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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

*House Judiciary*

*10-25-85*

*10:00 AM*

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

House Bill 358 was heard by the House Judiciary Committee during an interim work session on October 25, 1985. See tapes I & J dated October 25.

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date \_\_\_\_\_

**REQUEST**

Bill/Resolution No: HB 358  
Title: Non Probate Transfers

Sponsor: Gruenberg  
Requestor: House Judiciary  
Date of Request: 11/27/85

**FISCAL DETAIL**

Agency Affected: Department of Revenue  
BRU: Audit

Components: \_\_\_\_\_  
\_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS:** The bill will have no impact on this agency, nor on any of the tax revenues this agency administers..

Prepared By: <sup>for</sup> Martin J. Richard *Stuart E. Kettel*  
Division: Audit Division

Phone: 465-2320  
Date: 12/9/85

Approved by Commissioner: *[Signature]* <sup>for</sup>  
Agency: Revenue

Date: 12/10/85

**Distribution (by Agency preparing fiscal note):**

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

STATE OF ALASKA  
THE LEGISLATURE

FOUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

October 4, 1985

SUBJECT: HB 358

TO: Representative M.M. Miller  
House Judiciary Committee

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is an analysis of HB 358:

13.31.070 - Subsection (a) broadens the scope of existing law regarding the nontestamentary transfer of certain property. This property may be transferred outside of the probate code. The numbered paragraphs of subsection (a) concern the types of provisions that are nontestamentary at death, and are unchanged from existing law. Subsection (b) provides that payments and transfers designated by subsection (a) remain nontestamentary regardless of ownership rights otherwise reserved to the settlor, whether they are payable directly to the beneficiary or through a trust, and whether the trust is funded, unfunded, amendable, or revokable. Subsection (c) provides that the proceeds of the nontestamentary transfer or payment are not subject to the debts, inheritance taxes, or estate taxes of the decedent to any greater extent than if the proceeds were payable to a named beneficiary other than the estate of the decedent. Subsection (d) provides that creditor rights under other laws are not limited by this section. This last provision is identical to existing law.

MFF:mkr  
M1:032

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 1, 1985

SUBJECT: HB 358 and HB 408

TO: Representative Gruenberg  
Chair, HESS Committee  
Attn: Nancy Bennett

FROM: Michael F. Ford *M. F.*  
Legislative Counsel

This is in response to your inquiries regarding HB 358 and HB 408.

HB 358 by repealing and reenacting AS 13.31.070 substantially changes the existing law concerning providing for payment or transfer of certain property upon a person's death. The current law, AS 13.31.070, provides in subsection (a) that a transfer of money, property or other benefits by certain written instruments will be considered nontestamentary and therefore be transferred outside of the probate code. Subsection (a) of HB 358 broadens the scope of the existing law, by providing that "bonus, profit-sharing," and "retirement annuity" instruments as well as an "employee-benefit plan" may also be considered a nontestamentary transfer and need not pass through a decedent's estate.

The existing numbered subparagraphs of subsection (a) of AS 13.31.070 concerning the types of provisions that are nontestamentary at death, are not changed by HB 358, however two new subsections are added to existing law. Subsection (b) provides that the payments and transfers designated by subsection (a) remain nontestamentary regardless of ownership rights otherwise reserved to the settlor and whether they are payable to directly to the beneficiary or through a trust. Further, the trust can be funded or unfunded and amendable or revokable.

Representative Gruenberg  
July 1, 1985  
Page 2

Subsection (c) provides that the proceeds of the nontestamentary transfer or payments are not subject to the debts, inheritance taxes, or estate taxes of the decedent to any greater extent than if the proceeds were payable to a named beneficiary other than the estate of the decedent.

Subsection (d) of HB 358 is identical to subsection (b) in existing law.

HB 408 provides for adoption of the Uniform Simultaneous Death Act. Prior to 1972, an abbreviated version of the Uniform Simultaneous Death Act was in place in AS 13.13.010-13.13.070 (ch. 80 SLA 1949). In 1972 Title 13 was repealed and the Uniform Probate Code was adopted, which also caused the repeal of the Uniform Simultaneous Death Act (ch 78 SLA 1972). This enactment treated the issue of simultaneous death as an question of evidence to be resolved by the courts. See AS 13.06.035. As a result of these changes, Alaska was deleted from the table of jurisdictions in which the Uniform Simultaneous Death Act was in effect. (See commentary at page 559, vol. 81, Uniform Law Annotated)

Your question concerning the 120-hour survival requirement of AS 13.11.220, raises a matter that will require a change to HB 408. Regarding testate succession, AS 13.11.220 requires that the heir survive by at least 120 hours the death of the testator. Although this statute and HB 408 are not in conflict, in order to clearly indicate when AS 13.11.220 will apply in situations of simultaneous death, it will be necessary to revise AS 13.43.020 in HB 408.

I have taken the liberty of drafting a sponsor substitute that makes the necessary changes. If you prefer to change HB 408 in a different manner please let me know.

MFF:ojb  
J15/055



# ALASKA BAR ASSOCIATION

P.O. BOX 279, ANCHORAGE, ALASKA 99510, (907) 272-7469

Februray 13, 1985

## TAXATION LAW SECTION

Life insurance benefits  
Richard S. Thwaites, Jr., Esq.,  
Chairman of the Alaska Bar Association  
Probate Law Section  
1031 West 4th Ave., Suite 500  
Anchorage, Alaska 99501

Re: Proposed Statute

Dear Mr. Thwaites:

Enclosed is a proposed statute relating to the designation of beneficiaries of life insurance and employee benefits. The statute places those items outside the probate estate of the deceased and generally exempts them from claims of creditors although payable to a trustee instead of to an individual. The taxation law section supports enactment of this proposed statute.

Very truly yours,

David G. Shaftel, Esq.,  
Chairman of the Alaska Bar  
Association Taxation Law Section

G. Rodney Kleedehn, Esq.,  
Member of the Alaska Bar  
Association Taxation Law  
Section Executive Committee

GRK:mmh

Enclosure

Sec. 13. \_\_\_\_ . \_\_\_\_ . Designation of beneficiaries of insurance and employee benefits not testamentary. (a) The designation of beneficiaries of life insurance, annuity or endowment contracts, or of any agreement entered into by an insurance company in connection therewith, supplemental thereto or in settlement thereof, and the designation of beneficiaries of benefits payable upon or after the death of a participant under any pension, bonus, profit-sharing, retirement annuity, or other employee-benefit plan, shall not be considered testamentary and the proceeds shall not be subject to debts of the insured and inheritance or estate tax to any greater extent than if such proceeds were payable to any other named beneficiary other than the estate of the insured. This section shall apply regardless of whether the insurance contract or the employee-benefit plan designates the ultimate beneficiaries or makes the proceeds payable, directly or indirectly, to a trustee of a trust under a will or under a separate trust instrument which designates the ultimate beneficiaries, and regardless of whether any such trust is amendable or revocable, or both, or is funded or unfunded, and notwithstanding a reservation to the settlor of all rights of ownership in the insurance contracts or under the employee-benefit plans. Unless otherwise expressly provided in the conveyance, funds or other property so passing to a trust under a will shall become and be a part of the testamentary trust to be administered and disposed of in accordance with the provisions thereof, without forming any part of the testator's estate for administration by his personal representative.

(b) The provisions of subsection (a) of this section shall apply to designations made prior or subsequent to the date of enactment of this section.

This section should be included in the probate code.