

ALASKA STATE LEGISLATURE

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SENATOR Tom Begich
Senate Democratic Leader

Community Property Trusts - Sponsor Statement

Senate Bill 11 Version: 32-LS0132\I

Alaska is a state with favorable trust laws and favorable laws for property ownership between spouses. Alaska allows for “opt in” community property ownership between married spouses. Community property ownership can provide tremendous tax advantages to spouses. In Alaska, residents can enter into community property agreements, and residents and nonresidents can enter into Alaska community property trusts. This benefits the individuals entering these agreements, the trust industry of Alaska, increases deposits in Alaska banks and through the revenue generated by the formation of a new trust, the state.

Community property is simply a way to own joint property. A common way to enter a community property agreement is in conjunction with one’s spouse. Each party must elect into this agreement and the agreement provides, most commonly, equal ownership and management of specific property.

Currently, community property has a significant tax advantage. When a spouse dies, community property is placed into a category that allows tax advantages when that property is sold. To realize these advantages, appreciation and income must be characterized as community property.

The default rule has generally been that appreciation and income on community property will be characterized as community property, unless otherwise declared in the community property trust. Trust attorneys have attested to this interpretation, however recent court rulings have created an ambiguous understanding of this general criterion. This legislation, consistent with industry understandings of trusts, seeks to clearly define community property as including appreciation and income on community property.

SB 11 establishes a clear definition of appreciation and income as community property, as intended by The Community Property Trust Act. Portions of this legislation also have a retroactive effective date of May 23, 1998.