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HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984

No. 21

ALASKA CODE REVISION COMMISSION



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

EXECUTIVE SECRETARY
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March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

- RE: (1) a bill relating to principal and income of trusts; (HB 693/SB 511)
(2) a bill relating to administration of decedents' estates; (HB 694/SB 512)
(3) a bill relating to renunciation of rights in decedents' estates; (HB 695/SB 513)
(4) a bill relating to married persons' rights in a family home; and (HB 696/SB 514)
(5) a bill relating to the uniform disposition of certain property rights at death (HB 697/SB 515)

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

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committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,



John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

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

-- COVERS IDENTICAL BILLS: HB 695 & SB 513 --

ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY BILL ON
RENUNCIATION OF RIGHTS IN DECEDENTS' ESTATES

This bill deals with refusal to accept property or an interest in property from a decedent's estate. Referred to as "renunciation" or "disclaimer", it is a valuable option for estate planning to avoid a taxable transfer.

The right to renounce is provided for in AS 13.11.295 (Section 2-801 of the Uniform Probate Code). This bill would make three changes to facilitate estate planning:

(1) The right to renounce would survive the death of the person having it;

(2) The permissible disclaimer period would be extended from six to nine months after a death; and

(3) Accepting one interest in property would not prevent renouncing another interest in the same property.

The concept of the changes proposed by this bill is in the Uniform Disclaimer of Transfers by Will, Intestacy or Appointment Act (1978). Because Alaska has already adopted the Uniform Probate Code contained in AS 13, minimal changes to AS 13.11.295 will give Alaska the main benefits of the uniform disclaimer statute. The bill does not extend beyond disclaimer of transfers resulting from death. Disclaimer of other kinds of transfers could be the subject of another bill.

The changes in (b) extend the time for renunciation to the nine months period in which renunciation is permitted under the Internal Revenue Code, 26 U.S.C., Sec. 2518. The current version of the Uniform Probate Code recommends that states conform their laws to the nine month period. Failure to do so may deny to Alaskans the full period the federal law permits for taking advantage of a tax planning tool.

Sometimes an heir with a right to disclaim will die within this nine month period. For example, an elderly husband and wife may not outlive each other by nine months. In that situation, a disclaimer would avoid an extra taxable transfer before property is inherited by their children. The changes in (a) would allow a personal representative (executor of the estate

of the second to die) to exercise the right of disclaimer. However, the period for disclaimer would not be extended: the personal representative of the second to die would have to act within nine months of the first death.

The changes in (d) would permit disclaiming one interest in property without forfeiting the right to accept another interest in the same property. Under federal Internal Revenue law, it is possible for a beneficiary to refuse to accept an income interest in property while accepting transfer of the principal asset, or to refuse a transfer of a principal asset while accepting an income interest in the asset. The change in (d) would delete language that infers that the acceptance of any interest in property would totally bar a renunciation of any other interest in the same property.

AS 13.11.295(f) is deleted as obsolete law. A similar section is not needed as temporary law in this bill because the changes in AS 13.11.295 liberalize renunciation, do not restrict it.

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 513
 Title: "...renunciation of rights in decedents' estates."
 Sponsor: House Rules/Code Rev. Comm.
 Requestor: House Judiciary
 Date of Request: 3/13/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 Program or Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
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						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-13-84
 Approved by Commissioner: Norman C. Gorsuch Date: 3-13-84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

SB 513

This bill was requested by the Code Revision Commission to amend the Uniform Probate Code to provide that:

(1) the right to renounce would survive the death of the person having it;

(2) the permissible disclaimer period would be extended from six to nine months after a death; and

(3) accepting one interest in property would not prevent renouncing another interest in the same property.

Renunciation of rights in decedents' estates is a valuable option for estate planning to avoid the taxable transfer of estates. Because this measure deals only with an individual's right to renounce an estate interest, it will not have a fiscal impact on state government operations.