

Chapter 11.28 RCW
LETTERS TESTAMENTARY AND OF ADMINISTRATION

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*Trust company may not solicit appointment as personal representative:
RCW 30A.04.260.*

RCW 11.28.010 Letters to executors—Refusal to serve—

Disqualification. After the entry of an order admitting a will to probate and appointing a personal representative, or personal representatives, letters testamentary shall be granted to the persons therein appointed executors. If a part of the persons thus appointed refuse to act, or be disqualified, the letters shall be granted to the other persons appointed therein. If all such persons refuse to act, letters of administration with the will annexed shall be granted to the person to whom administration would have been granted if there had been no will. [1974 ex.s. c 117 s 28; 1965 c 145 s 11.28.010. Prior: 1917 c 156 s 47; RRS s 1417; prior: Code 1881 s 1372; 1863 p 217 s 106; 1860 p 179 s 73.]

Application, construction—Severability—Effective date—1974

ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.020 Objections to appointment.

Any person interested in a will may file objections in writing to the granting of letters testamentary to the persons named as executors, or any of them, and the objection shall be heard and determined by the court. [1965 c 145 s 11.28.020. Prior: 1917 c 156 s 47; RRS s 1417; prior: Code 1881 s 1372; 1863 p 217 s 106; 1860 p 179 s 73.]

RCW 11.28.030 Community property—Who entitled to letters—

Waiver. A surviving spouse or surviving domestic partner shall be entitled to administer upon the community property, notwithstanding any provisions of the will to the contrary, if the court find such spouse or such domestic partner to be otherwise qualified; but if such surviving spouse or surviving domestic partner do not make application for such appointment within forty days immediately following the death of the deceased spouse or deceased domestic partner, he or she shall be considered as having waived his or her right to administer upon such community property. If any person, other than the surviving spouse or surviving domestic partner, make application for letters testamentary on such property, prior to the expiration of such forty days, then the court, before making any such appointment, shall require notice of such application to be given the said surviving spouse or surviving domestic partner, for such time and in such manner as the court may determine, unless such applicant show to the satisfaction of the court that there is no surviving spouse or surviving domestic partner or that he or she has in writing waived the right to administer upon such community property. [2008 c 6 s 913; 1965 c 145 s 11.28.030. Prior: 1917 c 156 s 49; RRS s 1419.]

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

RCW 11.28.040 Procedure during minority or absence of executor.

If the executor be a minor or absent from the state, letters of administration with the will annexed shall be granted, during the time of such minority or absence, to some other person unless there be another executor who shall accept the trust, in which case the estate shall be administered by such other executor until the disqualification shall be removed, when such minor, having arrived at full age, or such absentee, having returned, shall be admitted as joint executor with the former, provided a nonresident of this state may qualify as provided in RCW 11.36.010. [1965 c 145 s 11.28.040. Prior: 1917 c 156 s 50; RRS s 1420; prior: Code 1881 s 1374; 1863 p 217 s 108; 1860 p 180 s 75.]

RCW 11.28.050 Powers of remaining executors on removal of associate. When any of the executors named shall not qualify or having qualified shall become disqualified or be removed, the remaining executor or executors shall have the authority to perform every act and discharge every trust required by the will, and their acts shall be effectual for every purpose. [1965 c 145 s 11.28.050. Prior: 1917 c 156 s 54; RRS s 1424; prior: Code 1881 s 1372; 1854 p 268 s 5.]

RCW 11.28.060 Administration with will annexed on death of executor. No executor of an executor shall, as such, be authorized to administer upon the estate of the first testator, but on the death of the sole or surviving executor of any last will, letters of administration with the will annexed, on the estate of the first testator left unadministered, shall be issued. [1965 c 145 s 11.28.060. Prior: 1917 c 156 s 53; RRS s 1423; prior: Code 1881 s 1379; 1863 p 218 s 113; 1860 p 180 s 80.]

Executor of executor may not sue for estate of first testator: RCW 11.48.190.

RCW 11.28.070 Authority of administrator with will annexed. Administrators with the will annexed shall have the same authority as the executor named in the will would have had, and their acts shall be as effectual for every purpose: PROVIDED, That they shall not lease, mortgage, pledge, exchange, sell, or convey any real or personal property of the estate except under order of the court and pursuant to procedure under existing laws pertaining to the administration of estates in cases of intestacy, unless the powers expressed in the will are directory and not discretionary, or said administrator with will annexed shall have obtained nonintervention powers as provided in chapter 11.68 RCW. [1974 ex.s. c 117 s 25; 1965 c 145 s 11.28.070. Prior: 1955 c 205 s 3; 1917 c 156 s 55; RRS s 1425; prior: Code 1881 s 1381; 1860 p 180 s 82.]

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.085 Records and certification of letters—Record of bonds. See RCW 36.23.030.

RCW 11.28.090 Execution and form of letters testamentary.

Letters testamentary to be issued to executors under the provisions of this chapter shall be signed by the clerk, and issued under the seal of the court, and may be in the following form:

State of Washington, county of

In the superior court of the county of

Whereas, the last will of A B, deceased, was, on the day of, A.D. (year), duly exhibited, proven, and recorded in our said superior court; and whereas, it appears in and by said will that C D is appointed executor thereon, and, whereas, said C D has duly qualified, now, therefore, know all persons by these presents, that we do hereby authorize the said C D to execute said will according to law.

Witness my hand and the seal of said court this day of, A.D. (year) [2016 c 202 s 6; 2009 c 549 s 1004; 1965 c 145 s 11.28.090. Prior: (i) 1917 c 156 s 56; RCW 11.28.080; RRS s 1426; prior: Code 1881 s 1382; 1863 p 218 s 116; 1860 p 181 s 83. (ii) 1917 c 156 s 59; RRS s 1429; prior: Code 1881 s 1386; 1863 p 219 s 120; 1860 p 181 s 87.]

RCW 11.28.100 Form of letters with will annexed. Letters of administration with the will annexed shall be in substantially the same form as provided for letters testamentary. [1965 c 145 s 11.28.100. Prior: 1917 c 156 s 60; RRS s 1430; prior: Code 1881 s 1387; 1863 p 219 s 121.]

RCW 11.28.110 Application for letters of administration or adjudication of intestacy and heirship. Application for letters of administration, or, application for an adjudication of intestacy and heirship without the issuance of letters of administration shall be made by petition in writing, signed and verified by the applicant or his or her attorney, and filed with the court, which petition shall set forth the facts essential to giving the court jurisdiction of the case, and state, if known, the names, ages and addresses of the heirs of the deceased and that the deceased died without a will. If the application for an adjudication of intestacy and heirship does not request the appointment of a personal representative and the court enters an adjudication of intestacy no further administration shall be required except as set forth in RCW 11.28.330 or 11.28.340. [2010 c 8 s 2017; 1977 ex.s. c 234 s 4; 1974 ex.s. c 117 s 29; 1965 c 145 s 11.28.110. Prior: 1917 c 156 s 62; RRS s 1432; prior: Code 1881 s 1389; 1863 p 220 s 123; 1860 p 182 s 90.]

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.20.020.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.120 Persons entitled to letters. Administration of an estate if the decedent died intestate or if the personal representative or representatives named in the will declined or were unable to serve shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving spouse or state registered domestic partner, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) Child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The trustee named by the decedent in an inter vivos trust instrument, testamentary trustee named in the will, guardian of the decedent, conservator of the decedent, or an agent named in a durable power of attorney appointed by the decedent, if any such a fiduciary controlled or potentially controlled substantially all of the decedent's probate and nonprobate assets.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.

(5) (a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in *RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint a contract service provider with the office of public guardianship and conservatorship under chapter 2.72 RCW or any suitable person to administer such estate. [2020 c 312 s 405; 2019 c 215 s 5; 2007 c 156 s 28; 1995 1st sp.s. c 18 s 61; 1994 c 221 s 23; 1985 c 133 s 1; 1965 c 145 s 11.28.120. Prior: 1927 c 76 s 1; 1917 c 156 s 61; RRS s 1431; prior: Code 1881 s 1388; 1863 p 219 s 122; 1860 p 181 s 89.]

***Reviser's note:** RCW 74.39A.008 was repealed by 1997 c 392 s 530.

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

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

Effective dates—1994 c 221: See note following RCW 11.100.035.

RCW 11.28.131 Hearing on petition—Appointment—Issuance of letters—Notice to surviving spouse or surviving domestic partner.

When a petition for general letters of administration or for letters of administration with the will annexed shall be filed, the matter may be heard forthwith, appointment made and letters of administration issued: PROVIDED, That if there be a surviving spouse or surviving domestic partner and a petition is presented by anyone other than the

surviving spouse or surviving domestic partner, or any person designated by the surviving spouse or surviving domestic partner to serve as personal representative on his or her behalf, notice to the surviving spouse or surviving domestic partner shall be given of the time and place of such hearing at least ten days before the hearing, unless the surviving spouse or surviving domestic partner shall waive notice of the hearing in writing filed in the cause. [2008 c 6 s 914; 1974 ex.s. c 117 s 44.]

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

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.140 Form of letters of administration. Letters of administration shall be signed by the clerk, and be under the seal of the court, and may be substantially in the following form:

State of Washington, County of
Whereas, A.B., late of on or about the day
of A.D. (year) died intestate, leaving at the time
of his or her death, property in this state subject to administration:
Now, therefore, know all persons by these presents, that we do hereby
appoint administrator upon said estate, and whereas
said administrator has duly qualified, hereby authorize him or her to
administer the same according to law.
Witness my hand and the seal of said court this day
of A.D. (year) [2016 c 202 s 7; 2009 c 549 s
1005; 1965 c 145 s 11.28.140. Prior: 1917 c 156 s 65; RRS s 1435;
prior: Code 1881 s 1392; 1863 p 220 s 125; 1860 p 182 s 92.]

RCW 11.28.150 Revocation of letters by discovery of will. If after letters of administration are granted a will of the deceased be found and probate thereof be granted, the letters shall be revoked and letters testamentary or of administration with the will annexed, shall be granted. [1965 c 145 s 11.28.150. Prior: 1917 c 156 s 51; RRS s 1421; prior: Code 1881 s 1375; 1863 p 218 s 109; 1860 p 180 s 76.]

RCW 11.28.160 Cancellation of letters of administration. The court appointing any personal representative shall have authority for any cause deemed sufficient, to cancel and annul such letters and appoint other personal representatives in the place of those removed. [1965 c 145 s 11.28.160. Prior: 1917 c 156 s 52; RRS s 1422.]

Revocation of letters—Causes: RCW 11.28.250.

RCW 11.28.170 Oath of personal representative. Before letters testamentary or of administration are issued, each personal representative or an officer of a bank or trust company qualified to act as a personal representative, must take and subscribe an oath, before some person authorized to administer oaths, that the duties of the trust as personal representative will be performed according to

law, which oath must be filed in the cause. [2005 c 97 s 3; 1965 c 145 s 11.28.170. Prior: 1917 c 156 s 66; RRS s 1436; prior: Code 1881 s 1393; 1877 p 211 s 4; 1873 p 329 s 366.]

RCW 11.28.185 Bond or other security of personal representative—When not required—Waiver—Corporate trustee—Additional bond—Reduction—Other security. When the terms of the decedent's will manifest an intent that the personal representative appointed to administer the estate shall not be required to furnish bond or other security, or when the personal representative is the surviving spouse or surviving domestic partner of the decedent and it appears to the court that the entire estate, after provision for expenses and claims of creditors, will be distributable to such spouse or surviving domestic partner, then such personal representative shall not be required to give bond or other security as a condition of appointment. In all cases where a bank or trust company authorized to act as personal representative is appointed as personal representative, no bond shall be required. In all other cases, unless waived by the court, the personal representative shall give such bond or other security, in such amount and with such surety or sureties, as the court may direct.

Every person required to furnish bond must, before receiving letters testamentary or of administration, execute a bond to the state of Washington conditioned that the personal representative shall faithfully execute the duty of the trust according to law.

The court may at any time after appointment of the personal representative require said personal representative to give a bond or additional bond, the same to be conditioned and to be approved as provided in this section; or the court may allow a reduction of the bond upon a proper showing.

In lieu of bond, the court may in its discretion, substitute other security or financial arrangements, such as provided under RCW 11.130.445, or as the court may deem adequate to protect the assets of the estate. [2020 c 312 s 709; 2008 c 6 s 915; 1977 ex.s. c 234 s 5; 1974 ex.s. c 117 s 46.]

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

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

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.20.020.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.190 Examination of sureties—Additional security—Costs. Before the judge approves any bond required under this chapter, and after its approval, he or she may, of his or her own motion, or upon the motion of any person interested in the estate, supported by affidavit that the sureties, or some one or more of them, are not worth as much as they have justified to, order a citation to issue, requiring such sureties to appear before him or her at a

designated time and place, to be examined touching their property and its value; and the judge must, at the same time, cause notice to be issued to the personal representative, requiring his or her appearance on the return of the citation, and on its return he or she may examine the sureties and such witnesses as may be produced touching the property of the sureties and its value; and if upon such examination he or she is satisfied that the bond is insufficient he or she must require sufficient additional security. If the bond and sureties are found by the court to be sufficient, the costs incident to such hearing shall be taxed against the party instituting such hearing. As a part of such costs the sureties appearing shall be allowed such fees and mileage as witnesses are allowed in civil proceedings: PROVIDED, That when the citation herein referred to is issued on the motion of the court, no costs shall be imposed. [2010 c 8 s 2018; 1965 c 145 s 11.28.190. Prior: 1917 c 156 s 68; RRS s 1438; prior: Code 1881 s 1400; 1877 p 212 s 4; 1863 p 221 s 129; 1860 p 183 s 96.]

Fees and allowances of witnesses: Chapter 2.40 RCW, RCW 5.56.010.

RCW 11.28.210 New or additional bond. Any person interested may at any time by verified petition to the court, or otherwise, complain of the sufficiency of any bond or sureties thereon, and the court may upon such petition, or upon its own motion, and with or without hearing upon the matter, require the personal representative to give a new, or additional bond, or bonds, and in all such matters the court may act in its discretion and make such orders and citations as to it may seem right and proper in the premises. [1965 c 145 s 11.28.210. Prior: 1917 c 156 s 70; RRS s 1440; prior: 1891 p 383 s 13 1/2; Code 1881 s 1404; 1877 p 212 s 4; 1863 p 221 s 131; 1860 p 183 s 98.]

RCW 11.28.220 Persons disqualified as sureties. No judge of the superior court, no sheriff, clerk of a court, or deputy of either, and no attorney-at-law shall be taken as surety on any bond required to be taken in any proceeding in probate. [1965 c 145 s 11.28.220. Prior: 1917 c 156 s 71; RRS s 1441; prior: 1891 p 383 s 14; Code 1881 s 1409; 1863 p 221 s 128; 1860 p 183 s 95.]

RCW 11.28.230 Bond not void for want of form—Successive recoveries. No bond required under the provisions of this chapter, and intended as such bond, shall be void for want of form, recital or condition; nor shall the principal or surety on such account be discharged, but all the parties thereto shall be held and bound to the full extent contemplated by the law requiring the same, to the amount specified in such bond. In all actions on such defective bond the plaintiff may state its legal effect in the same manner as though it were a perfect bond. The bond shall not be void upon the first recovery, but may be sued and recovered upon, from time to time, by any person aggrieved in his or her own name, until the whole penalty is exhausted. [2010 c 8 s 2019; 1965 c 145 s 11.28.230. Prior: 1917 c 156 s 73; RRS s 1443; prior: Code 1881 ss 1412, 1397; 1877 p 211 s 4; 1854 p 219 s 489.]

Bond not to fail for want of form or substance: RCW 19.72.170.

RCW 11.28.235 Limitation of action against sureties. All actions against sureties shall be commenced within six years after the revocation or surrender of letters of administration or death of the principal. [1965 c 145 s 11.28.235. Prior: 1917 c 156 s 80; RCW 11.28.310; RRS s 1450; prior: 1891 p 385 s 21; Code 1881 s 1431; 1854 p 274 s 42.]

RCW 11.28.237 Notice of appointment as personal representative, pendency of probate—Proof by affidavit. (1) Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause. If a trust is a legatee or devisee of the estate or a beneficiary or transferee of a nonprobate asset of the decedent, then notice to the trustee is sufficient.

(2) If the personal representative does not otherwise give notice to creditors under chapter 11.40 RCW within thirty days after appointment, the personal representative shall cause written notice of his or her appointment and the pendency of the probate proceedings to be mailed to the state of Washington department of social and health services' office of financial recovery, and proof of the mailing shall be made by affidavit and filed in the cause. [2011 c 327 s 2; 1997 c 252 s 85; 1994 c 221 s 24; 1977 ex.s. c 234 s 6; 1974 ex.s. c 117 s 30; 1969 c 70 s 2; 1965 c 145 s 11.28.237. Prior: 1955 c 205 s 13, part; RCW 11.76.040, part.]

Application—Effective date—2011 c 327: See notes following RCW 11.103.020.

Effective dates—1994 c 221: See note following RCW 11.100.035.

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.20.020.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.238 Notice of appointment as personal representative—Notice to department of revenue. Duty of personal representative to notify department of revenue of administration; personal liability for taxes upon failure to give notice: See RCW 82.32.240.

RCW 11.28.240 Request for special notice of proceedings in probate—Prohibitions. (1) At any time after the issuance of letters testamentary or of administration or certificate of qualification upon the estate of any decedent, any person interested in the estate as an heir, devisee, distributee, legatee or creditor whose claim has been duly served and filed, or the lawyer for the heir, devisee, distributee, legatee, or creditor may serve upon the personal

representative or upon the lawyer for the personal representative, and file with the clerk of the court wherein the administration of the estate is pending, a written request stating that the person desires special notice of any or all of the following named matters, steps or proceedings in the administration of the estate, to wit:

(a) Filing of petitions for sales, leases, exchanges or mortgages of any property of the estate.

(b) Petitions for any order of solvency or for nonintervention powers.

(c) Filing of accounts.

(d) Filing of petitions for distribution.

(e) Petitions by the personal representative for family allowances and homesteads.

(f) The filing of a declaration of completion.

(g) The filing of the inventory.

(h) Notice of presentation of personal representative's claim against the estate.

(i) Petition to continue a going business.

(j) Petition to borrow upon the general credit of the estate.

(k) Petition for judicial proceedings under chapter 11.96A RCW.

(l) Petition to reopen an estate.

(m) Intent to distribute estate assets, other than distributions in satisfaction of specific bequests or legacies of specific dollar amounts.

(n) Intent to pay attorney's or personal representative's fees.

The requests shall state the post office address of the heir, devisee, distributee, legatee or creditor, or his or her lawyer, and thereafter a brief notice of the filing of any of the petitions, accounts, declaration, inventory or claim, except petitions for sale of perishable property, or other tangible personal property which will incur expense or loss by keeping, shall be addressed to the heir, devisee, distributee, legatee or creditor, or his or her lawyer, at the post office address stated in the request, and deposited in the United States post office, with prepaid postage, at least ten days before the hearing of the petition, account or claim or of the proposed distribution or payment of fees; or personal service of the notices may be made on the heir, devisee, distributee, legatee, creditor, or lawyer, not less than five days before the hearing, and the personal service shall have the same effect as deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the petition, account or claim or of the proposed distribution or payment of fees. If the notice has been regularly given, any distribution or payment of fees and any order or judgment, made in accord therewith is final and conclusive.

(2) Notwithstanding subsection (1) of this section, a request for special notice may not be made by a person, and any request for special notice previously made by a person becomes null and void, when:

(a) That person qualifies to request special notice solely by reason of being a specific legatee, all of the property that person is entitled to receive from the decedent's estate has been distributed to that person, and that person's bequest is not subject to any subsequent abatement for the payment of the decedent's debts, expenses, or taxes;

(b) That person qualifies to request special notice solely by reason of being an heir of the decedent, none of the decedent's property is subject to the laws of descent and distribution, the

decedent's will has been probated, and the time for contesting the probate of that will has expired; or

(c) That person qualifies to request special notice solely by reason of being a creditor of the decedent and that person has received all of the property that the person is entitled to receive from the decedent's estate. [1999 c 42 s 606; 1997 c 252 s 4; 1985 c 30 s 5. Prior: 1984 c 149 s 8; 1965 c 145 s 11.28.240; prior: 1941 c 206 s 1; 1939 c 132 s 1; 1917 c 156 s 64; Rem. Supp. 1941 s 1434.]

Effective date—1999 c 42: See RCW 11.96A.902.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Borrowing on general credit of estate—Petition—Notice—Hearing: RCW 11.56.280.

Claim of personal representative—Presentation and petition—Filing: RCW 11.40.140.

Continuation of decedent's business: RCW 11.48.025.

Purchase of claims by personal representative: RCW 11.48.080.

Report of personal representative, notice of hearing: RCW 11.76.020, 11.76.040.

Sales, exchanges, leases, mortgages and borrowing: Chapter 11.56 RCW.

RCW 11.28.250 Revocation of letters—Causes. Whenever the court has reason to believe that any personal representative has wasted, embezzled, or mismanaged, or is about to waste, or embezzle the property of the estate committed to his or her charge, or has committed, or is about to commit a fraud upon the estate, or is incompetent to act, or is permanently removed from the state, or has wrongfully neglected the estate, or has neglected to perform any acts as such personal representative, or for any other cause or reason which to the court appears necessary, it shall have power and authority, after notice and hearing to revoke such letters. The manner of the notice and of the service of the same and of the time of hearing shall be wholly in the discretion of the court, and if the court for any such reasons revokes such letters the powers of such personal representative shall at once cease, and it shall be the duty of the court to immediately appoint some other personal representative, as in this title provided. [2010 c 8 s 2020; 1965 c 145 s 11.28.250. Prior: 1917 c 156 s 74; RRS s 1444; prior: Code 1881 s 1414; 1863 p 218 s 112; 1860 p 186 s 114.]

Absentee estates, removal of trustee: RCW 11.80.060.

Accounting on revocation of letters: RCW 11.28.290.

Cancellation of letters of administration: RCW 11.28.160.

Effect on compensation of personal representative who fails to discharge duties: RCW 11.48.210.

Notice to creditors when personal representative removed—Limit tolled by vacancy: RCW 11.40.150.

Revocation of letters

by discovery of will: RCW 11.28.150.

upon conviction of crime or becoming of unsound mind: RCW 11.36.010.

Successor personal representative: RCW 11.28.280.

RCW 11.28.260 Revocation of letters—Proceedings in court or chambers. The applications and acts authorized by RCW 11.28.250 may be heard and determined in court or at chambers. All orders made therein must be entered upon the minutes of the court. [1965 c 145 s 11.28.260. Prior: 1917 c 156 s 75; RRS s 1445; prior: 1891 p 384 s 17; Code 1881 s 1413; 1877 p 213 s 4.]

RCW 11.28.270 Powers of remaining personal representatives if letters to associates revoked or surrendered or upon disqualification. If more than one personal representative of an estate is serving when the letters to any of them are revoked or surrendered or when any part of them dies or in any way becomes disqualified, those who remain shall perform all the duties required by law unless the decedent provided otherwise in a duly probated will or unless the court orders otherwise. [1997 c 252 s 5; 1965 c 145 s 11.28.270. Prior: 1917 c 156 s 76; RRS s 1446; prior: Code 1881 s 1427; 1854 p 273 s 38.]

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.28.280 Successor personal representative. Except as otherwise provided in RCW 11.28.270, if a personal representative of an estate dies or resigns or the letters are revoked before the settlement of the estate, letters testamentary or letters of administration of the estate remaining unadministered shall be granted to those to whom the letters would have been granted if the original letters had not been obtained, or the person obtaining them had renounced administration, and the successor personal representative shall perform like duties and incur like liabilities as the preceding personal representative, unless the decedent provided otherwise in a duly probated will or unless the court orders otherwise. A succeeding personal representative may petition for nonintervention powers under chapter 11.68 RCW. [1997 c 252 s 6; 1974 ex.s. c 117 s 26; 1965 c 145 s 11.28.280. Prior: 1955 c 205 s 8; 1917 c 156 s 77; RRS s 1447; prior: Code 1881 s 1428.]

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.290 Accounting on death, resignation, or revocation of letters. If any personal representative resign, or his or her letters be revoked, or he or she die, he or she or his or her representatives shall account for, pay, and deliver to his or her successor or to the surviving or remaining personal representatives, all money and property of every kind, and all rights, credits, deeds, evidences of debt, and papers of every kind, of the deceased, at such time and in such manner as the court shall order on final settlement with such personal representative or his or her legal representatives. [2010 c 8 s 2021; 1965 c 145 s 11.28.290. Prior: 1917 c 156 s 78; RRS s 1448; prior: Code 1881 s 1429; 1854 p 273 s 40.]

RCW 11.28.300 Proceedings against delinquent personal representative. The succeeding administrator, or remaining personal representative may proceed by law against any delinquent former personal representative, or his or her personal representatives, or the sureties of either, or against any other person possessed of any part of the estate. [2010 c 8 s 2022; 1965 c 145 s 11.28.300. Prior: 1917 c 156 s 79; RRS s 1449; prior: 1891 p 384 s 20; Code 1881 s 1430; 1854 p 273 s 41.]

Limitation of action against sureties: RCW 11.28.235.

RCW 11.28.330 Notice of adjudication of testacy or intestacy and heirship—Contents—Service or mailing. If no personal representative is appointed to administer the estate of a decedent, the person obtaining the adjudication of testacy, or intestacy and heirship, within thirty days shall personally serve or mail a true copy of the adjudication to each heir, legatee, and devisee of the decedent, which copy shall contain the name of the decedent's estate and the probate cause number, and shall:

- (1) State the name and address of the applicant;
- (2) State that on the day of,, the applicant obtained an order from the superior court of county, state of Washington, adjudicating that the decedent died intestate, or testate, whichever shall be the case;
- (3) In the event the decedent died testate, enclose a copy of his or her will therewith, and state that the adjudication of testacy will become final and conclusive for all legal intents and purposes unless any heir, legatee, or devisee of the decedent shall contest said will within four months after the date the said will was adjudicated to be the last will and testament of the decedent;
- (4) In the event that the decedent died intestate, set forth the names and addresses of the heirs of the decedent, their relationship to the decedent, the distributive shares of the estate of the decedent which they are entitled to receive, and that said adjudication of intestacy and heirship shall become final and conclusive for all legal

intents and purposes, unless, within four months of the date of said adjudication of intestacy, a petition shall be filed seeking the admission of a will of the decedent for probate, or contesting the adjudication of heirship.

Notices provided for in this section may be served personally or sent by regular mail, and proof of such service or mailing shall be made by an affidavit filed in the cause;

(5) Mail a true copy of the adjudication, including the decedent's social security number and the name and address of the applicant, to the state of Washington department of social and health services office of financial recovery. [2010 c 8 s 2023; 2004 c 193 s 1; 1974 ex.s. c 117 s 31.]

Application, construction—Severability—Effective date—1974
ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 11.28.340 Order of adjudication of testacy or intestacy and heirship—Entry—Time limitation—Deemed final decree of distribution, when—Purpose—Finality of adjudications. Unless, within four months after the entry of the order adjudicating testacy or intestacy and heirship, and the mailing or service of the notice required in RCW 11.28.330 any heir, legatee or devisee of the decedent shall offer a later will for probate or contest an adjudication of testacy in the manner provided in this title for will contests, or offer a will of the decedent for probate following an adjudication of intestacy and heirship, or contesting the determination of heirship, an order adjudicating testacy or intestacy and heirship without appointing a personal representative to administer a decedent's estate shall, as to those persons by whom notice was waived or to whom said notice was mailed or on whom served, be deemed the equivalent of the entry of a final decree of distribution in accordance with the provisions of chapter 11.76 RCW for the purpose of:

(1) Establishing the decedent's will as his or her last will and testament and persons entitled to receive his or her estate thereunder; or

(2) Establishing the fact that the decedent died intestate, and those persons entitled to receive his or her estate as his or her heirs at law.

The right of an heir, legatee, or devisee to receive the assets of a decedent shall, to the extent otherwise provided by this title, be subject to the prior rights of the decedent's creditors and of any persons entitled to a homestead award or award in lieu of homestead or family allowance, and nothing contained in this section shall be deemed to alter or diminish such prior rights, or to prohibit any person for good cause shown, from obtaining the appointment of a personal representative to administer the estate of the decedent after the entry of an order adjudicating testacy or intestacy and heirship. However, if the petition for letters testamentary or of administration shall be filed more than four months after the date of the adjudication of testacy or of intestacy and heirship, the issuance of such letters shall not affect the finality of said adjudications.

Four months after providing all notices as required in RCW 11.28.330, any person paying, delivering, transferring, or issuing property to the person entitled thereto under an adjudication of testacy or intestacy and heirship that is deemed the equivalent of a

final decree of distribution as set forth in this section is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent. [2010 c 8 s 2024; 2004 c 193 s 2; 1988 c 29 s 1; 1977 ex.s. c 234 s 7; 1974 ex.s. c 117 s 32.]

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.20.020.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.