

Offered: 1/20/86
Referred: Rules

Original sponsors: Gruenberg, Taylor,
Clocksin, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 408 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act providing for the adoption of the Uniform
7 Simultaneous Death Act."

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

9 * Section 1. AS 13.06.035 is amended to read:

10 Sec. 13.06.035. EVIDENCE AS TO DEATH OR STATUS. In proceedings
11 under AS 13.06 - AS 13.36, and AS 13.43 the rules of evidence in
12 courts of general jurisdiction including any relating to simultaneous
13 deaths, are applicable unless specifically displaced by AS 13.06 -
14 AS 13.36 or AS 13.43. In addition, the following rules relating to
15 determination of death and status are applicable:

16 (1) a certified or authenticated copy of a death certifi-
17 cate purporting to be issued by an official or agency of the place
18 where the death purportedly occurred is prima facie proof of the fact,
19 place, date and time of death and the identity of the decedent;

20 (2) a certified or authenticated copy of any record or
21 report of a governmental agency, domestic or foreign, that a person is
22 missing, detained, dead, or alive is prima facie evidence of the
23 status and of the dates, circumstances and places disclosed by the
24 record or report;

25 (3) a person who is absent for a continuous period of five
26 years, during which the person has not been heard from, and whose
27 absence is not satisfactorily explained after diligent search or
28 inquiry is presumed to be dead; the person's death is presumed to have
29 occurred at the end of the period unless there is sufficient evidence

1 for determining that death occurred earlier.

2 * Sec. 2. AS 13 is amended by adding a new chapter to read:

3 CHAPTER 43. UNIFORM SIMULTANEOUS DEATH ACT.

4 Sec. 13.43.010. NO SUFFICIENT EVIDENCE OF SURVIVORSHIP. Except
5 as otherwise provided in this chapter, when the title to property or
6 the devolution of property depends upon priority of death and there is
7 no sufficient evidence that the persons have died other than simulta-
8 neously, the property of each person shall be disposed of as if that
9 person had survived.

10 Sec. 13.43.020. SURVIVAL OF BENEFICIARIES. When two or more
11 beneficiaries are designated to take successively by reason of
12 survivorship under another person's disposition of property and there
13 is no sufficient evidence that the beneficiaries died otherwise than
14 simultaneously, the property disposed of shall be divided into as many
15 equal portions as there are successive beneficiaries and the portions
16 shall be distributed to those who would have taken if each designated
17 beneficiary had survived.

18 Sec. 13.43.030. JOINT TENANTS OR TENANTS BY THE ENTIRETY. (a)
19 When there is no sufficient evidence that two joint tenants or tenants
20 by the entirety have died other than simultaneously the property held
21 in that manner shall be distributed one-half as if one had survived
22 and one-half as if the other had survived.

23 (b) When property is held by more than two joint tenants and
24 there is no sufficient evidence that all joint tenants have died other
25 than simultaneously the joint property distributed shall be in the
26 proportion that one bears to the whole number of joint tenants.

27 (c) In this section, "joint tenants" includes owners of property
28 held under circumstances that entitle one or more to the whole of the
29 property on the death of the other or others.

1 Sec. 13.43.040. COMMUNITY PROPERTY. When a husband and wife
2 have died, leaving community property, and there is no sufficient
3 evidence that they have died other than simultaneously, one-half of
4 all the community property shall pass as if the husband had survived
5 and as if that one-half were the husband's separate property, and the
6 other one-half of all the community property shall pass as if the wife
7 had survived and as if that one-half were the wife's separate prop-
8 erty.

9 Sec. 13.43.050. INSURANCE POLICIES. (a) When the insured and
10 the beneficiary in a policy of life or accident insurance that is not
11 community property have died and there is no sufficient evidence that
12 they have died other than simultaneously the proceeds of the policy
13 shall be distributed as if the insured had survived the beneficiary.

14 (b) When a policy of life or accident insurance is community
15 property of the insured and spouse and there is no alternative benefi-
16 ciary except the estate or personal representatives of the insured,
17 the proceeds shall be distributed as community property under AS 13.-
18 43.040.

19 Sec. 13.43.060. INAPPLICABLE SECTIONS IF DECEDENT PROVIDES
20 OTHERWISE. The provisions of this chapter do not apply in the case of
21 wills, living trusts, deeds, contracts of insurance, or any other
22 situation when provision is made for distribution of property differ-
23 ent from the provisions of this chapter, or when provision is made for
24 a presumption as to survivorship that results in a distribution of
25 property different from that provided for under this chapter.

26 Sec. 13.43.070. UNIFORMITY OF INTERPRETATION. This chapter
27 shall be applied and construed to achieve its general purpose to make
28 uniform the law with respect to the subject of this chapter among
29 those states that enact it.

1 Sec. 13.43.080. SHORT TITLE. This chapter may be cited as the
2 Uniform Simultaneous Death Act.

3 * Sec. 3. APPLICABILITY. The provisions of sec. 2 of this Act do not
4 apply to the distribution of the property of a person who died before the
5 effective date of this Act.