

SENATE CS FOR CS FOR HOUSE BILL NO. 196(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/10/08

Referred: State Affairs, Judiciary

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the handling of matters after a person's death."**

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

3 * **Section 1.** AS 13.12.517 is amended to read:

4 **Sec. 13.12.517. Penalty clause for contest.** A provision in a will purporting to
5 penalize an interested person for contesting the will or instituting other proceedings
6 relating to the estate is **enforceable even** [UNENFORCEABLE] if probable cause
7 exists for instituting proceedings.

8 * **Sec. 2.** AS 13.16.680(a) is amended to read:

9 (a) Thirty days after the death of a decedent, any person indebted to the
10 decedent or having possession of tangible personal property or an instrument
11 evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall
12 make payment of the indebtedness or deliver the tangible personal property or an
13 instrument evidencing a debt, obligation, stock, or chose in action to a person claiming
14 to be the successor of the decedent upon being presented an affidavit made by or on
15 behalf of the successor stating that

1 (1) the [VALUE OF THE] entire estate, wherever located, less liens
2 and encumbrances, **consists only of not more than**

3 **(A) vehicles subject to registration under AS 28.10.011 with**
4 **a total value that does not exceed \$100,000; and**

5 **(B) personal property, other than vehicles described in (A)**
6 **of this paragraph, that** does not exceed **\$100,000** [\$15,000];

7 (2) 30 days have elapsed since the death of the decedent;

8 (3) no application or petition for the appointment of a personal
9 representative is pending or has been granted in any jurisdiction; and

10 (4) the claiming successor is entitled to payment or delivery of the
11 property.

12 * **Sec. 3.** AS 13.16.700 is amended to read:

13 **Sec. 13.16.700. Settlement directed by court.** When a judge receives
14 information that a person has died in the judge's judicial district leaving an estate **with**
15 **property limited to the property described under AS 13.16.680(a)(1)** [OF \$15,000]
16 or less and no qualified person has appeared to take charge of the assets, the judge
17 may immediately appoint a person, corporation, or attorney to settle the estate in the
18 manner provided for in AS 13.16.680 - 13.16.695.

19 * **Sec. 4.** AS 13.33.101 is amended by adding new subsections to read:

20 (d) The money or other benefits paid under a provision for a nonprobate
21 transfer on death in a life insurance contract or a retirement plan are not subject to

22 (1) the debts of the individual who was insured under the life insurance
23 contract or who was a participant in the retirement plan; or

24 (2) the claims of the creditors of the individual who was insured under
25 the life insurance contract or who was a participant in the retirement plan.

26 (e) The provisions of (d) of this section apply even if

27 (1) the provision for a nonprobate transfer on death is contained in the
28 life insurance contract or the retirement plan and designates the person to whom the
29 money or other benefits are to be paid if the person who is the owner or insured under
30 the life insurance policy or the participant in the retirement plan does not select a
31 beneficiary;

1 (2) the life insurance contract, retirement plan, or a provision for a
2 nonprobate transfer on death in the life insurance contract or retirement plan, makes
3 the money or other benefits payable, directly or indirectly, to

4 (A) a decedent's estate or the personal representative of a
5 decedent's estate, except that if the decedent owes money for child support
6 arrearages, for spousal support arrearages, or under AS 47.07.055, the
7 provisions of (d) of this section do not apply; in this subparagraph, "personal
8 representative" has the meaning given in AS 13.06.050;

9 (B) a trustee of a trust established under a will, except that if
10 the decedent owes money for child support arrearages, for spousal support
11 arrearages, or under AS 47.07.055, the provisions of (d) of this section do not
12 apply; or

13 (C) a trustee of a trust instrument that is separate from the life
14 insurance contract or retirement plan and that designates the ultimate
15 beneficiary;

16 (3) a trust to which the money or other benefits are payable may be
17 amended, revoked, or both amended and revoked, or is funded or unfunded; or

18 (4) the settlor of the trust to which the money or other benefits are
19 payable has reserved all rights of ownership in the life insurance contract or under the
20 retirement plan.

21 (f) The provisions of (d) of this section do not limit the rights of the owner of
22 a life insurance contract to pledge or assign by contract the money or other benefits
23 from a life insurance contract as collateral for the debts of the owner.

24 (g) In (d) of this section,

25 (1) "life insurance contract" means a life insurance policy, an annuity
26 contract, an endowment contract, and a contract entered into by an insurance company
27 in connection with, supplemental to, or in settlement of a life insurance policy, an
28 annuity contract, or an endowment contract;

29 (2) "retirement plan" means

30 (A) a retirement plan that is qualified under 26 U.S.C. 401(a),
31 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 408, 26 U.S.C. 408A, or 26

1 U.S.C. 409 (Internal Revenue Code); and

2 (B) the amounts held in the teachers' retirement system under
3 AS 14.25, judicial retirement system under AS 22.25, public employees'
4 retirement system under AS 39.35, or elected public officers' retirement system
5 under former AS 39.37.

6 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. (a) AS 13.16.680(a), as amended by sec. 2 of this Act, and
9 AS 13.16.700, as amended by sec. 3 of this Act, apply to a decedent if the decedent dies on or
10 after the effective date of this Act.

11 (b) AS 13.33.101(d), (e), (f), and (g), as added by sec. 4 of this Act, apply to
12 provisions for a nonprobate transfer on death in a life insurance contract or a retirement plan
13 that are made before, on, or after the effective date of this Act. In this subsection, "life
14 insurance contract" and "retirement plan" have the meanings given in AS 13.33.101(g), added
15 by sec. 4 of this Act.