

LEGAL SERVICES

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MEMORANDUM

March 18, 2014

SUBJECT: CSHB 60() relating to property interests
(Work Order No. 28-LS0265\C)

TO: Representative Max Gruenberg
Attn: Nicoli Bailey

FROM:  Terry Bannister
Legislative Counsel

This memo accompanies the bill described above. This memo describes the changes between this bill (Version C) and the original HB 60 Version A.

1. Overview of changes. This version incorporates the contents of HB 61, which repeals AS 34.15.130. AS 34.15.130 abolishes the use of joint tenancy for real property. This version also makes some changes in sec. 13.48.070, which relates to revocation of transfer on death deeds.

2. Changes to title. The title in this version reflects the addition of HB 61 (joint ownership of real property). This version also adds language disclosing that the bill addresses disclaimers of property interests. This adjustment is not caused by the addition of HB 61 and is an adjustment to correct the title of HB 60 (Version A). Although the disclaimer sections (bill secs. 2 - 4) were inserted to improve the language in response to the adoption of the Uniform Real Property Transfer on Death Act (URPTODA), the changes in bill secs. 2 and 3 apply to more than the URPTODA.

As a result, the bill's single subject is essentially "property interests." This is a very broad single subject, but, due to the court's past liberal interpretation of this requirement and the logical connection among the bill sections, it appears to satisfy the single subject rule.

3. Changes to sec. 13.48.070. Former sec. 13.48.070 listed four situations when an instrument is effective to revoke all (or part) of a recorded transfer on a death deed (TOD deed). This version rewrites the fourth listed situation (non-express inter vivos deed) to make it a rebuttable presumption (rather than a conclusion) that the inter-vivos deed revokes the TOD deed. To accomplish this change, former sec. 13.48.070(a)(1)(D) has been deleted and placed in a new sec. 13.48.070(b). And, as a result, the lettering of the following subsections is changed. In addition, a reference to the new subsec. (b) is added at the beginning of sec. 13.48.070(a).

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4. Change to definition of "joint owner" in sec. 13.48.190. Because joint tenancies will no longer be abolished, the definition of "joint owner" in the bill has been changed to expressly include a person who is a joint tenant and to delete the exclusion of joint tenants.

5. Addition of repealer. The repeal of AS 34.15.130 (the section that currently abolishes joint tenancy) has been added at bill sec. 5.

6. Applicability provision for the uniform act. The applicability provision (bill sec. 6(a)) for the uniform act in HB 60 has been changed to apply the new URPTODA deed provisions to deeds made on or after the effective date of the Act. Before this, the applicability section covered deeds made before the effective date of the Act for persons dying on or after the effective date. The reason for deleting the retroactivity is to avoid applying the repeal of the joint tenancy provision to deeds that were made before the HB 61 repealer takes effect.

7. Applicability provision for the disclaimer sections. Bill sec. 6(b) has been added to provide an applicability provision for bill secs. 2 - 4 because they cover more than the URPTODA deeds.

8. Applicability provision for the added HB 61 material. The applicability section from HB 61 has been added to the bill as bill sec. 6(c).

If I may be of further assistance, please advise.

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Enclosure