

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

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HOUSE BILL NO. 695

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

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A BILL

6 For an Act entitled: "An Act relating to renunciation of rights in

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decedents' estates."

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

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* Section 1. AS 13.11.295 is amended to read:

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Sec. 13.11.295. RENUNCIATION OF SUCCESSION. (a) A person or

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the representative of a deceased, [AN] incapacitated, or protected

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person, who is an heir, devisee, person succeeding to a renounced

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interest, beneficiary under a testamentary instrument, or appointee

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under a power of appointment exercised by a testamentary instrument,

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may renounce in whole or in part the right of succession to any

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property or interest in it, including a future interest, by filing a

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written renunciation under this section. A renunciation may be of a

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fractional share or of a limited interest or estate [THE RIGHT TO

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RENOUNCE DOES NOT SURVIVE THE DEATH OF THE PERSON HAVING IT]. The

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instrument shall

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(1) describe the property or interest renounced;

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(2) declare the renunciation and extent of it; and

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(3) be signed by the person renouncing.

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(b) The following requirements apply to renunciations:

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(1) an instrument renouncing a present interest shall be

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filed not later than nine [SIX] months after the death of the decedent

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or the donee of the power;

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(2) an instrument renouncing a future interest shall be

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filed not later than nine [SIX] months after the event that determines

1 that the taker of the property or interest is finally ascertained and
2 the [HIS] interest indefeasibly vested;

3 (3) the renunciation shall be filed in the court in the
4 judicial district in which proceedings have been commenced for the
5 administration of the estate of the deceased owner or deceased donee
6 of the power or, if proceedings [THEY] have not been commenced, in
7 which they could be commenced; a copy of the renunciation shall be
8 delivered in person or mailed by registered or certified mail to any
9 personal representative, or other fiduciary of the decedent or donee
10 of the power; if real property or an interest in it is renounced, a
11 copy of the renunciation may be recorded in the records [OFFICE OF THE
12 RECORDER] of the recording [JUDICIAL] district in which the real
13 estate is situated.

14 (c) Unless the decedent or donee of the power has otherwise
15 provided, the property or interest renounced devolves as if the person
16 renouncing had predeceased the decedent or, if the person renouncing
17 is designated to take under a power of appointment exercised by a
18 testamentary instrument, as if the person renouncing had predeceased
19 the donee of the power. A future interest that takes effect in
20 possession or enjoyment after the termination of the estate or
21 interest renounced takes effect as if the person renouncing had
22 predeceased the decedent or the donee of the power. A renunciation
23 relates back for all purposes to the date of the death of the decedent
24 or the donee of the power or the determinative event, as the case may
25 be.

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

27 (1) the right to renounce [PROPERTY OR] an interest in
28 property [IT] is barred by

29 (A) an assignment, conveyance, encumbrance, pledge, or

1 transfer of the [PROPERTY OR] interest, or a contract to assign,
2 convey, encumber, pledge, or assign the interest [FOR IT];

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

4 (C) an acceptance of the [PROPERTY OR] interest or
5 benefit under it; or

6 (D) a sale of the [PROPERTY OR] interest under
7 judicial sale made before the renunciation is effected;

8 (2) the right to renounce exists regardless of any
9 limitation on the interest of the person renouncing in the nature of a
10 spendthrift provision or similar restriction;

11 (3) the renunciation or the written waiver of the right to
12 renounce is binding upon the person renouncing or person waiving and
13 all persons claiming through or under that person [HIM].

14 (e) This section does not abridge the right of a person to
15 waive, release, disclaim, or renounce [PROPERTY OR] an interest in
16 property [IT] under any other statute.

17 [(f) AN INTEREST IN PROPERTY EXISTING ON THE EFFECTIVE DATE OF
18 THIS ACT AS TO WHICH THE TIME FOR FILING A RENUNCIATION UNDER THIS
19 SECTION WOULD HAVE BEGUN TO RUN IF THIS SECTION WERE IN EFFECT WHEN
20 THE INTEREST WAS CREATED MAY BE RENOUNCED WITHIN SIX MONTHS AFTER
21 JUNE 30, 1976.]