

Introduced: 3/1/84
Referred: Judiciary

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (For the
Code Revision Commission)

1 IN THE HOUSE

2 HOUSE BILL NO. 694

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to administration of decedents'
7 estates; and providing for an effective date."

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

9 * Section 1. AS 13.11.125 is amended to read:

10 Sec. 13.11.125. HOMESTEAD ALLOWANCE. A surviving spouse of a
11 decedent who was domiciled in this state is entitled to a homestead
12 allowance of \$27,000 [\$12,000]. If there is no surviving spouse, each
13 minor child and each dependent child of the decedent is entitled to a
14 homestead allowance amounting to \$27,000 [\$12,000] divided by the
15 number of minor and dependent children of the decedent. The homestead
16 allowance is exempt from and has priority over all claims against the
17 estate. The homestead [HOMESTEAD] allowance is in addition to any
18 share passing to the surviving spouse or minor or dependent child by
19 the will of the decedent unless otherwise provided, by intestate
20 succession or by way of elective share.

21 * Sec. 2. AS 13.11.130 is amended to read:

22 Sec. 13.11.130. EXEMPT PROPERTY. In addition to the homestead
23 allowance, the surviving spouse of a decedent who was domiciled in
24 this state is entitled from the estate to value not exceeding \$10,000
25 [\$3,500] in excess of any security interests therein in household
26 furniture, automobiles, furnishings, appliances and personal effects.
27 If there is no surviving spouse, children of the decedent are entitled
28 jointly to the same value. If encumbered chattels are selected and if
29 the value in excess of security interests, plus that of other exempt

1 property, is less than \$10,000 [\$3,500], or if there is not \$10,000
2 [\$3,500] worth of exempt property in the estate, the spouse is or
3 children are entitled to other assets of the estate, if any, to the
4 extent necessary to make up the \$10,000 [\$3,500] value. Rights to
5 exempt property and assets needed to make up a deficiency of exempt
6 property have priority over all claims against the estate, except that
7 the right to any assets to make up a deficiency of exempt property
8 shall abate as necessary to permit prior payment of homestead allow-
9 ance and family allowance. These rights are in addition to any bene-
10 fit or share passing to the surviving spouse or children by the will
11 of the decedent unless otherwise provided, by intestate succession, or
12 by way of elective share.

13 * Sec. 3. AS 13.11.140 is amended to read:

14 Sec. 13.11.140. SOURCE, DETERMINATION AND DOCUMENTATION. If the
15 estate is otherwise sufficient, property specifically devised is not
16 used to satisfy rights to homestead and exempt property allowance.
17 Subject to this restriction, the surviving spouse, the guardians of
18 the minor children, or children who are adults may select property of
19 the estate as homestead allowance and exempt property allowance. The
20 personal representative may make these selections if the surviving
21 spouse, the children or the guardians of the minor children are unable
22 or fail to do so within a reasonable time or if there are no guardians
23 of the minor children. The personal representative may execute an
24 instrument or deed of distribution to establish the ownership of
25 property taken as homestead allowance or exempt property allowance.
26 The personal representative [HE] may determine the family allowance in
27 a lump sum not exceeding \$15,000 [\$6,000] or periodic installments not
28 exceeding \$1,200 [\$500] per month for one year, and may disburse funds
29 of the estate in payment of the family allowance and any part of the

1 homestead allowance payable in cash. The personal representative or
2 any interested person aggrieved by any selection, determination,
3 payment, proposed payment, or failure to act under this section may
4 petition the court for appropriate relief, which relief may provide a
5 family allowance larger or smaller than that which the personal repre-
6 sentative determined or could have determined.

7 * Sec. 4. AS 13.16.680(a) is amended to read:

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

17 (1) the value of the entire estate, wherever located, less
18 liens and encumbrances, does not exceed \$15,000 [\$6,000];

19 (2) 30 days have elapsed since the death of the decedent;

20 (3) no application or petition for the appointment of a
21 personal representative is pending or has been granted in any juris-
22 diction; and

23 (4) the claiming successor is entitled to payment or deliv-
24 ery of the property.

25 * Sec. 5. AS 13.16.700 is amended to read:

26 Sec. 13.16.700. SETTLEMENT DIRECTED BY COURT. When a judge
27 receives information that a person has died in the judge's [HIS]
28 judicial district leaving an estate of \$15,000 [\$6,000] or less and no
29 qualified person has appeared to take charge of the assets, the judge

1 may immediately appoint a [SOME] person, corporation, or attorney to
2 settle the estate in the manner provided for in AS 13.16.680 - 13.16.-
3 695.

4 * Sec. 6. Sections 1 - 3 of this Act apply to estates of decedents
5 dying after January 1, 1985, and to summary proceedings and proceedings in
6 court pending on or commenced after January 1, 1985, regardless of the time
7 of the death of the decedent.

8 * Sec. 7. Sections 4 and 5 of this Act apply to collections, transfers,
9 appointments, and proceedings in court pending on or commenced after
10 January 1, 1985, regardless of the time of the death of the decedent.

11 * Sec. 8. This Act takes effect January 1, 1985.