

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. 697

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 the uniform disposition of cer-
7 tain property rights at death."

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 41. UNIFORM DISPOSITION OF COMMUNITY PROPERTY

11 RIGHTS AT DEATH.

12 Sec. 13.41.005. APPLICATION. This chapter applies to the dispo-
13 sition at death of the following property acquired by a married per-
14 son:

15 (1) all personal property, wherever situated,
16 (A) that 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 which was
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 that was acquired with the rents, issues, or
24 income of, the proceeds from, or in exchange for, property acquired as
25 or which became, and remained, community property under the laws of
26 another jurisdiction, or property traceable to that community prop-
27 erty.

28 Sec. 13.41.010. 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 do-
9 miciled in a jurisdiction under whose laws property could not then be
10 acquired as community property, title to which was taken in a form
11 that created rights of survivorship, is presumed not to be property to
12 which this chapter applies.

13 Sec. 13.41.015. DISPOSITION UPON DEATH. Upon the death of a
14 married person, one-half of the property to which this chapter applies
15 is the property of the surviving spouse and is not subject to testa-
16 mentary disposition by the decedent or distribution under the laws of
17 succession of this state. The other half of the property to which
18 this chapter applies is the property of the decedent and is subject to
19 testamentary disposition or distribution under the laws of succession
20 of this state. With respect to property to which this chapter ap-
21 plies, the one-half of the property that is the property of the dece-
22 dent is not subject to the surviving spouse's right to elect against
23 the will.

24 Sec. 13.41.020. PERFECTION OF TITLE OF SURVIVING SPOUSE. If the
25 title to any property to which this chapter applies was held by the
26 decedent at the time of death, title of the surviving spouse may be
27 perfected by an order of the court or by execution of an instrument by
28 the personal representative or the heirs or devisees of the decedent
29 with the approval of the court. Neither the personal representative

1 nor the court in which the decedent's estate is being administered has
2 a duty to discover or attempt to discover whether the property held by
3 the decedent is property to which this chapter applies, unless a
4 written demand is made by the surviving spouse or the spouse's succes-
5 sor in interest.

6 Sec. 13.41.025. PERFECTION OF TITLE OF PERSONAL REPRESENTATIVE,
7 HEIR, OR DEVISEE. If the title to any property to which this chapter
8 applies is held by the surviving spouse at the time of the decedent's
9 death, the personal representative or an heir or devisee of the dece-
10 dent may institute an action to perfect title to the property. The
11 personal representative has no fiduciary duty to discover or attempt
12 to discover whether any property held by the surviving spouse is
13 property to which this chapter applies, unless a written demand is
14 made by an heir, devisee, or creditor of the decedent.

15 Sec. 13.41.030. PURCHASER OF VALUE OR LENDER. (a) If a sur-
16 viving spouse has apparent title to property to which this chapter
17 applies, a purchaser for value or a lender taking a security interest
18 in the property takes the interest in the property free of any rights
19 of the personal representative or an heir or devisee of the decedent.

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

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

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

1 Sec. 13.41.035. CREDITOR'S RIGHTS. This chapter does not affect
2 rights of creditors with respect to property to which this chapter
3 applies.

4 Sec. 13.41.040. ACTS OF MARRIED PERSONS. This chapter does not
5 prevent married persons from severing or altering their interests in
6 property to which this chapter applies.

7 Sec. 13.41.045. LIMITATIONS ON TESTAMENTARY DISPOSITION. This
8 chapter does not authorize a person to dispose of property by will if
9 it is held under limitations imposed by law preventing testamentary
10 disposition by that person.

11 Sec. 13.41.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
12 This chapter shall be so applied and construed as to effectuate its
13 general purpose to make uniform the law with respect to the subject of
14 this chapter among those states which enact it.

15 Sec. 13.41.055. SHORT TITLE. This chapter may be cited as the
16 Uniform Disposition of Community Property Rights at Death Act.