

Withdrawing

1 IN THE HOUSE

BY MRS. DIMOCK

2 HOUSE BILL NO. //

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act Providing for Community Property
7 Rights Between Husband and Wife, and
8 Abolishing Dower and Tenancy by the
9 Entirety."

10 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

11 Section 1. That all property hereafter acquired after
12 marriage by either husband or wife, or both, is community
13 property, except property acquired by gift, devise or in-
14 heritance.

15 Section 2. The husband shall have the management and
16 control of community personal property, with a like power of
17 disposition as he has of his separate personal property, ex-
18 cept that he shall not devise by will more than one-half thereof.

19 Section 3. The husband shall have the management and
20 control of the community real property, but he shall not sell,
21 convey, or encumber the community real estate unless his wife
22 join with him in executing the deed or other instrument of
23 conveyance or mortgage by which the real estate is sold, con-
24 veyed or encumbered; and such deed or other instrument must be
25 acknowledged by both husband and wife; provided, however, that
26 all of such community real estate shall be subject to the liens
27 provided by Section 4 of this Act.

28 Section 4. All community property of husband and wife
29 shall be subject to the liens of mechanics and materialmen for
H. B. NO.

1 labor and materials furnished in erecting structures and
2 improvements upon real estate, to the enforcement of liens of
3 conditional sales contracts and chattel mortgages upon personal
4 property owned or purchased by husband and wife, and to
5 community debts and the liens of judgments recovered for
6 community debts.

7 Section 5. A husband may give, grant, sell, or convey
8 directly to his wife, and a wife may give, grant, sell, or
9 convey directly to her husband his, or her community right,
10 title, interest, or estate in all or any portion of their
11 community real property. And every deed made from husband to
12 wife, or from wife to husband, shall operate to divest the real
13 estate therein recited from any or every claim or demand as
14 community property, and shall vest the same in the grantee as
15 separate property. The grantor in all such deeds, or the
16 party releasing such community interest or estate, shall sign,
17 seal, execute and acknowledge the deed as a single person,
18 without the joinder therein of the married party therein named
19 as grantee; provided, however, that the conveyances or transfers
20 hereby authorized shall be made in good faith, without intent to
21 hinder, delay or defraud creditors, and shall not affect any
22 existing equity in favor of creditors of the grantor at the time
23 of such transfer, gift, or conveyance.

24 Section 6. A husband may make and execute a power of
25 attorney to the wife, or the wife may make and execute a power
26 of attorney to the husband, authorizing the sale or other
27 disposition of his or her community interest or estate in the
28 community property, and as such attorney-in-fact to sign the
29 name of such husband or wife to any deed, conveyance, mortgage,

1 lease, or other encumbrance, or to any instrument necessary to
2 be executed by which the property conveyed or transferred shall
3 be released from any claim as community property. And either
4 said husband or said wife may make and execute a power of attor-
5 ney to any third person to join with the other in the conveyance
6 of any interest either in separate real estate of either, or in
7 the community estate held by such husband or wife in any real
8 property. And both husband and wife owning community property
9 may jointly execute a power of attorney to a third person
10 authorizing the sale, encumbrance, or other disposition of
11 community real property, and so execute the necessary conveyance
12 or transfer of said real estate.

13 Section 7. The homestead exemption from judicial attach-
14 ment and sale provided by Section 55-9-79, Alaska Compiled Laws,
15 Annotated, 1949, may be selected from the community property,
16 or the separate property of the husband, or with the consent
17 of the wife, from her separate property.

18 Section 8. Upon the death of either husband or wife, one-
19 half of the community property shall vest in the survivor,
20 subject to the community debts, and the other half shall be
21 subject to the testamentary disposition of the deceased husband
22 or wife, also subject to the community debts. In case no
23 testamentary disposition shall have been made by the deceased
24 husband or wife of his or her half of the community property,
25 it shall descend equally to his or her children or the issue
26 of any deceased child by right of representation. If there be
27 no issue of the decedent living or their representatives, then
28 his or her share of said community property shall pass to the
29 survivor to the exclusion of collateral heirs. Upon the death

1 of either husband or wife, title of all community real property
2 shall vest immediately in the person or persons to whom the
3 same shall go, pass, descend, or be devised, subject to the
4 community debts, the family allowance, and the charges and
5 expenses of administration.

6 Section 9. That Section 21-2-6, Compiled Laws of Alaska,
7 Annotated, 1949, be and is hereby amended to read as follows:

8 Section 21-2-6. SEPARATE PROPERTY OF WIFE OR HUSBAND:
9 NOT SUBJECT TO HUSBAND'S OR WIFE'S OBLIGATIONS: WIFE'S OR
10 HUSBAND'S CONTROL OF. The property and pecuniary rights
11 owned by (OF) every married man and married woman at the
12 time of his or her marriage or afterwards acquired by
13 gift, devise, or inheritance shall not be subject to the
14 separate debts or contracts of (HER) the husband or wife,
15 and he or she may manage, sell, convey, encumber, or devise
16 the same by will to the same extent and in the same manner
17 (THAT HER HUSBAND CAN PROPERTY BELONGING TO HIM,) as fully
18 and to the same effect as though he or she were unmarried.

19 Section 10. That Section 21-2-7, Compiled Laws of Alaska,
20 Annotated, 1949, be and the same is hereby repealed; provided,
21 however, that such repeal shall not be construed to abrogate
22 or repeal the rights of a married woman to receive the wages of
23 her personal labor, and maintain an action therefor in her own
24 name and hold the same in her own right as if unmarried, as
25 otherwise provided by law.

26 Section 11. That the provisions of Section 56-5-13, subd.
27 sixth, Compiled Laws of Alaska, Annotated, 1949, for the division
28 between husband and wife of their joint or separate property
29 upon dissolution or annulment of the marriage contract, shall

1 extend to the community property of husband and wife.
2 Section 12. Tenancy by the entirety, and the right of
3 husband and wife to hold an estate in lands as tenants by the
4 entirety, provided by Section 22-1-6, Compiled Laws of Alaska,
5 Annotated, 1949, is hereby abolished.
6 Section 13. The right of a widow to dower upon the death
7 of her husband, as provided by Title 63, Compiled Laws of
8 Alaska, Annotated, 1949, is abolished.
9 Section 14. The rule of common law that statutes in
10 derogation thereof are to be strictly construed has no applica-
11 tion to this Act, which shall be liberally construed with a
12 view to effect its object.
13 Section 15. This Act shall not be construed to be
14 retroactive, and any and all rights or estates in property,
15 both real or personal, established or accrued prior to the
16 effective date of this Act shall continue in full force and
17 effect, and shall be governed by the law in force at the time
18 such right or interest was established or accrued.
19 Section 16. This Act shall be known as the Community
20 Property Act.
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