

Introduced: 3/26/76  
Referred: Judiciary

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 717

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Uniform Probate Code."

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

8 \* Section 1. AS 13.06.050(10) is amended to read:

9 (10) "distributee" means any person who has received property  
10 of a decedent from his personal representative other than as a creditor  
11 or purchaser; a testamentary trustee is a distributee only to the  
12 extent of distributed assets or increment to them remaining in his  
13 hands; a beneficiary of a testamentary trust to whom the trustee has  
14 distributed property received from a personal representative is a  
15 distributee of the personal representative; for purposes of this  
16 provision, "testamentary trustee" includes a trustee to whom assets  
17 are transferred by will, to the extent of the devised assets;

18 \* Sec. 2. AS 13.11.015(3) is amended to read:

19 (3) if there is no surviving issue or parent, to the issue  
20 of the parents or either of them by representation [TO THE BROTHERS  
21 AND SISTERS AND THE ISSUE OF EACH DECEASED BROTHER OR SISTER BY REPRE-  
22 SENTATION; IF THERE IS NO SURVIVING BROTHER OR SISTER, THE ISSUE OF  
23 BROTHERS AND SISTERS TAKE EQUALLY IF THEY ARE ALL OF THE SAME DEGREE  
24 OF KINSHIP TO THE DECEDENT, BUT IF OF UNEQUAL DEGREE THEN THOSE OF  
25 MORE REMOTE DEGREE TAKE BY REPRESENTATION];

26 \* Sec. 3. AS 13.11.045(1) is amended to read:

27 (1) an adopted person is the child of an adopting parent  
28 and not of the natural parents except that adoption of a child by the  
29 spouse of a natural parent has no effect on the relationship between

1 the child and either [THAT] natural parent;

2 \* Sec. 4. AS 13.11 is amended by adding a new section to read:

3 Sec. 13.11.065. PERSONS RELATED TO DECEDENT THROUGH TWO LINES.

4 A person who is related to the decedent through two lines of relation-  
5 ship is entitled to only a single share based on the relationship  
6 which would entitle him to the larger share.

7 \* Sec. 5. AS 13.11.075(a) is amended to read:

8 (a) "Augmented estate" means the estate reduced by funeral and  
9 administration expenses, homestead allowance, family allowances and  
10 exemptions, and enforceable claims, to which is added the sum of the  
11 following amounts:

12 (1) the value of property transferred to anyone other than a  
13 bona fide purchaser by the decedent at any time during marriage, to or  
14 for the benefit of any person other than the surviving spouse, to the  
15 extent that the decedent did not receive adequate and full consideration  
16 in money or money's worth for the transfer, if the transfer is of any  
17 of the following types:

18 (A) any transfer under which the decedent retained at  
19 the time of his death the possession or enjoyment of, or right to  
20 income from, the property;

21 (B) any transfer to the extent that the decedent  
22 retained at the time of his death a power, either alone or in  
23 conjunction with any other person, to revoke or to consume,  
24 invade or dispose of the principle for his own benefit;

25 (C) any transfer whereby property is held at the time  
26 of decedent's death by decedent and another with right of survivor-  
27 ship;

28 (D) any transfer made to a donee within two years of  
29 death of the decedent to the extent that the aggregate transfers

1 to any one donee in either of the years exceed \$3,000.

2 (2) The value of property owned by the surviving spouse at  
3 the decedent's death, plus the value of property transferred by the  
4 spouse at any time during marriage to any person other than the decedent  
5 which would have been includible in the spouse's augmented estate if  
6 the surviving spouse had predeceased the decedent, to the extent the  
7 owned or transferred property is derived from the decedent by any  
8 means other than testate or intestate succession without a full con-  
9 sideration in money or money's worth. For purposes of this paragraph:

10 (A) property derived from the decedent includes, but  
11 is not limited to, any beneficial interest of the surviving  
12 spouse in a trust created by the decedent during his lifetime,  
13 any property appointed to the spouse by the decedent's exercise  
14 of a general or special power of appointment also exercisable in  
15 favor of others than the spouse, any proceeds of insurance (in-  
16 cluding accidental death benefits) on the life of the decedent  
17 attributable to premiums paid by him, any lump sum immediately  
18 payable and the commuted value of the proceeds of annuity contracts  
19 under which the decedent was the primary annuitant attributable  
20 to premiums paid by him, the commuted value of amounts payable  
21 after the decedent's death under any public or private pension,  
22 disability compensation, death benefit or retirement plan, exclu-  
23 sive of the Federal Social Security system, by reason of service  
24 performed or disabilities incurred by the decedent, any property  
25 held at the time of decedent's death by decedent and the surviving  
26 spouse with right of survivorship, any property held by decedent  
27 and transferred by contract to the surviving spouse by reason  
28 of the decedent's death and the value of the share of the surviving  
29 spouse resulting from rights in community property in this or any

1 other state formerly owned with the decedent; premiums paid by  
2 the decedent's employer, his partner, a partnership of which he  
3 was a member, or his creditors, are considered to have been paid  
4 by the decedent;

5 (B) property owned by the spouse at the decedent's  
6 death is valued as of the date of death; property transferred by  
7 the spouse is valued at the time the transfer became irrevocable,  
8 or at the decedent's death, whichever occurred first; income  
9 earned by included property before the decedent's death is not  
10 treated as property derived from the decedent;

11 (C) property owned by the surviving spouse as of the  
12 decedent's death, or previously transferred by the surviving  
13 spouse, is presumed to have been derived from the decedent except  
14 to the extent that the surviving spouse establishes that it was  
15 derived from another source.

16 (3) For purposes of this section, a bona fide purchaser is a  
17 purchaser for value in good faith and without notice of any adverse  
18 claim. Any instrument which is recorded under AS 34.15 or 45.05 and  
19 which bears a notation of that recordation is prima facie evidence  
20 that the transfer described in it was made to a bona fide purchaser.

21 \* Sec. 6. AS 13.11.090(a) is amended to read:

22 (a) The surviving spouse may elect to take his elective share in  
23 the augmented net estate by filing in the court and mailing or deliver-  
24 ing to the personal representative, if any, a petition for the elective  
25 share within nine months after the date of death, or within six months  
26 after the probate of the decedent's will, whichever limitation expires  
27 last; however, non-probate transfers, described in sec. 75(a)(1) of  
28 this chapter, may not be included within the augmented estate for the  
29 purpose of computing the elective share, if the petition is filed later

1        than nine months after death [SIX MONTHS AFTER THE FIRST PUBLICATION  
2 OF NOTICE TO CREDITORS FOR FILING CLAIMS WHICH AROSE BEFORE THE DEATH  
3 OF THE DECEDENT]. The court may extend the time for election as it  
4 sees fit for cause shown by the surviving spouse before the time for  
5 election has expired.

6 \* Sec. 7. AS 13.11.095 is amended to read:

7            Sec. 13.11.095. EFFECT OF ELECTION ON BENEFITS BY WILL OR STATUTE.

8        (a) [THE SURVIVING SPOUSE'S ELECTION OF HIS ELECTIVE SHARE DOES NOT  
9 AFFECT THE SHARE OF THE SURVIVING SPOUSE UNDER THE PROVISIONS OF THE  
10 DECEDENT'S WILL OR INTESTATE SUCCESSION UNLESS THE SURVIVING SPOUSE  
11 ALSO EXPRESSLY RENOUNCES IN THE PETITION FOR AN ELECTIVE SHARE THE  
12 BENEFIT OF ALL OR ANY OF THE PROVISIONS. IF ANY PROVISION IS SO  
13 RENOUNCED, THE PROPERTY OR OTHER BENEFIT WHICH WOULD OTHERWISE HAVE  
14 PASSED TO THE SURVIVING SPOUSE THEREUNDER IS TREATED, SUBJECT TO  
15 CONTRIBUTION UNDER SEC. 100(b) OF THIS CHAPTER, AS IF THE SURVIVING  
16 SPOUSE HAD PREDECEASED THE TESTATOR.]

17        (b) A surviving spouse is entitled to homestead allowance,  
18 exempt property and family allowance whether or not he elects to take  
19 an elective share [AND WHETHER OR NOT HE RENOUNCES THE BENEFITS CONFERRED  
20 UPON HIM BY THE WILL EXCEPT THAT, IF IT CLEARLY APPEARS FROM THE WILL  
21 THAT A PROVISION MADE THEREIN FOR THE SURVIVING SPOUSE WAS INTENDED TO  
22 BE IN PLACE OF THESE RIGHTS, HE IS NOT SO ENTITLED IF HE DOES NOT  
23 RENOUNCE THE PROVISION SO MADE FOR HIM IN THE WILL].

24 \* Sec. 8. AS 13.11.100(a) is amended to read:

25        (a) In the proceeding for an elective share, values included in  
26 the augmented estate which pass or have passed to the surviving spouse,  
27 or which would have passed to the spouse but were renounced, are applied  
28 first to satisfy the elective share and to reduce any contributions  
29 due from other recipients of transfers included in the augmented

1 estate. For purposes of this subsection, the electing spouse's bene-  
2 ficial interest in any life estate or in any trust shall be computed  
3 as if worth one half of the total value of the property subject to the  
4 life estate, or of the trust estate, unless higher or lower values for  
5 these interests are established by proof [PROPERTY WHICH IS PART OF  
6 THE AUGMENTED ESTATE WHICH PASSES OR HAS PASSED TO THE SURVIVING  
7 SPOUSE BY TESTATE OR INTESTATE SUCCESSION OR OTHER MEANS AND WHICH HAS  
8 NOT BEEN RENOUNCED, INCLUDING THAT DESCRIBED IN SEC. 75(3) OF THIS  
9 CHAPTER, IS APPLIED FIRST TO SATISFY THE ELECTIVE SHARE AND TO REDUCE  
10 THE AMOUNT DUE FROM OTHER RECIPIENTS OF PORTIONS OF THE AUGMENTED  
11 ESTATE].

12 \* Sec. 9. AS 13.11.165 is repealed and re-enacted to read:

13       Sec. 13.11.165. SELF-PROVED WILL. (a) Any will may be simul-  
14 taneously executed, attested, and made self-proved, by the acknowledg-  
15 ment of it by the testator and the affidavits of the witnesses, each  
16 made before an officer authorized to administer oaths under the laws  
17 of the state where execution occurs and evidenced by the officer's  
18 certificate, under official seal, in form and content substantially as  
19 follows:

20       I, \_\_\_\_\_, the testator, sign my name to this  
21 instrument this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and, being first sworn,  
22 declare to the undersigned authority that I sign and execute this  
23 instrument as my last will and that I sign it willingly (or willingly  
24 direct another to sign for me), that I execute it as my free and  
25 voluntar, act for the purposes expressed in it, and that I am 18 years  
26 of age or older, of sound mind, and under no constraint or undue  
27 influence.

28 \_\_\_\_\_  
29 Testator

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

We, \_\_\_\_\_ and \_\_\_\_\_, the witnesses, sign our names to this instrument, and, being first sworn, declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

The State of \_\_\_\_\_  
County of \_\_\_\_\_ [or \_\_\_\_\_ Judicial District]

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_,  
the testator and subscribed and sworn to before me by \_\_\_\_\_,  
and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_.

(Seal) \_\_\_\_\_ (Signed) \_\_\_\_\_

\_\_\_\_\_  
(Official capacity of officer)

(b) An attested will may at any time after its execution be made self-proved by the acknowledgment of it by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in form and content substantially as follows:

The State of \_\_\_\_\_

SB 717

1 County of \_\_\_\_\_ [or \_\_\_\_\_ Judicial District]

2 We, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, the  
3 testator and the witnesses, respectively, whose names are signed to  
4 the attached or foregoing instrument, being first sworn, declare to  
5 the undersigned authority that the testator signed and executed the  
6 instrument as his last will and that he had signed willingly (or  
7 willingly directed another to sign for him), and that he executed it  
8 as his free and voluntary act for the purposes expressed in it, and  
9 that each of the witnesses, in the presence and hearing of the testator,  
10 signed the will as witness and that to the best of each witness' know-  
11 ledge the testator was at that time 18 years of age or older, of sound  
12 mind and under no constraint or undue influence.

13 \_\_\_\_\_  
14 Testator

15 \_\_\_\_\_  
16 Witness

17 \_\_\_\_\_  
18 Witness

19 Subscribed, sworn to and acknowledged before me by \_\_\_\_\_,  
20 the testator, and subscribed and sworn to before me by \_\_\_\_\_,  
21 and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_.

22 (Seal)

(Signed) \_\_\_\_\_  
23 \_\_\_\_\_  
24

(Official capacity of officer)

25 \* Sec. 10. AS 13.11.295 is repealed and re-enacted to read:

26 Sec. 13.11.295. RENUNCIATION OF SUCCESSION. (a) A person or  
27 the representative of an incapacitated or protected person, who is an  
28 heir, devisee, person succeeding to a renounced interest, beneficiary  
29 under a testamentary instrument, or appointee under a power of appoint-

1 ment exercised by a testamentary instrument, may renounce in whole or  
2 in part the right of succession to any property or interest in it, in-  
3 cluding a future interest, by filing a written renunciation under this  
4 section. The right to renounce does not survive the death of the  
5 person having it. The instrument shall

- 6 (1) describe the property or interest renounced;
- 7 (2) declare the renunciation and extent of it; and
- 8 (3) be signed by the person renouncing.

9 (b) The following requirements apply to renunciations:

10 (1) an instrument renouncing a present interest shall be  
11 filed not later than six months after the death of the decedent or the  
12 donee of the power;

13 (2) an instrument renouncing a future interest shall be  
14 filed not later than six months after the event that determines that  
15 the taker of the property or interest is finally ascertained and his  
16 interest indefeasibly vested;

17 (3) the renunciation shall be filed in the court in the  
18 judicial district in which proceedings have been commenced for the  
19 administration of the estate of the deceased owner or deceased donee  
20 of the power or, if they have not been commenced, in which they could  
21 be commenced; a copy of the renunciation shall be delivered in person  
22 or mailed by registered or certified mail to any personal representative,  
23 or other fiduciary of the decedent or donee of the power; if real  
24 property or an interest in it is renounced, a copy of the renunciation  
25 may be recorded in the office of the recorder of the judicial district  
26 in which the real estate is situated.

27 (c) Unless the decedent or donee of the power has otherwise  
28 provided, the property or interest renounced devolves as if the person  
29 renouncing had predeceased the decedent or, if the person renouncing

1 is designated to take under a power of appointment exercised by a  
2 testamentary instrument, as if the person renouncing had predeceased  
3 the donee of the power. A future interest that takes effect in posses-  
4 sion or enjoyment after the termination of the estate or interest  
5 renounced takes effect as if the person renouncing had predeceased the  
6 decedent or the donee of the power. A renunciation relates back for  
7 all purposes to the date of the death of the decedent or the donee of  
8 the power.

9 (d) The following rules apply to the right to renounce:

10 (1) the right to renounce property or an interest in it is  
11 barred by

12 (A) an assignment, conveyance, encumbrance, pledge, or  
13 transfer of the property or interest, or a contract for it;

14 (B) a written waiver of the right to renounce;

15 (C) an acceptance of the property or interest or  
16 benefit under it; or

17 (D) a sale of the property or interest under judicial  
18 sale made before the renunciation is effected;

19 (2) the right to renounce exists regardless of any limita-  
20 tion on the interest of the person renouncing in the nature of a  
21 spendthrift provision or similar restriction;

22 (3) the renunciation or the written waiver of the right to  
23 renounce is binding upon the person renouncing or person waiving and  
24 all persons claiming through or under him.

25 (e) This section does not abridge the right of a person to  
26 waive, release, disclaim, or renounce property or an interest in it  
27 under any other statute.

28 (f) An interest in property existing on the effective date of  
29 this Act as to which, if a present interest, the time for filing a  
SB 717

1 renunciation under this section has not expired, or, if a future  
2 interest, the interest has not become indefeasibly vested or the taker  
3 finally ascertained, may be renounced within six months after the  
4 effective date of this Act.

5 \* Sec. 11. AS 13.16.030 is amended to read:

6 Sec. 13.16.030. PROCEEDINGS WITHIN THE EXCLUSIVE JURISDICTION OF  
7 COURT; SERVICE; JURISDICTION OVER PERSONS. In proceedings within the  
8 exclusive jurisdiction of the court where notice is required by this  
9 code or by rule, and in proceedings to construe probated wills or deter-  
10 mine heirs which proceedings concern estates that have not been and  
11 cannot at the time of these proceedings be opened for administration,  
12 interested persons may be bound by the orders of the court in respect  
13 to property in or subject to the laws of this state by notice in  
14 conformity with AS 13.06.110. An order is binding as to all who are  
15 given notice of the proceeding though less than all interested persons  
16 are notified.

17 \* Sec. 12. AS 13.16.080 is amended to read:

18 Sec. 13.16.080. INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS;  
19 APPLICATION; CONTENTS. (a) Applications for informal probate or  
20 informal appointment shall be directed to the registrar, and verified  
21 by the applicant to be accurate and complete to the best of his know-  
22 ledge and belief as to the following information:

23 (1) Every application for informal probate of a will or for  
24 informal appointment of a personal representative other than a special  
25 or successor representative, shall contain the following:

26 (A) a statement of the interest of the applicant;

27 (B) the name, and date of death of the decedent, his  
28 age, and the judicial district and state of his domicile at the  
29 time of death, and the names and addresses of the spouse, children,

SB 717

1 heirs and devisees and the ages of any who are minors so far as  
2 known or ascertainable with reasonable diligence by the applicant;

3 (C) if the decedent was not domiciled in the state at  
4 the time of his death, a statement showing venue;

5 (D) a statement identifying and indicating the address  
6 of any personal representative of the decedent appointed in this  
7 state or elsewhere whose appointment has not been terminated;

8 (E) a statement indicating whether the applicant has  
9 received a demand for notice, or is aware of any demand for  
10 notice of any probate or appointment proceeding concerning the  
11 decedent that may have been filed in this state or elsewhere;

12 (F) a statement that the time limit for informal pro-  
13 bate as provided in secs. 80--130 of this chapter has not expired  
14 either because three years or less have passed since the decedent's  
15 death, or, if more than three years from death have passed, that  
16 circumstances as described by sec. 40 of this chapter authorizing  
17 tardy probate or appointment have occurred.

18 (2) An application for informal probate of a will shall  
19 state the following in addition to the statements required by (1) of  
20 this subsection:

21 (A) that the original of the decedent's last will is  
22 in the possession of the court, or accompanies the application,  
23 or that an authenticated copy of a will probated in another  
24 jurisdiction accompanies the application;

25 (B) that the applicant, to the best of his knowledge,  
26 believes the will to have been validly executed;

27 (C) that after the exercise of reasonable diligence,  
28 the applicant is unaware of any instrument revoking the will, and  
29 that the applicant believes that the instrument which is the

1 subject of the application is the decedent's last will;

2 (D) [THAT THE TIME LIMIT FOR INFORMAL PROBATE AS PRO-  
3 VIDED IN THIS CHAPTER HAS NOT EXPIRED EITHER BECAUSE THREE YEARS  
4 OR LESS HAVE PASSED SINCE THE DECEDENT'S DEATH, OR, IF MORE THAN  
5 THREE YEARS FROM DEATH HAVE PASSED, THAT CIRCUMSTANCES AS DESCRIBED  
6 BY SEC. 40 OF THIS CHAPTER AUTHORIZING TARDY PROBATE HAVE OCCURRED.]

7 (3) An application for informal appointment of a personal  
8 representative to administer an estate under a will shall describe the  
9 will by date of execution and state the time and place of probate or  
10 the pending application or petition for probate. The application for  
11 appointment shall adopt the statements in the application or petition  
12 for probate and state the name, address and priority for appointment  
13 of the person whose appointment is sought.

14 (4) An application for informal appointment of an administra-  
15 tor in intestacy shall state in addition to the statements required by  
16 (1) of this section:

17 (A) that after the exercise of reasonable diligence[,]  
18 the applicant is unaware of any unrevoked testamentary instrument  
19 relating to property having a situs in this state under AS 13.06-  
20 .060, or[,] a statement why any such instrument of which he may  
21 be aware is not being probated;

22 (B) the priority of the person whose appointment is  
23 sought and the names of any other persons having a prior or equal  
24 right to the appointment under sec. 65 of this chapter.

25 (5) An application for appointment of a personal representa-  
26 tive to succeed a personal representative appointed under a different  
27 testacy status shall refer to the order in the most recent testacy  
28 proceeding, state the name and address of the person whose appointment  
29 is sought and of the person whose appointment will be terminated if

1 the application is granted, and describe the priority of the applicant.

2 (6) An application for appointment of a personal representa-  
3 tive to succeed a personal representative who has tendered a resignation  
4 as provided in sec. 290(c) of this chapter, or whose appointment has  
5 been terminated by death or removal, shall adopt the statements in the  
6 application or petition which led to the appointment of the person  
7 being succeeded except as specifically changed or corrected, state the  
8 name and address of the person who seeks appointment as successor, and  
9 describe the priority of the applicant.

10 (b) By verifying an application for informal probate or informal  
11 appointment, the applicant submits personally to the jurisdiction of  
12 the court in any proceeding for relief from fraud relating to the  
13 application, or for perjury, that may be instituted against him.

14 \* Sec. 13. AS 13.16.105 is amended by adding a new subsection to read:

15 (b) If an informal probate is granted, within 30 days the appli-  
16 cant shall give written information of the probate to the heirs and  
17 devisees. The information shall include the name and address of  
18 the applicant, the name and location of the court granting the informal  
19 probate, and the date of the probate. The information shall be  
20 delivered or sent by ordinary mail to each of the heirs and devisees  
21 whose address is reasonably available to the applicant. No duty to  
22 give information is incurred if a personal representative is appointed  
23 who is required to give the written information required by sec. 360  
24 of this chapter. An applicant's failure to give information as required  
25 by this section is a breach of his duty to the heirs and devisees but  
26 does not affect the validity of the probate.

27 \* Sec. 14. AS 13.16.365(b) is amended to read:

28 (b) The personal representative shall send a copy of the inventory  
29 to interested persons who request it [, OR HE MAY FILE THE ORIGINAL OF  
SB 717

1 THE INVENTORY WITH THE COURT]. He may also file the original of the  
2 inventory with the court.

3 \* Sec. 15. AS 13.16.455 is amended to read:

4 Sec. 13.16.455. STATUTES OF LIMITATIONS. Unless an estate is  
5 insolvent the personal representative, with the consent of all succes-  
6 sors whose interests would be affected, may waive any defense of  
7 limitations available to the estate. If the defense is not waived, no  
8 claim which was barred by any statute of limitations at the time of  
9 the decedent's death shall be allowed or paid. The running of any  
10 statute of limitations measured from some other event than death and  
11 advertisement for claims against a decedent is suspended during the  
12 four months following the decedent's death but resumes thereafter as  
13 to claims not barred pursuant to the sections which follow. For  
14 purposes of any statute of limitations, the proper presentation of a  
15 claim under sec. 465 of this chapter is equivalent to commencement of  
16 a proceeding on the claim.

17 \* Sec. 16. AS 13.16.515 is amended to read:

18 Sec. 13.16.515. ENCUMBERED ASSETS. If any assets of the estate  
19 are encumbered by mortgage, pledge, lien, or other security interest,  
20 the personal representative may pay the encumbrance or any part of it,  
21 renew or extend any obligation secured by the encumbrance or convey or  
22 transfer the assets to the creditor in satisfaction of his lien, in  
23 whole or in part, whether or not the holder of the encumbrance has  
24 presented [FILED] a claim, if it appears to be for the best interest  
25 of the estate. Payment of an encumbrance does not increase the share  
26 of the distributee entitled to the encumbered assets unless the distri-  
27 butee is entitled to exoneration.

28 \* Sec. 17. AS 13.16.580 is amended to read:

29 Sec. 13.16.580. PURCHASERS FROM DISTRIBUTEES PROTECTED. If

1 property distributed in kind or a security interest in it is acquired  
2 for value by a purchaser from[,] or lender to [, FOR VALUE FROM] a  
3 distributee who has received an instrument or deed of distribution  
4 from the personal representative, the purchaser or lender takes title  
5 free of rights of any interested person in the estate [ANY CLAIMS OF  
6 THE ESTATE] and incurs no personal liability to the estate, or to any  
7 interested person, whether or not the distribution was proper or sup-  
8 ported by court order and whether or not the authority of the personal  
9 representative was terminated before execution of the instrument or deed  
10 This section protects a purchaser from or lender to a distributee who,  
11 as personal representative, has executed a deed of distribution to him-  
12 self, as well as a purchaser from or lender to any other distributee or  
13 his transferee. To be protected under this provision, a purchaser or  
14 lender need not inquire whether a personal representative acted properly  
15 in making the distribution in kind, even if the personal representative  
16 and the distributee are the same person, or whether the authority of  
17 the personal representative had terminated before the distribution.  
18 Any instrument described in this section which is recorded under AS  
19 34.15 or 45.05 and which bears a notation of that recordation is prima  
20 facie evidence that the transfer described in it was made for value.

21 \* Sec. 18. AS 13.16.635 is amended to read:

22       Sec. 13.16.635. LIABILITY OF DISTRIBUTEES TO CLAIMANTS. After  
23 assets of an estate have been distributed and subject to sec. 645 of  
24 this chapter, an undischarged claim not barred may be prosecuted in a  
25 proceeding against one or more distributees. No distributee is liable  
26 to claimants for amounts received as exempt property, homestead or  
27 family allowances, or for amounts in excess of the value of his  
28 distribution as of the time of distribution. As between distributees,  
29 each shall bear the cost of satisfaction of unbarred claims as if the  
SB 717

1 claim had been satisfied in the course of administration. Any distri-  
2 butee who fails to notify other distributees of the demand made upon  
3 him by the claimant in sufficient time to permit them to join in any  
4 proceeding in which the claim was asserted against him loses his right  
5 of contribution against other distributees.

6 \* Sec. 19. AS 13.31.020(b) is repealed and re-enacted to read:

7 (b) If the account is a P.O.D. account,

8 (1) on the death of one of two or more original payees, the  
9 rights to any sums remaining on deposit are governed by (a) of this  
10 section;

11 (2) on the death of the sole original payee or of the  
12 survivor of two or more original payees, any sums remaining on deposit  
13 belong to the P.O.D. payee or payees if surviving, or to the survivor  
14 of them if one or more die before the original payee; if two or more  
15 P.O.D. payees survive, there is no right of survivorship in the event  
16 of death of a P.O.D. payee after the original payee's death unless the  
17 terms of the account or deposit agreement expressly provide for survivor-  
18 ship between them.

19 \* Sec. 20. AS 13.31.020(c) is repealed and re-enacted to read:

20 (c) If the account is a trust account,

21 (1) on the death of one of two or more trustees, the rights  
22 to any sums remaining on deposit are governed by (a) of this section;

23 (2) on the death of the sole trustee or the survivor of two  
24 or more trustees, any sums remaining on deposit belong to the person  
25 or persons named as beneficiaries, if surviving, or to the survivor of  
26 them if one or more die before the trustee, unless there is clear  
27 evidence of a contrary intent; if two or more beneficiaries survive,  
28 there is no right of survivorship in event of death of any beneficiary  
29 after the trustee's death unless the terms of the account or deposit

1 agreement expressly provide for survivorship between them.

2 \* Sec. 21. AS 13.31.030 is amended to read:

3       Sec. 13.31.030. ACCOUNTS AND TRANSFERS NONTESTAMENTARY. Any  
4 transfers resulting from the application of sec. 20 of this chapter  
5 are effective by reason of the account contracts involved and are not  
6 to be considered as testamentary or subject to AS 13.06.005--13.21.075,  
7 except as provided in AS 13.11.070--13.11.100, and except as a conse-  
8 quence of, and to the extent directed by, sec. 35 of this chapter.  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29