

HOUSE BILL NO. 181

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MURKOWSKI, McGuire

Introduced: 3/14/01

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the obligations of spouses, to insurance policies of spouses, to the**
2 **nonprobate transfer of property on death to a community property trust, to the division**
3 **of the community property of spouses at death, and to the Alaska Community Property**
4 **Act; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 34.77.070 is amended by adding new subsections to read:

7 (j) An obligation incurred by only one spouse before or during marriage may
8 be satisfied only from the property of that spouse that is not community property and
9 from that spouse's interest in community property. This subsection does not apply to
10 an obligation described in (b) of this section.

11 (k) An obligation incurred during marriage by both spouses may be satisfied
12 from property of each spouse that is not community property and from the community
13 property.

14 *** Sec. 2.** AS 34.77.100 is amended by adding a new subsection to read:

1 (i) In addition to other transfers of property to a community property trust,
 2 property will be considered transferred to a community property trust if the property is
 3 subject to a nonprobate transfer on death under AS 13.33.101 and the community
 4 property trust is designated as the beneficiary to receive the property under the
 5 transfer.

6 * **Sec. 3.** AS 34.77.120(b) is amended to read:

7 (b) Except as provided in (c) - (e) of this section,

8 (1) the ownership interest in and proceeds of a policy that insures the
 9 life of one of the spouses and that has been classified by a community property
 10 agreement or a community property trust as community property are community
 11 property without regard to the classification of property used to pay premiums on the
 12 policy;

13 (2) the ownership interest in and proceeds of a policy that is owned by
 14 one spouse and that has not been classified by a community property agreement or a
 15 community property trust as community property are mixed property if all or part of a
 16 premium on the policy is paid from community property after the determination date;
 17 the community property component of the ownership interest and proceeds is the part
 18 resulting from multiplying the entire ownership interest and proceeds by a fraction that
 19 consists of a numerator that is the sum of the net premiums and portions of net
 20 premiums paid from community property and a denominator that is the sum of the net
 21 premiums paid;

22 (3) the ownership interest in and proceeds of a policy issued during
 23 marriage that designates the spouse of the insured as the owner are the individual
 24 property of the owner without regard to the classification of property used to pay
 25 premiums on the policy;

26 (4) the ownership interest in and proceeds of a policy that designates a
 27 person other than either of the spouses as the owner are not affected by this chapter if
 28 a premium on the policy is not paid from community property after the determination
 29 date; if all or part of a premium on the policy is paid from community property after
 30 the determination date, the ownership interest and proceeds of the policy are in part
 31 property of the designated owner of the policy and in part community property of the

1 spouses without regard to the classification of property used to pay premiums on the
 2 policy after the initial payment of a premium on the policy from community property;
 3 the community property component of the ownership interest and proceeds is the part
 4 resulting from multiplying the entire ownership interest and proceeds by a fraction that
 5 consists of a numerator that is the sum of the net premiums and portions of net
 6 premiums paid from community property and a denominator that is the sum of the net
 7 premiums paid;

8 (5) written consent by a spouse to the designation of another person as
 9 the beneficiary of the proceeds of a policy is effective to relinquish that spouse's
 10 interest in the ownership interest and proceeds of the policy without regard to the
 11 classification of property used by a spouse or another person to pay premiums on the
 12 policy; a designation **of any of the following persons or trusts as the beneficiary of**
 13 **a policy is presumed to have been made with the consent of the other** [BY
 14 EITHER] spouse;

15 (A) [OF A PARENT OR CHILD OF EITHER OF THE
 16 SPOUSES AS THE BENEFICIARY OF THE PROCEEDS OF A POLICY IS
 17 PRESUMED TO HAVE BEEN MADE WITH THE CONSENT OF] the other
 18 spouse **or an ancestor or descendant of either spouse; or**

19 (B) **a trust that has one or more of the persons named in (A)**
 20 **of this paragraph as the only primary trust beneficiaries;**

21 (6) unless the spouses provide otherwise in a community property
 22 agreement or community property trust, designation of a trust as the beneficiary of the
 23 proceeds of a policy with a community property component does not reclassify the
 24 component;

25 (7) **unless the spouses provide otherwise, if an irrevocable trust**
 26 **owns a life insurance policy insuring the life of one spouse and the spouse whose**
 27 **life is not insured by the policy is provided a beneficial interest in the trust, then,**
 28 **before a contribution of assets to the trust, the spouse whose life is not insured by**
 29 **the policy is presumed to have relinquished any community property interest**
 30 **that the spouse whose life is not insured by the policy may have had in the assets**
 31 **contributed to the trust.**

1 * **Sec. 4.** AS 34.77 is amended by adding a new section to read:

2 **Sec. 34.77.155. Division of community property at death.** (a) Upon the
3 death of a spouse, one-half of the aggregate value of the community property owned
4 by the spouses and by any community property trust established by the spouses
5 reflects the share of the surviving spouse and the other one-half reflects the share of
6 the decedent.

7 (b) Upon the death of a spouse, the deceased spouse's personal representative
8 and the trustee of a community property trust each have the power to distribute
9 community property in divided or undivided interests and to adjust resulting
10 differences in valuation. A distribution of community property in kind may be made
11 on the basis of a non pro rata division of the aggregate value of the community
12 property, on the basis of a pro rata division of each individual item or asset of
13 community property, or by using both methods.

14 (c) Notwithstanding (a) and (b) of this section, spouses may agree in writing to
15 divide their community property on the basis of a non pro rata division of the
16 aggregate value of the community property or on the basis of a pro rata division of
17 each individual item or asset of community property, or by using both methods.

18 * **Sec. 5.** AS 34.77.070(a), 34.77.070(c), 34.77.070(d), and 34.77.070(e) are repealed.

19 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).