SB

243

ALASKA CODE REVISION COMMISSION

MAY 18 1983

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

MEMORANDUM

TO: Representative John J. Liska
Vice Chairman (Acting Chairman)
House Judiciary Committee

FROM: Dick Regan, Research Director
Alaska Code Revision Commission

DATE: May 18, 1983

RE: SB 243 on common law property rules

When Professor Jesse Dukeminier was here to testify but had to return to Los Angeles, you suggested we might submit written testimony on SB 243.

For an analysis of the bill we cannot provide a more accurate written statement than the commentary in Joint House and Senate Journal Supplement No. 8.

However, in an effort to express the reasons for the bill non-technically, I recently provided the attached statement to Chairman Bussell. It could serve as written testimony, and I'll be glad to answer questions about the bill at the hearing today.

DR:chw

Enclosure

FURTHER EXPLANATION OF THE REASONS FOR SB 243 ON COMMON LAW PROPERTY RULES

SB 243 deals with common law rules with roots that go back to feudal land holdings.

The main purpose of the bill is to remove possible hidden traps in order to make it more sure that the terms of a person's will will be carried out.

The bill benefits the person who drafts his or her own will. It benefits lawyers, too, in the same sense that accident prevention benefits insurance companies. But everybody who may leave property by a will benefits by reducing the risk of accidents in will drafting so the person's true intentions can be carried out. Nothing is much sadder than the bitterness engendered among family members by a disputed will. These ancient common law rules can be a cause of that bitterness.

The bill is to clarify and simplify the law by abolishing two old rules and changing a third.

Section 1 is a statement of intent that would become a revisor's note with the sections when they are published in Alaska Statutes. It is a broad brush explanation using the common names for the rules.

Section 2 changes the rule against perpetuities. That rule is well entrenched and it is needed. It sets a limit on how long a person can control who will own the property the person deeds, gives, or includes in the person's will.

But the rule works injustices by invalidating from the start many transfers that would be completed well within the time limit. The old rule determines validity or invalidity of a transfer based on possibilities, no matter how outlandishly unlikely the possibilities may be. This bill would carefully change the rule by statute so actual events, not unlikely possibilities, determine validity of a transfer. And any transfer that still is not completed within the time limit is to be carried out as nearly as possible within the limits of the rule as changed.

More than half of the states, England, and several Commonwealth jurisdictions have changed the rule, and the form we are proposing has proven to be suitable in other jurisdictions.

Sections 3 and 4 of the bill would abolish the other two old rules--the "Rule in Shelley's Case" and the "doctrine of destructibility of contingent remainders." The reasons for the two rules no longer exist in modern land holding. But common law rules aren't statutes that can just be repealed by a repealer section. Abolishing or changing a common law rule requires careful use of language. Unfortunately, as the rules are old, some old-sounding terms are needed in a bill that abolishes or changes them.

As is pointed out in joint journal supplement number 8, whether the Rule in Shelley's Case presently applies in Alaska is unclear. It is easy to make it clear that the rule does not apply by enacting section 3 of SB 243, the kind of course that has been taken in the vast majority of states.

Similarly, about three-fourths of the states have managed in one way or another to get rid of the long outdated doctrine of destructibility of contingent remainders, as the bill does in section 4.

Enactment of the bill would include Alaska among the enlightened jurisdictions that have enacted statutes to assure that the old rules from the feudal system will no longer interfere with reasonable property dispositions.

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SB 243

FILE WITH SB

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028018 ANCHORAGE AK 35 04-22 0915 AST

PMS SEN BILL RAY 1305

JUNEAU

THE PROBATE LAW SECTION OF THE ALASKA BAR ASSOCIATION CONSIDERED THE DRAFT OF SB243 RELATING TO THE ABOLISHMENT OF THREE COMMON LAW PROPERTY RULES AT ITS REGULAR MEETING ON JANUARY 20 1983. THE SECTION FAVORS THE PASSAGE OF THE BILL. THE SECTION FEELS THAT THE THREE COMMON LAW RULES IN QUESTION ARE ANTIQUATED AND WERE DESIGNED TO DEAL WITH SOCIAL PROBLEMS THAT NO LONGER EXIST. THE SECTIONS AGREE THAT PROPOSED LEGISLATION IS SUFFICIENTLY SIMPLE AND DIRECT TO ACCOMPLISH THE DESIRED RESULTS. WE URGE YOUR FAVORABLE CONSIDERATION OF THE BILL.

KATHRYN A BLACK CHAIRPERSON

HB 340
SB 243

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

MEMORANDUM

TO: Chairman, Alaska Legislative Council

FROM: John W. Abbott, Chairman
Alaska Code Revision Commission

DATE: February 22, 1983

RE: Bill on common law property rules

Pursuant to authority granted in AS 24.20.075(c), the Alaska Code Revision Commission has prepared the attached bill on common law property rules and asks that it be introduced in the legislature.

The bill deals with three old common law property rules. If enacted it will modify the rule against perpetuities, and will abolish the rule on destructability of contingent remainders and a rule known to lawyers as "the rule in Shelley's case."

The reasons for treating these rules by statute and the debt the commission owes to Professor Jesse Dukeminier in its preparation are matters covered in the attached commentary on the bill.

JWA:chw

Attachment

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

FEBRUARY 1983

COMMENTARY TO ACCOMPANY DRAFT BILL

ON COMMON LAW PROPERTY RULES

BILL NO.

GENERAL BACKGROUND

The rules dealt with in the attached bill reach so far back that few remember they exist. That is one of the main reasons for the bill. The rules, when not recognized and dealt with by statute, can defeat the intention of a person who makes a will or otherwise transfers real property. Many Alaskans draft their own wills, and many Alaska attorneys are general practitioners who may not be aware that these archaic rules still may be in effect in Alaska.

The common law that has developed through custom and precedent is the basic law of Alaska, subject to AS 01.10.010. That section provides:

> SEC. 01.10.010. APPLICABILITY OF COMMON LAW. So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state.

Statutes are needed to make clear whether certain of the old common law rules regarding land transfers continue to apply and to assure that the rules that apply are modified if no longer consistent with current conditions. A distinguished professor of real property law, Jesse Dukeminier of the UCLA Law School, has focused on the problem caused by these common law property rules and the need for legislation to abolish or modify them. His pointing out the need for legislation in Alaska caused the Alaska Code Revision Commission to consider the subject and to propose the attached bill on three rules--the rule against perpetuities, the rule in Shelley's Case, and the doctrine of

destructibility of contingent remainders. With minor exceptions, the following explanations of the rules and the need for legislation is Professor Dukeminier's, and is adopted by the commission.

Section 1

The Statement of Purpose is self-explanatory.

Section 2

Three common law property rules are dealt with here:

I. AS 34.27.010. MODIFICATION OF THE COMMON LAW RULE AGAINST PERPETUITIES.

Purpose of Proposed AS 34.27.010. Proposed AS 34.27.-010 is to provide the State of Alaska with a Rule against perpetuities that preserves (a) the essential purpose of the Rule, and (b) the intentions of testators, grantors, and settlors of trusts to the maximum extent possible.

What is the Rule Against Perpetuities?

Expressed in the technical language of the law, the rule is as follows:

> No interest is good unless it must vest, if at all, not later than 21 years after some life in being at the creation of the interest.

The purpose of the rule is to prevent property from being tied up for too long a period. It was developed by the English courts to curb the efforts of land owners who wanted to establish family dynasties. These problems are almost nonexistent today.

Why Does the Rule Need Modification?

Many unsound incrustations upon a basically sound rule have accumulated over the many years of the rule's existence. The rule is ridden with superfluous technicalities and decisions that destroy careful and reasonable estate plans offering no threat to the public interest. The following examples illustrate

these technicalities, which are traps for people who write their own wills and for lawyers and their clients:

> The fertile octogenarian. Testator devises property in trust to pay the income 'to my sister A for life, then to A's children for their lives, and then to distribute the principal to A's grandchildren.' A is eighty years old at testator's death. Because the law conclusively presumes A to be capable of bearing children, for purposes of the rule against perpetuities, the remainder to A's grandchildren might not vest until the death of A's children conceived after testator's death, which is too remote. The remainder to A's grandchildren is void.
>
> The unborn widow. Testator devises property 'to my son A for life, then to A's widow for life, then to A's issue per stirpes.' The remainder to A's issue may not vest until the death of A's widow, who might be a woman not yet born at testator's death. Hence the remainder to A's issue is void
>
> The slothful executor. Testator devises property 'to my issue living upon distribution of my estate.' Because the law assumes the distribution of testator's estate may occur more than twenty-one years after lives in being at testator's death, the gift to testator's issue is void.

The two basic difficulties with standard perpetuities doctrine, which result in defeating reasonable dispositions by reasonable property owners, are these:

> 1. In determining whether an interest violates the rule the courts close their eyes to events which actually happen and decide the case upon events which might happen after testator's death. For example, the courts assume that a man or woman of any age--even eighty or beyond--can have a child. See the fertile octogenarian case above. It will be observed that the first sentence of proposed AS 34.27.-010 corrects this by declaring that 'the period of perpetuities shall be measured by actual rather than possible events.' If in fact A does not have a child born after testator's death the gift is good. This sentence enacts the wait-and-see doctrine.
>
> 2. If it is found that an interest violates the rule, the entire interest is struck down instead of cutting it down to permissible size. It will be observed that the second sentence of proposed AS 34.17.010, corrects this

> by declaring that the interest 'shall be reformed, within the limits of that rule, to approximate most closely the intention of the creator of the interest.' (It should be noted that this provision of proposed AS 34.17.010 applies to private dispositions the cy pres doctrine, with which all lawyers are familiar, whereby when the purpose of a charitable trust fails the money is applied, under the supervision of the Attorney General, to such other charity as most closely approximates the general charitable intent of the settlor of the trust.)

All the known anomalies in the decisions on the rule will be automatically corrected by these two simple provisions. Modification of the rule by these provisions will avoid a trap for people who draft their own wills, and will also practically eliminate any potential liability of lawyers for falling into what John Chipman Gray (the great authority on the rule) called "the net which the rule spreads for the unwary."

Is There General Recognition that the Rule is Defective?

Yes. The wait-and-see doctrine determines validity by what actually happens, not by what might happen. The wait-and-see doctrine has been adopted in one form or another by fourteen states, England, and several Commonwealth jurisdictions. Fla. Stat. § 689.22(2) (1977); Ky. Rev. Stat. § 381.216 (1972); Ohio Rev. Code Ann. § 2131.08 (Page 1978); 20 Pa. Cons. Stat. Ann. § 6104(b) (Purdon 1975); Va. Code § 55-13.3 (approved April 7, 1982); Vt. Stat. Ann. tit. 27, § 501 (1975); Ill. Ann. Stat. ch. 30, § 195 (Smith-Hurd 1969 & Supp. 1979); Wash. Rev. Code §§ 11.98.010-.050 (1976); Conn. Gen. Stat § 45-95 (1979); Me. Rev. Stat. tit. 33, § 101 (1978); Md. Est. & Trusts Code Ann. § 11-103(a) (1978); Mass. Gen. Laws Ann. ch. 184A, § 1 (West 1977); Phelps v. Shropshire, 254 Miss. 277, 785, 183 So. 2d 148, 161-62 (1966); Merchants Nat'l Bank v. Curtis, 90 N.H. 225, 230-31, 97 A.2d 207, 211 (1953); English Perpetuities

and Accumulations Act, 1964, c. 55, § 3. In May 1979, the American Law Institute approved the wait-and-see approach to be incorporated into the Restatement (Second) of Property. Restatement (Second) of Property, Donative Transfers §§ 1.3-.4 (Tent. Draft No. 2, 1979).

Under the cy pres doctrine the invalid interest is reformed to give effect as nearly as possible to the general intent of the creator of the interest. The cy pres doctrine has been adopted in fifteen states and by the Restatement (Second) of Property. Cal. Civ. Code § 715.5 (West 1970); Mo. Ann. Stat. § 442.555 (Vernon Supp. 1979); Okla. Stat. tit. 60, § 75 (1971 & Supp. 1978); Tex. Rev. Civ. Stat. Ann. art. 1291b (Vernon Supp. 1978); Ky. Rev. Stat. § 381.216 (1972); Ohio Rev. Code Ann. § 2131.08(c) (Page 1976); Vt. Stat. Ann. tit. 27, § 501 (1975); Va. Code § 55-13.3 (approved April 7, 1982); Wash. Rev. Code § 11.98.030 (1976); In re Estate of Chun Quan Yee Hop, 52 Haw. 40, 46, 469 P.2d 183, 197 (1970); In re Foster's Estate, 190 Kan. 498, 503, 376 P.2d 784, 788 (1962) (semble); Carter v. Berry, 243 Miss. 321, 376, 140 So. 2d 843, 855 (1962); Edgerly v. Barker, 66 N.H. 434, 31A. 900 (1891); Berry v. Union Nat'l Bank, 262 S.E.2d 766 (W. Va. 1980) (a particularly persuasive opinion analyzing cy pres and citing most of the relevant literature); See also Atchison v. City of Englewood, 568 P.2d 13, 17-18 (Colo. 1977) (reforming commercial agreement so as to avoid violation of the Rule). Restatement (Second) of Property, Donative Transfers § 1.5 (Tent. Draft No. 2, 1979), applies the cy pres doctrine if the interest actually vests beyond the perpetuities period. Thus, the Restatement has adopted the modifications adopted in Kentucky, Mississippi, New Hampshire, Ohio, Vermont, and Virginia. These modifications are provided in proposed AS 34.27.010 of the statute proposed for Alaska.

To summarize, proposed AS 34.27.010 draws upon and combines the best features of existing legislation in other American states, and does so in simple form.

Who Will Benefit from This Bill?

This bill will cause innocent and reasonable family dispositions, which standard perpetuities doctrine now invalidates, to be upheld within the limits of the rule. Instead of determining validity of interests by what might happen, often unforeseen by competent lawyers, it will determine the validity of interests by what actually occurs. It will benefit the general practicing lawyer who has difficulty keeping abreast of the intricacies and technicalities of the rule. It will also benefit the property owner who consults the lawyer or who drafts his own will.

It should be noted that the statute does not affect or modify any disposition that would have been valid prior to enactment of the statute. It only affects dispositions that heretofore would be void.

How Will the Statute Apply?

The discussion that follows is somewhat more technical.

In the first place, it would seem desirable for a court to decline to pass on the validity of a future interest which may or may not vest within the rule until previous interests have expired; in the case of land no issue of possession can arise until this time comes, and in the case of a trust the trustee is not in a position where he or she has to distribute. It is standard practice in many jurisdictions to decline to pass on a perpetuities issue until previous interests expire. The proviso in the first sentence of proposed AS 34.27.010

("However, the period of perpetuities may not be measured by a life whose continuance does not have a causal relationship to vesting or failure of the interest") prevents waiting out lives which have no relationship to the gift.

If decision is postponed until previous interests expire, it will usually be found that "actual rather than possible events" have eliminated any hypothetical violation of the rule. If, however, actual events still produce a violation of the rule, then the court under the second sentence of proposed AS 34.27.010 will enter a decree reforming the will, deed, or trust in such a way as to carry out most closely the intent while still staying within the limits of the Rule.

Two common examples:

(1) A childless farmer has several brothers. His youngest brother, John, works the place with him. John has several children. The farmer's will leaves the place to John for life, and then to John's children who reach the age of 25. Under standard perpetuities doctrine, the gift to the children is void; and on John's death the property will pass to the farmer's heirs (who would include the other brothers). Under the proposed Act the validity of the remainder would not be determined until John's death; then, if all John's children were born in the testator's lifetime or if all were over 4 years old at John's death, no reformation of the interest would be required. The remainder would actually vest within the period. If there were at John's death a child under 4 who was born after the testator's death, the will would be reformed to give the farm to such of John's children as should reach 21. The justification is that the testator obviously would have preferred earlier vesting to total invalidity if the point were put to him.

(2) A father has a son, aged 45, who is married and has three children. He leaves his property in trust to pay the income to the son for life, then to pay the income to the son's widow for life, and then to pay the principal to the son's children who should be living at the death of the survivor of the son and his widow. Under standard perpetuities doctrine the gift to the children is void, because of the possibility that the son's present marriage might end by death or divorce, the son might marry a woman who was unborn at the testator's death, there might be children of this second marriage, and the second wife might survive her husband. Of course, the chance that these events would occur is absurdly slight; but the existence of the chance causes the standard rule to be violated. Under the proposed Act it would not be determined whether the gift to children is valid or void until the son's death, when it would doubtless appear that the "actual events" did not violate the rule. However, on the long chance that this extraordinary series of events actually did take place, the court would reform the gift to the children so that it would read: ". . . to such children of my son as shall be living at the death of the survivor of my son and any widow of his, provided that, if my son leaves a widow who was unborn at my death, the interest to my son's children shall vest not later than 21 years after my son's death." As thus reformed, the gift is valid, no matter what happens.

Conclusion

Proposed AS 34.27.010, if enacted, will provide Alaska with a law of perpetuities which at once safeguards the public interest against overlong dispositions, carries out to the greatest feasible extent the intentions of testators,

grantors, and settlors of trusts, and removes potential traps for the lay will drafter and the general practicing attorney.

II. AS 34.27.020. ABOLITION OF THE COMMON LAW RULE IN SHELLEY'S CASE.

What is the Rule in Shelley's Case?

Many lawyers know the rule in Shelley's Case only as a quaint rule learned in law school and immediately forgotten after the real property law exam. Under the rule if one instrument creates a life estate in land in a person and purports to create a remainder in the person's heirs, the remainder becomes a remainder in fee simple in the grantee, not in the grantee's heirs. Thus:

> Testator devises land to A for life, remainder to A's heirs. The remainder to A's heirs is void. A takes the remainder in fee simple, which merges with A's life estate, giving A a fee simple in possession. See 1 American Law of Property §§ 4.40-4.52.

The rule in Shelley's Case is a rule of law defeating the testator's intent to give A only a life estate. It serves no good purpose. It is a feudal anachronism which has been abolished in thirty-nine states and the District of Columbia.

Does the Rule Exist in Alaska?

It is not clear whether the rule exists in Alaska, and the question should be answered by legislation. Deferring to the courts would only cause someone to incur major litigation expenses and would perpetuate the period of uncertainty until someone is willing to incur the expense in time and money to resolve the question.

The rule in Shelley's Case was abolished by statutes in Alaska that were part of the original code adopted from Oregon, Compiled Laws of Alaska 1913, Sections 586 and 587. These sections were carried over into Alaska Statutes in 1962 as AS 13.05.210 and AS 13.05.220. They were:

> Sec. 13.05.210. DEVISE OF ESTATE FOR LIFE WITH REMAINDER TO HEIRS. If any person by last will devise any real estate to any person for the term of such person's life, and after his death, to his or her children or heirs, or right heirs in fee, such devise shall vest an estate for life only in such devisee, and remainder in fee simple in such children.
>
> Sec. 13.05.220. ESTATE BY DEED OR WILL. Where any estate, real, or personal is given by deed or will to any person for his life, and after his death to his heirs, or to the heirs of his body, the conveyance shall be construed to vest an estate for his life only in such person, and a remainder in fee simple in his heirs or the heirs of his body.

These sections were repealed by the blanket repeal of AS 13 when the Uniform Probate Code was adopted in Alaska by ch. 78, SLA 1972.

The rule of statutory construction involved is AS 01.-10.100(c):

> (c) When any act repealing a former act, section, or provision is itself repealed, such repeal does not revive the former act, section, or provision, unless it is expressly so provided.

AS 13.05.210--13.05.220, now repealed, simply declared a rule of law that negated a common law rule. Whether the common law rule in Shelley's Case was revived by the 1972 repeal of AS 13.-05.210--13.05.220 is an open question. Proposed AS 34.27.020 in the bill would include Alaska clearly with the 39 states in which the rule is specifically abolished by statute.

Why Should the Rule be Abolished?

The rule developed out of feudal land holdings where feudal incidents (equivalent to death taxes) came due if land descended to the heir, not if the heir took by way of remainder. To prevent tax avoidance by giving A a life estate only, with remainder to A's heirs, the rule was invented. No reason for the rule exists in the present system of land holding, but it

is ingrained in the common law and crops up occasionally to defeat testamentary intent in the few states where the rule is not abolished by statute.

III. AS 34.27.030. ABOLITION OF THE COMMON LAW DESTRUCTIBILITY OF CONTINGENT REMAINDERS.

What is the Rule on Destructibility of Contingent Remainders?

At English common law a legal contingent remainder in land was destroyed if it did not vest at or before the termination of the preceding freehold estate. Thus:

> Testator devises land to A for life, then to A's children who reach 21. Thereafter A dies, leaving two children aged 15 and 12. Because the children are under 21, the remainder is destroyed and A's children never take. Testator's heirs take a fee simple absolute at A's death. See 1 American Law of Property §§ 4.60-4.63.

Using the same example and assuming proposed AS 34.27.030 has been enacted, the state of the title is:

> A has a life estate, A's children have a contingent remainder, and the testator's heirs have a reversion. If A dies leaving children under 21, possession of the land will go to the testator's heirs until a child reaches 21. The testator's heirs will have to surrender possession to A's first child to reach 21, who in turn will have to share possession with his siblings who reach 21. This is what is meant by the final sentence of AS 34.27.030: "the remainder [in A's children] takes effect [after the termination of the life estate] in the same way as a springing or shifting executory interest." The remainder is not destroyed at A's death, but takes effect [springs up] later if the condition is met.

There are two types of future interests in transferees: remainders and executory interests. A remainder follows a life estate in possession. An executory interest is an interest which springs up in the future at some time other than at the death of a life tenant; it does not follow a life estate. Remainders were recognized in early feudal days; executory

interests were made permissible by the Statute of Uses (1536). The main difference between remainders and executory interests was that remainders were destroyed if they did not vest upon termination of the life estate, whereas executory interests--which did not follow life estates--were indestructible. It is this difference that AS 34.27.030 wipes out.

Why Should the Doctrine be Abolished by Statute?

This doctrine ought to be abolished because it defeats the testator's intent. In the above example there is no reason why A's children should not take when they reach 21. This doctrine has been abolished in about three-fourths of the states, but not expressly abolished in Alaska. There appears to be no Alaska case accepting or rejecting it.

There are ways an astute lawyer can draft a will to avoid the consequences of this doctrine, but not all lawyers and very few non-lawyers are aware of the potential problem. Until the doctrine is abolished by statute the potential exists for malpractice by attorneys drafting wills and for frustration of the testamentary intent of persons who carefully plan for the disposition of their property after death.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 243
Title: "...modifying...property rules."
Sponsor: Senate Rules
Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Department of Law
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director (Richard I. Pegues) Phone: 465-3672
Division: Administrative Services Division Date: May 18, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General (Richard I. Pegues/for/) Date: May 18, 1983
Department: Department of Law

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SB 243
Fiscal Note
Analysis

This bill modifies and abolishes some common law property rules. It is part of an ongoing effort of the Code Revision Commission to clarify and update the state's property statutes in a model form. Because this action enhances the legal process there will be no fiscal impact on the Department of Law's operations.