

1 IN THE SENATE

BY GROH

2 SENATE BILL NO. 218

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act adopting the Uniform Disposition of Community
7 Property Rights at Death Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 13 is amended by adding a new chapter to read:

10 CHAPTER 55. UNIFORM DISPOSITION OF COMMUNITY PROPERTY
11 RIGHTS AT DEATH ACT.

12 Sec. 13.55.010. APPLICATION. This chapter applies to the dis-
13 position at death of the following property acquired by a married
14 person:

15 (1) all personal property, wherever situated:

16 (A) which was acquired as or became, and remained,
17 community property under the laws of another jurisdiction; or

18 (B) all or the proportionate part of that property
19 acquired with the rents, issues, or income of, or the proceeds
20 from, or in exchange for, that community property; or

21 (C) traceable to that community property;

22 (2) all or the proportionate part of any real property
23 situated in this state which was acquired with the rents, issues or
24 income of, the proceeds from, or in exchange for, property acquired
25 as or which became, and remained, community property under the laws
26 of another jurisdiction, or property traceable to that community
27 property.

28 Sec. 13.55.020. REBUTTABLE PRESUMPTIONS. In determining whether
29 this chapter applies to specific property the following rebuttable

1 presumptions apply:

2 (1) property acquired during marriage by a spouse of that
3 marriage while domiciled in a jurisdiction under whose laws property
4 could then be acquired as community property is presumed to have been
5 acquired as or to have become, and remained, property to which this
6 chapter applies; and

7 (2) real property situated in this state and personal
8 property wherever situated acquired by a married person while domiciled
9 in a jurisdiction under whose laws property could not then be acquired
10 as community property, title to which was taken in a form which created
11 rights of survivorship, is presumed not to be property to which this
12 chapter applies.

13 Sec. 13.55.030. DISPOSITION UPON DEATH. Upon death of a married
14 person, one-half of the property to which this chapter applies is the
15 property of the surviving spouse and is not subject to testamentary
16 disposition by the decedent or distribution under the laws of succes-
17 sion of this state. One-half of that property is the property of the
18 decedent and is subject to testamentary disposition or distribution
19 under the laws of succession of this state. With respect to property
20 to which this chapter applies, the one-half of the property which is
21 the property of the decedent is not subject to the surviving spouse's
22 right to elect against the will.

23 Sec. 13.55.040. PERFECTION OF TITLE OF SURVIVING SPOUSE. If
24 the title to any property to which this chapter applies was held by
25 the decedent at the time of death, title of the surviving spouse may
26 be perfected by an order of the court or by execution of an instrument
27 by the personal representative or the heirs or devisees of the decedent
28 with the approval of the court. Neither the personal representative
29 nor the court in which the decedent's estate is being administered has

1 a duty to discover or attempt to discover whether property held by the
2 decedent is property to which this chapter applies, unless a written
3 demand is made by the surviving spouse or the spouse's successor in
4 interest.

5 Sec. 13.55.050. PERFECTION OF TITLE OF PERSONAL REPRESENTATIVE,
6 HEIR OR DEVISEE. If the title to any property to which this chapter
7 applies is held by the surviving spouse at the time of the decedent's
8 death, the personal representative or an heir or devisee of the dece-
9 dent may institute an action to perfect title to the property. The
10 personal representative has no fiduciary duty to discover or attempt
11 to discover whether any property held by the surviving spouse is
12 property to which this chapter applies, unless a written demand is
13 made by an heir, devisee, or creditor of the decedent.

14 Sec. 13.55.060. PURCHASER FOR VALUE OR LENDER. (a) If a sur-
15 viving spouse has apparent title to property to which this chapter
16 applies, a purchaser for value or a lender taking a security interest
17 in the property takes his interest in the property free of any rights
18 of the personal representative or an heir or devisee of the decedent.

19 (b) If a personal representative or an heir or devisee of the
20 decedent has apparent title to property to which this chapter applies,
21 a purchaser for value or a lender taking a security interest in the
22 property takes his interest in the property free of any rights of the
23 surviving spouse.

24 (c) A purchaser for value or a lender need not inquire whether
25 a vendor or borrower acted properly.

26 (d) The proceeds of a sale or creation of a security interest
27 shall be treated in the same manner as the property transferred to the
28 purchaser for value or a lender.

29 Sec. 13.55.070. CREDITOR'S RIGHTS. This chapter does not affect

1 rights of creditors with respect to property to which this chapter
2 applies.

3 Sec. 13.55.080. ACTS OF MARRIED PERSONS. This chapter does not
4 prevent married persons from severing or altering their interests in
5 property to which this chapter applies.

6 Sec. 13.55.090. LIMITATIONS ON TESTAMENTARY DISPOSITION. This
7 chapter does not authorize a person to dispose of property by will
8 if it is held under limitations imposed by law preventing testamentary
9 disposition by that person.

10 Sec. 13.55.100. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
11 This chapter shall be so applied and construed as to effectuate its
12 general purpose to make uniform the law with respect to the subject
13 of this chapter among those states which enact it.

14 Sec. 13.55.120. SHORT TITLE. This chapter may be cited as the
15 Uniform Disposition of Community Property Rights at Death Act.

16 * Sec. 2. AS 13.11.070(a) is amended to read:

17 (a) Except as provided in AS 13.55.030, if [IF] a married person
18 domiciled in this state dies, the surviving spouse has a right of
19 election to take an elective share of one-third of the augmented estate
20 under the limitations and conditions hereinafter stated.
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