

**Chapter 11.80 RCW
ESTATES OF ABSENTEES**

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*Unknown heirs, etc.—Pleading, etc.: RCW 4.28.140 through 4.28.160;
Rules of court: CR 10.*

*Written finding of presumed death, missing in action, etc.: RCW
5.40.020 through 5.40.040.*

RCW 11.80.010 Petition—Notice—Hearing—Appointment of trustee.

Whenever it shall be made to appear by petition to any judge of the superior court of any county that there is property in such county, either real or personal, that requires care and attention, or is in such a condition that it is a menace to the public health, safety or welfare, or that the custodian of such property appointed by the owner thereof is either unable or unwilling to continue longer in the care and custody thereof, and that the owner of such property has absented himself or herself from the county and that his or her whereabouts is unknown and cannot with reasonable diligence be ascertained, or that the absentee owner is a person defined in RCW 11.80.120, which petition shall state the name of the absent owner, his or her approximate age, his or her last known place of residence, the circumstances under which he or she left and the place to which he or she was going, if known, his or her business or occupation and his or her physical appearance and habits so far as known, the judge to whom such petition is presented shall set a time for hearing such petition not less than six weeks from the date of filing, and shall by order direct that a notice of such hearing be published for three successive weeks in a legal newspaper published in the county where such petition is filed and in such other counties and states as will in the judgment of the court be most likely to come to the attention of the absentee or of persons who may know his or her whereabouts, which notice shall state the object of the petition and the date of hearing, and set forth such facts and circumstances as in the judgment of the court will aid in identifying the absentee, and shall contain a request that

all persons having knowledge concerning the absentee shall advise the court of the facts: PROVIDED, HOWEVER, That the court may, upon the filing of said petition, appoint a temporary trustee, who shall have the powers, duties and qualifications of a special administrator.

If it shall appear at such hearing that the whereabouts of the absentee is unknown, but there is reason to believe that upon further investigation and inquiry he or she may be found, the judge may continue the hearing and order such inquiry and advertisement as will in his or her discretion be liable to disclose the whereabouts of the absentee, but when it shall appear to the judge at such hearing or any adjournment thereof that the whereabouts of the absentee cannot be ascertained, he or she shall appoint a suitable person resident of the county as trustee of such property, taking into consideration the character of the property and the fitness of such trustee to care for the same, preferring in such appointment the spouse or the domestic partner of the absentee to his or her presumptive heirs, the presumptive heirs to kin more remote, the kin to strangers, and creditors to those who are not otherwise interested, provided they are fit persons to have the care and custody of the particular property in question and will accept the appointment and qualify as hereinafter provided. [2008 c 6 § 932; 1972 ex.s. c 83 § 1; 1965 c 145 § 11.80.010. Prior: 1915 c 39 § 1; RRS § 1715-1.]

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

Special administrators: Chapter 11.32 RCW.

RCW 11.80.020 Inventory and appraisal—Bond of trustee. The trustee so appointed shall make, subscribe and file in the office of the clerk of the court an oath for the faithful performance of his or her duties, and shall, within such time as may be fixed by the judge, prepare and file an inventory of such property, and the judge shall thereupon appoint a disinterested and qualified person to appraise such property, and report his or her appraisal to the court within such time as the court may fix. Upon the coming in of the inventory and appraisal, the judge shall fix the amount of the bond to be given by the trustee, which bond shall in no case be less than the appraised value of the personal property and the annual rents and profits of the real property, and the trustee shall thereupon file with the clerk of the court a good and sufficient bond in the amount fixed and with surety to be approved by the court, conditioned for the faithful performance of his or her duties as trustee, and for accounting for such property, its rents, issues, profits, and increase. [2010 c 8 § 2078; 1967 c 168 § 15; 1965 c 145 § 11.80.020. Prior: 1915 c 39 § 2; RRS § 1715-2.]

RCW 11.80.030 Reports of trustee. The trustee shall, at the expiration of one year from the date of his or her appointment and annually thereafter and at such times as the court may direct, make and file a report and account of his or her trusteeship, setting forth specifically the amounts received and expended and the conditions of the property. [2010 c 8 § 2079; 1965 c 145 § 11.80.030. Prior: 1915 c 39 § 3; RRS § 1715-3.]

RCW 11.80.040 Sale of property—Application of proceeds and income. If necessary to pay debts against the absentee which have been duly approved and allowed in the same form and manner as provided for the approving and allowing of claims against the estate of a deceased person or for such other purpose as the court may deem proper for the preservation of the estate, the trustee may sell, lease, or mortgage real or personal property of the estate under order of the court so to do, which order shall specify the particular property affected and the method, whether by public sale, private sale, or by negotiation, and the terms thereof, and the trustee shall hold the proceeds of such sale, after deducting the necessary expenses thereof, subject to the order of the court. The trustee is authorized and empowered to, by order of the court, expend the proceeds received from the sale of such property, and also the rents, issues, and profits accruing therefrom in the care, maintenance, and upkeep of the property, so long as the trusteeship shall continue, and the trustee shall receive out of such property such compensation for his or her services and those of his or her attorney as may be fixed by the court. The notices and procedures in conducting sales, leases, and mortgages hereunder shall be as provided in chapter 11.56 RCW. [2010 c 8 § 2080; 1965 c 145 § 11.80.040. Prior: 1915 c 39 § 4; RRS § 1715-4.]

Rules of court: *SPR 98.12W.*

RCW 11.80.050 Allowance for support of dependents—Sale of property. Whenever a petition is filed in said estate from which it appears to the satisfaction of the court that the owner of such property left a spouse or domestic partner, child or children, dependent upon such absentee for support or upon the property in the estate of such absentee, either in whole or in part, the court shall hold a hearing on said petition, after such notice as the court may direct, and upon such hearing shall enter such order as it deems advisable and may order an allowance to be paid out of any of the property of such estate, either community or separate, as the court shall deem reasonable and necessary for the support and maintenance of such dependent or dependents, pending the return of the absentee, or until such time as the property of said estate may be provisionally distributed to the presumptive heirs or to the devisees and legatees. Such allowance shall be paid by the trustee to such persons and in such manner and at such periods of time as the court may direct. For the purpose of carrying out the provisions of this section the court may direct the sale of any of the property of the estate, either real or personal, in accordance with the provisions of RCW 11.80.040. [2008 c 6 § 933; 1965 c 145 § 11.80.050. Prior: 1925 ex.s. c 80 § 1; RRS § 1715-4a.]

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

RCW 11.80.055 Continuation of absentee's business—Performance of absentee's contracts. Upon a showing of advantage to the estate of the absentee, the court may authorize the trustee to continue any business of the absentee in accordance with the provisions of RCW

11.48.025. The trustee may also obtain an order allowing the performance of the absentee's contracts in accordance with the provisions of chapter 11.60 RCW. [1965 c 145 § 11.80.055.]

RCW 11.80.060 Removal or resignation of trustee—Final account.

The court shall have the power to remove or to accept the resignation of such trustee and appoint another in his or her stead. At the termination of his or her trust, as hereinafter provided or in case of his or her resignation or removal, the trustee shall file a final account, which account shall be settled in the manner provided by law for settling the final accounts of personal representatives. [2010 c 8 § 2081; 1965 c 145 § 11.80.060. Prior: 1915 c 39 § 5; RRS § 1715-5.]

RCW 11.80.070 Period of trusteeship.

Such trusteeship shall continue until such time as the owner of such property shall return or shall appoint a duly authorized agent or attorney-in-fact to care for such property, or until such time as the property shall be provisionally distributed to the presumptive heirs, or to the devisees and legatees of the absentee as hereinafter provided, or until such time as the property shall escheat to the state as hereinafter provided. [1965 c 145 § 11.80.070. Prior: 1915 c 39 § 6; RRS § 1715-6.]

RCW 11.80.080 Provisional distribution—Notice of hearing—Will.

Whenever the owner of such property shall have been absent from the county for the space of five years and his or her whereabouts are unknown and cannot with reasonable diligence be ascertained, his or her presumptive heirs at law may apply to the court for an order of provisional distribution of such property, and to be let into provisional possession thereof: PROVIDED, That such provisional distribution may be made at any time prior to the expiration of five years, when it shall be made to appear to the satisfaction of the court that there are strong presumptions that the absentee is dead; and in determining the question of presumptive death, the court shall take into consideration the habits of the absentee, the motives of and the circumstances surrounding the absence, and the reasons which may have prevented the absentee from being heard of.

Notice of hearing upon application for provisional distribution shall be published in like manner as notices for the appointment of trustees are published.

If the absentee left a will in the possession of any person such person shall present such will at the time of hearing of the application for provisional distribution and if it shall be made to appear to the court that the absentee has left a will and the person in possession thereof shall fail to present it, a citation shall issue requiring him or her so to do, and such will shall be opened, read, proven, filed, and recorded in the case, as are the wills of decedents. [2010 c 8 § 2082; 1965 c 145 § 11.80.080. Prior: 1915 c 39 § 7; RRS § 1715-7.]

Notice for appointment of trustees: RCW 11.80.010.

RCW 11.80.090 Hearing—Distribution—Bond of distributees. If it shall appear to the satisfaction of the court upon the hearing of the application for provisional distribution that the absentee has been absent and his or her whereabouts unknown for the space of five years, or there are strong presumptions that he or she is dead, the court shall enter an order directing that the property in the hands of the trustee shall be provisionally distributed to the presumptive heirs, or to the devisees and legatees under the will, as the case may be, upon condition that such heirs, devisees, and legatees respectively give and file in the court bonds with good and sufficient surety to be approved by the court, conditioned for the return of or accounting for the property provisionally distributed in case the absentee shall return and demand the same, which bonds shall be respectively in twice the amount of the value of the personal property distributed, and in ten times the amount of estimated annual rents, issues, and profits of any real property so provisionally distributed. [2010 c 8 § 2083; 1965 c 145 § 11.80.090. Prior: 1915 c 39 § 8; RRS § 1715-8.]

RCW 11.80.100 Final distribution—Notice of hearing—Decree. Whenever the owner of such property shall have been absent from the county for a space of seven years and his or her whereabouts are unknown and cannot with reasonable diligence be ascertained, his or her presumptive heirs at law or the legatees and devisees under the will, as the case may be, to whom the property has been provisionally distributed, may apply to the court for a decree of final distribution of such property and satisfaction, discharge and exoneration of the bonds given upon provisional distribution. Notice of hearing of such application shall be given in the same manner as notice of hearing of application for the appointment of trustee and for provisional distribution and if at the final hearing it shall appear to the satisfaction of the court that the owner of the property has been absent and unheard of for the space of seven years and his or her whereabouts are unknown, the court shall exonerate the bonds given on provisional distribution and enter a decree of final distribution, distributing the property to the presumptive heirs at law of the absentee or to his or her devisees and legatees, as the case may be. [2010 c 8 § 2084; 1965 c 145 § 11.80.100. Prior: 1915 c 39 § 9; RRS § 1715-9.]

RCW 11.80.110 Escheat for want of presumptive heirs. Whenever the owner of such property for which a trustee has been appointed under the provisions of this chapter shall have been absent and unheard of for a period of seven years and no presumptive heirs at law have appeared and applied for the provisional distribution of such property and no will of the absentee has been presented and proven, the trustee appointed under the provisions of the chapter shall apply to the court for a final settlement of his or her account and upon the settlement of such final account the property of the absentee shall be escheated in the manner provided by law for escheating property of persons who die intestate leaving no heirs. [2010 c 8 § 2085; 1965 c 145 § 11.80.110. Prior: 1915 c 39 § 10; RRS § 1715-10.]

Escheats: Chapter 11.08 RCW.

RCW 11.80.120 Personnel missing in action, interned, or captured construed as "absentee." Any person serving in or with the armed forces of the United States, in or with the Red Cross, or in or with the merchant marine or otherwise, during any period of time when a state of hostilities exists between the United States and any other power and for one year thereafter, who has been reported or listed as missing in action, or interned in a neutral country, or captured by the enemy, shall be an "absentee" within the meaning of this chapter. [1972 ex.s. c 83 § 2.]

RCW 11.80.130 Summary procedure without full trustee proceeding—When permitted—Application for order—Form. (1) If the spouse or domestic partner of any absentee owner, or his or her next of kin, if said absentee has no spouse or domestic partner, shall wish to sell or transfer any property of the absentee which has a gross value of less than five thousand dollars, or shall require the consent of the absentee in any matter regarding the absentee's children, or any other matter in which the gross value of the subject matter is less than five thousand dollars, such spouse or such domestic partner or next of kin may apply to the superior court for an order authorizing said sale, transfer, or consent without opening a full trustee proceeding as provided in this chapter. The applicant may make the application without the assistance of an attorney. Said application shall be made by petition on the following form, which form shall be made readily available to the applicant by the clerk of the superior court.

IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF

.....,
Plaintiff,
vs.
.....,
Defendant.
.....

No.
PETITION FOR
SUMMARY
RELIEF

Petitioner,, whose residence is,
and, Washington, and who is the of
the absentee,, states that the absentee has been
..... since, when, Petitioner
desires to sell/transfer of the value of,
because, The terms of the sale/transfer are
..... Petitioner requires the consent of the
absentee for the purpose of

.....
Petitioner

(Affidavit of Acknowledgment)

(2) The court may, without notice, enter an order on said petition if it deems the relief requested in said petition necessary to protect the best interests of the absentee or his or her dependents.

(3) Such order shall be prima facie evidence of the validity of the proceedings and the authority of the petitioner to make a

conveyance or transfer of the property or to give the absentee's consent in any manner described by subsection (1) of this section. [2008 c 6 § 926; 1972 ex.s. c 83 § 3.]

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