully entitled to the custody, control and earnings of the children as the other parent, and in case of one parent's death, the other parent shall come into full and complete control of the children and their estate. [2008 c 6 § 640; Code 1881 § 2399; 1879 p 151 § 2; RRS § 6907. Formerly RCW 26.20.020.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.140 Earnings and accumulations of spouses or domestic partners living apart, minor children. When spouses or domestic partners are living separate and apart, their respective earnings and accumulations shall be the separate property of each. The earnings and accumulations of minor children shall be the separate property of the spouse or domestic partner who has their custody or, if no custody award has been made, then the separate property of the spouse or domestic partner with whom said children are living. [2008 c 6 § 613; 1972 ex.s. c 108 § 5; Code 1881 § 2413; RRS § 6896.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.150 Rights of married persons or domestic partners in general. Every married person or domestic partner shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried or were not in a state registered domestic partnership. [2008 c 6 § 614; Code 1881 § 2396; RRS § 6900.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Separate property
of spouse: RCW 26.16.010.
of domestic partner: RCW 26.16.020.

RCW 26.16.160 Civil disabilities of wife abolished. All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights, she shall have the same right to appeal in her own individual name, to the courts of law or equity for redress and protection that the husband has: PROVIDED, ALWAYS, That nothing in *this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law. [Code 1881 § 2398; 1879 p 151 § 1; RRS § 6901.]

***Reviser's note:** "this chapter," see note following RCW 26.16.120.

RCW 26.16.180 Spouses or domestic partners may sue each other. Should either spouse or either domestic partner obtain possession or control of property belonging to the other, either before or after marriage or before or after entering into a state registered domestic partnership, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried or were not in a state registered domestic partnership. [2008 c 6 § 615; Code 1881 § 2401; 1879 p 80 § 28; 1873 p 452 § 8; RRS § 6903.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Privileged communications: RCW 5.60.060.

RCW 26.16.190 Liability for acts of other spouse or other domestic partner. For all injuries committed by a married person or domestic partner, there shall be no recovery against the separate property of the other spouse or other domestic partner except in cases where there would be joint responsibility if the marriage or the state registered domestic partnership did not exist. [2008 c 6 § 616; 1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.200 Debts incurred before marriage or domestic partnership—Separate debts—Child support obligation—Liability. Neither person in a marriage or state registered domestic partnership is liable for the debts or liabilities of the other incurred before marriage or state registered domestic partnership, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other: PROVIDED, That the earnings and accumulations of the spouse or domestic partner shall be available to the legal process of creditors for the satisfaction of debts incurred by such spouse or domestic partner prior to the marriage or the state registered domestic partnership. For the purpose of this section, neither person in the marriage or the state registered domestic partnership shall be construed to have any interest in the earnings of the other: PROVIDED FURTHER, That no separate debt, except a child support or maintenance obligation, may be the basis of a claim against the earnings and accumulations of either spouse or either domestic partner unless the same is reduced to judgment within three years of the marriage or the state registered domestic partnership of the parties. The obligation of a parent or stepparent to support a child may be collected out of the parent's or stepparent's separate property, the parent's or stepparent's earnings and accumulations, and the parent's or stepparent's share of community personal and real property. Funds in a community bank account which can be identified as the earnings of the nonobligated spouse or nonobligated domestic partner are exempt from satisfaction of the child support obligation of the debtor spouse or debtor domestic partner. [2008 c 6 § 617; 1983 1st ex.s. c 41 § 2; 1969 ex.s. c 121 § 1; Code 1881 § 2405; 1873 p 452 § 10; RRS § 6905.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Collection actions against community bank account: RCW 74.20A.120.

RCW 26.16.205 Liability for family support—Support obligation of stepparent. The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of

both spouses or both domestic partners, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or state registered domestic partnership or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death. [2008 c 6 § 618; 1990 1st ex.s. c 2 § 13; 1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Effective dates—Severability—1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.16.210 Burden of proof in transactions between spouses or domestic partners. In every case, where any question arises as to the good faith of any transaction between spouses or between domestic partners, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith. [2008 c 6 § 619; Code 1881 § 2397; RRS § 5828.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.220 Quasi-community property defined. (1) Unless the context clearly requires otherwise, as used in RCW 26.16.220 through 26.16.250 "quasi-community property" means all personal property wherever situated and all real property described in subsection (2) of this section that is not community property and that was heretofore or hereafter acquired:

(a) By the decedent while domiciled elsewhere and that would have been the community property of the decedent and of the decedent's surviving spouse or surviving domestic partner had the decedent been domiciled in this state at the time of its acquisition; or

(b) In derivation or in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and his or her surviving spouse or surviving domestic partner if the decedent had been domiciled in this state at the time the original property was acquired.

(2) For purposes of this section, real property includes:

(a) Real property situated in this state;

(b) Real property situated outside this state if the law of the state where the real property is located provides that the law of the decedent's domicile at death shall govern the rights of the decedent's surviving spouse or surviving domestic partner to a share of such property; and

(c) Leasehold interests in real property described in (a) or (b) of this subsection.

(3) For purposes of this section, all legal presumptions and principles applicable to the proper characterization of property as community property under the laws and decisions of this state shall

apply in determining whether property would have been the community property of the decedent and his or her surviving spouse or surviving domestic partner under the provisions of subsection (1) of this section. [2008 c 6 § 620; 1988 c 34 § 1; 1986 c 72 § 1.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.230 Quasi-community property—Disposition at death.

Upon the death of any person domiciled in this state, one-half of any quasi-community property shall belong to the surviving spouse or surviving domestic partner and the other one-half of such property shall be subject to disposition at death by the decedent, and in the absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW. [2008 c 6 § 621; 1988 c 34 § 2; 1986 c 72 § 2.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.240 Quasi-community property—Effect of lifetime transfers—Claims by surviving spouse or surviving domestic partner—Waiver.

(1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of a property interest that is quasi-community property to a person other than the surviving spouse or surviving domestic partner within three years of death, then within the time for filing claims against the estate as provided by RCW 11.40.010, the surviving spouse or surviving domestic partner may require the transferee to restore to the decedent's estate one-half of such property interest, if the transferee retains the property interest, and, if not, one-half of its proceeds, or, if none, one-half of its value at the time of transfer, if:

- (a) The decedent retained, at the time of death, the possession or enjoyment of or the right to income from the property interest;
- (b) The decedent retained, at the time of death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the property interest for the decedent's own benefit; or
- (c) The decedent held the property interest at the time of death with another with the right of survivorship.

(2) Notwithstanding subsection (1) of this section, no such property interest, proceeds, or value may be required to be restored to the decedent's estate if:

- (a) Such property interest was transferred for adequate consideration;
- (b) Such property interest was transferred with the consent of the surviving spouse or surviving domestic partner; or
- (c) The transferee purchased such property interest in property from the decedent while believing in good faith that the property or property interest was the separate property of the decedent and did not constitute quasi-community property.

(3) All property interests, proceeds, or value restored to the decedent's estate under this section shall belong to the surviving

spouse or surviving domestic partner pursuant to RCW 26.16.230 as though the transfer had never been made.

(4) The surviving spouse or surviving domestic partner may waive any right granted hereunder by written instrument filed in the probate proceedings. If the surviving spouse or surviving domestic partner acts as personal representative of the decedent's estate and causes the estate to be closed before the time for exercising any right granted by this section expires, such closure shall act as a waiver by the surviving spouse or surviving domestic partner of any and all rights granted by this section. [2008 c 6 § 622; 1988 c 34 § 3; 1986 c 72 § 3.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 26.16.250 Quasi-community property—Characterization limited to determination of disposition at death—Waiver by written agreement. The characterization of property as quasi-community property under this chapter shall be effective solely for the purpose of determining the disposition of such property at the time of a death, and such characterization shall not affect the rights of the decedent's creditors. For all other purposes property characterized as quasi-community property under this chapter shall be characterized without regard to the provisions of this chapter. Both spouses or both domestic partners may waive, modify, or relinquish any quasi-community property right granted or created by this chapter by signed written agreement, wherever executed, before or after June 11, 1986, including without limitation, community property agreements, prenuptial and postnuptial agreements, or agreements as to status of property. [2008 c 6 § 623; 1988 c 34 § 4; 1986 c 72 § 4.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.