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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
FAIRBANKS, ALASKA 99711
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

House Judiciary:

3-3-88

4-5-88

Original sponsors: Koponen, Ellis
and Davidson

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 438 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to statutory wills."

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

8 * Section 1. AS 13.11 is amended by adding a new section to Article 5
9 to read:

10 Sec. 13.11.215. STATUTORY WILL FORM. The following is the form
11 for the Alaska basic will:

12 Alaska Basic Will

13 NOTICE TO THE PERSON WHO SIGNS THIS WILL:

14 1. EXECUTING THIS STATUTORY WILL WITHOUT THE ADVICE AND ASSIS-
15 TANCE OF A LAWYER MAY RESULT IN ADDITIONAL EXPENSES AT THE TIME OF
16 DISTRIBUTION AND MAY RESULT IN A DISTRIBUTION OF PROPERTY CONTRARY TO
17 THE INTENT OF THE TESTATOR.

18 2. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY
19 AND PROPERTY. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT
20 UNDERSTAND, YOU SHOULD CONSULT A LAWYER FOR AN EXPLANATION.

21 3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR
22 DEATH TO ANY PERSON BY OPERATION OF LAW OR BY CONTRACT. FOR EXAMPLE,
23 THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, PARTNERSHIP ASSETS,
24 OR YOUR SPOUSE'S ELECTIVE SHARE, AND IT DOES NOT NORMALLY APPLY TO
25 PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENE-
26 FITS.

27 4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER
28 TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A
29 COMPETENT TAX ADVISOR.

1 5. YOU SHOULD MARK THROUGH ALL SECTIONS OR PARTS OF SECTIONS
2 THAT YOU DO NOT COMPLETE. YOU MAY REVOKE THIS ALASKA STATUTORY WILL
3 BY SIGNING A NEW WILL. YOU MAY AMEND THIS WILL BY CODICIL.

4 6. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE YOUR NATURAL
5 CHILDREN.

6 7. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD
7 MAKE AND SIGN A NEW WILL.

8 8. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS WILL, YOU
9 SHOULD MAKE AND SIGN A NEW WILL.

10 9. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO
11 USE ANOTHER TYPE OF WILL.

12 10. IF YOU ARE MAKING SPECIFIC GIFTS TOTALING MORE THAN \$10,000
13 TO PERSONS OUTSIDE OF YOUR IMMEDIATE FAMILY OR TO ORGANIZATIONS, YOU
14 SHOULD CONSULT A LAWYER. A GIFT OF SPECIFIC REAL OR PERSONAL PROPERTY
15 MAY PREVAIL OVER A GENERAL GIFT TO YOUR SPOUSE OR CHILDREN AND THUS
16 MAY REDUCE THE AMOUNT AVAILABLE TO YOUR SPOUSE OR CHILDREN.

17 11. COMMERCIAL FISHING ENTRY PERMITS PASS TO YOUR SPOUSE UNLESS
18 YOU HAVE EXPRESSED A CONTRARY INTENT IN YOUR WILL. IF YOU HAVE NO
19 SPOUSE, THE PERMIT WILL BE DISTRIBUTED AS PART OF YOUR PERSONAL PROP-
20 erty.

21 12. CERTAIN REAL PROPERTY, SUCH AS NATIVE ALLOTMENTS, HELD IN
22 TRUST FOR ALASKA NATIVES AND AMERICAN INDIANS BY THE FEDERAL GOVERN-
23 MENT ARE SUBJECT TO SPECIAL PROVISIONS OF FEDERAL LAW. IF YOU OWN
24 THIS TYPE OF PROPERTY, YOU SHOULD CONTACT A LAWYER, YOUR TRIBAL GOV-
25 ERNMENT, OR THE FEDERAL BUREAU OF INDIAN AFFAIRS BEFORE ATTEMPTING TO
26 USE THIS WILL FORM TO DISPOSE OF THE PROPERTY.

27 13. THIS WILL IS NOT VALID UNLESS IT IS SIGNED BY AT LEAST TWO
28 WITNESSES. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCE-
29 DURE DESCRIBED AT THE END OF THIS WILL.

1 14. YOU SHOULD DEPOSIT THIS WILL WITH THE SUPERIOR COURT NEAREST
2 TO YOUR COMMUNITY. YOU SHOULD ALSO KEEP AN INVENTORY OF YOUR IMPOR-
3 TANT PROPERTY WITH YOUR WILL. THE INVENTORY SHOULD INCLUDE INFORMA-
4 TION ON YOUR BANK ACCOUNTS, SAFE DEPOSIT BOXES, INSURANCE POLICIES,
5 STOCKS, BONDS, AND SIMILAR PROPERTY.

6 15. YOU SHOULD NOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF
7 THIS ALASKA STATUTORY WILL WITHOUT CONSULTING A LAWYER. IF YOU HAVE
8 ANY DOUBTS WHETHER OR NOT THIS WILL ADEQUATELY SETS OUT YOUR WISHES
9 FOR THE DISPOSITION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

10 16. DEFINITIONS.

11 A. "CODICIL" MEANS AN AMENDMENT OR ADDITION TO A WILL; IT MAY
12 EXPLAIN, MODIFY, QUALIFY, ALTER, OR REVOKE PROVISIONS OF A WILL.

13 B. "ELECTIVE SHARE" MEANS THAT PORTION OF A DECEDENT'S ESTATE
14 WHICH A SPOUSE MAY CHOOSE TO RECEIVE IF THE DECEDENT'S SPOUSE DECIDES
15 TO REJECT THE PROVISIONS MADE FOR THE SPOUSE IN THE DECEDENT'S WILL;
16 THE ELECTIVE SHARE IS EQUAL TO ONE-THIRD OF THE DECEDENT'S ESTATE.

17 C. "JOINT TENANCY ASSET" MEANS PROPERTY OWNED JOINTLY BY TWO OR
18 MORE PERSONS AND WHICH PASSES TO THE SURVIVING PERSONS AT THE DEATH OF
19 ONE OF THE JOINT OWNERS RATHER THAN PASSING THROUGH THE ESTATE OF THE
20 DECEASED; "JOINT TENANCY ASSET" INCLUDES A TENANCY BY THE ENTIRETIES
21 WITH RIGHT OF SURVIVORSHIP ASSET, BUT DOES NOT INCLUDE A TENANCY IN
22 COMMON ASSET.

23 D. "PARTNERSHIP ASSETS" MEANS PROPERTY OF ANY KIND THAT BELONGS
24 TO THE PARTNERSHIP AND THAT IS NOT THE SEPARATE PROPERTY OF THE PART-
25 NERS.

26 E. "PERSONAL PROPERTY" MEANS AN ITEM OF PROPERTY THAT IS NOT
27 REAL PROPERTY.

28 F. "REAL PROPERTY" MEANS LAND AND ANYTHING THAT IS CONSTRUCTED
29 UPON, GROWING UPON, OR ATTACHED TO LAND.

1 G. "TENANCY BY THE ENTIRETIES WITH RIGHT OF SURVIVORSHIP ASSET"
2 MEANS PROPERTY OWNED JOINTLY BY A HUSBAND AND WIFE AND WHICH PASSES TO
3 THE SURVIVING SPOUSE AT THE DEATH OF THE OTHER SPOUSE RATHER THAN
4 PASSING THROUGH THE ESTATE OF THE DECEASED SPOUSE.

5 H. "TENANCY IN COMMON ASSET" MEANS PROPERTY OWNED SIMULTANEOUSLY
6 BY TWO OR MORE PERSONS AND WHICH PASSES THROUGH THE ESTATE OF A
7 DECEASED OWNER RATHER THAN PASSING TO THE SURVIVING CO-OWNERS.

8 (A printed form for the Alaska basic will must set
9 out the above notice in 10-point boldface type.)

10 ALASKA BASIC WILL OF

11 _____
12 (Print your name)

13 Article 1. Declaration.

14 This is my will and I revoke all prior wills and codicils.

15 Article 2. Disposition of my property.

16 2.1 REAL PROPERTY. Except as provided in paragraph 2.3, I give
17 all my real property to my spouse, if living; otherwise it shall be
18 equally divided among my children who survive me. If my spouse does
19 not survive me and if none of my children survives me, my real pro-
20 perty that is not distributed by paragraph 2.3 shall become part of
21 the residuary estate.

22 2.2 PERSONAL AND HOUSEHOLD ITEMS. Except as provided in para-
23 graph 2.3, I give my spouse, if my spouse survives me, all my books,
24 jewelry, clothing, personal automobiles, recreational equipment,
25 household furnishings and effects, and other tangible articles of a
26 household, recreational, or personal use, together with all policies
27 of insurance insuring these items. If my spouse does not survive me,
28 the personal representative shall distribute these items among my
29 children who survive me, in as nearly equal shares as feasible in the

1 personal representative's discretion. If my spouse does not survive
2 me and if none of my children survives me, the items described in this
3 paragraph shall become part of the residuary estate.

4 2.3 GIFTS TO PERSONS OR CHARITIES. I make the following gifts
5 of real or personal property to the persons or charities in the cash
6 amount stated in words (.....Dollars) and figures (\$.....) or of the
7 property described. I SIGN OPPOSITE EACH GIFT MADE. I WRITE THE
8 WORDS "NOT USED" ON THE REMAINING LINES. If I fail to sign opposite
9 any gift, then that gift is not made. If the person mentioned does
10 not survive me or if the charity does not accept the gift, then that
11 gift is not made.

12	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
13	OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
14	CEIVE GIFT. (Name only	PROPERTY.	
15	one. Please print.)		

21	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
22	OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
23	CEIVE GIFT. (Name only	PROPERTY.	
24	one. Please print.)		

28	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
29			

1 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
2 CEIVE GIFT. (Name only PROPERTY.
3 one. Please print.)
4
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6
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8 FULL NAME OF PERSON AMOUNT OF CASH GIFT SIGNATURE OF
9 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
10 CEIVE GIFT. (Name only PROPERTY.
11 one. Please print.)
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16 FULL NAME OF PERSON AMOUNT OF CASH GIFT SIGNATURE OF
17 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
18 CEIVE GIFT. (Name only PROPERTY.
19 one. Please print.)
20

21 2.4 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one
22 Property Disposition Clause by placing my initials on the line in
23 front of the letter "A," "B," or "C" signifying which clause I wish to
24 adopt. I place my signature after clause "A," clause "B," or clause
25 "C." If I fail to sign the appropriate distribution(s) or if I sign
26 in more than one clause or if I fail to place my initials on the
27 appropriate line, this paragraph will be invalid and the remainder of
28 my property shall be distributed as if I did not make a will as set
29 out in AS 13.11.005 - 13.11.065 or a subsequent provision of law.

1 Property Disposition Clauses (select only one):

2 _____ A. I leave all my remaining property to my spouse, if
3 (initials of
4 testator)
5 living. If my spouse is not living, then in equal shares to my
6 children and the descendants of any deceased child.

7
8 _____
9 (signature of testator)

10 _____ B. I leave all my remaining property to my children and
11 (initials of
12 testator)
13 the descendants of any deceased child. I leave nothing to my spouse
14 even if my spouse survives me.

15
16 _____
17 (signature of testator)

18 _____ C. The executor shall distribute my residuary estate to my
19 (initials of
20 testator)
21 heirs at law, their identities and respective shares to be determined
22 under the laws of the State of Alaska relating to intestate succession
23 in effect on the date of my death as set out in AS 13.11.005 - 13.11.-
24 065 or a subsequent provision of law.

25
26 _____
27 (signature of testator)

28 Article 3. Nomination of guardian, conservator, and
29 personal representative.

3.1 GUARDIAN. (If you have a child or children under 18 years

1 of age, you may name at least one person to serve as guardian for the
2 child or children.)

3 A. If a guardian is needed for my child or children, then I
4 nominate the first guardian named below to serve as guardian of my
5 child or children. If the person does not serve, then the others
6 shall serve in the order I list them. My nomination of a guardian is
7 not valid without my signature.

8 FIRST GUARDIAN _____
9 (signature of testator)

10 SECOND GUARDIAN _____
11 (signature of testator)

12 THIRD GUARDIAN _____
13 (signature of testator)

14 B. A guardian of the person or of the estate shall have all of
15 the powers conferred by law. All powers of the guardian may be ex-
16 ercised without court authorization.

17 3.2 CONSERVATOR. (A conservator may be named to manage the
18 property of a minor child or minor children. You do not need to name
19 a conservator if you wish the guardian to act as conservator. If you
20 wish to name a conservator in addition to a guardian, complete this
21 paragraph. If you do not wish to name a separate conservator, do not
22 complete this paragraph.)

23 A. I nominate the first conservator named below to serve as
24 conservator for my minor child or minor children. If the first con-
25 servator does not serve, then the others shall serve in the order I
26 list them. My nomination of a conservator is not valid without my
27 signature.

28 FIRST CONSERVATOR _____
29 (signature of testator)

1 SECOND CONSERVATOR _____

2 (signature of testator)

3 THIRD CONSERVATOR _____

4 (signature of testator)

5 B. The conservator shall have all of the powers conferred by
6 law.

7 3.3 PERSONAL REPRESENTATIVE. (Name at least one.)

8 A. I nominate the person or institution named as first personal
9 representative below to administer the provisions of this will. If
10 that person or institution does not serve, then I nominate the others
11 to serve in the order I list them. My nomination of a personal repre-
12 sentative is not valid without my signature.

13 FIRST PERSONAL

14 REPRESENTATIVE _____

15 (signature of testator)

16 SECOND PERSONAL

17 REPRESENTATIVE _____

18 (signature of testator)

19 THIRD PERSONAL

20 REPRESENTATIVE _____

21 (signature of testator)

22 B. In addition to powers conferred upon personal representatives
23 by law, the personal representative may sell estate assets at public
24 or private sale, for cash or on credit terms; lease estate assets
25 without restriction as to duration; or invest surplus money of the
26 estate in real or personal property, as the personal representative
27 considers advisable. The personal representative may distribute
28 estate assets otherwise distributable to a minor beneficiary to the
29 guardian of the minor's person or estate, an adult person with whom

1 the minor resides and who has the care, custody, or control of the
2 minor, or a custodian, serving on behalf of the minor under the Uni-
3 form Gifts to Minors Act of any state, or the Uniform Transfers to
4 Minors Act of any state. The personal representative is free of
5 liability and is discharged from further accountability for distribut-
6 ing assets in compliance with this paragraph.

7 On any distribution of assets from the estate, the personal
8 representative may partition, allot, and distribute the assets in
9 kind, including undivided interests in an asset or in any part of it;
10 partly in cash and partly in kind; or entirely in cash. If a distri-
11 bution is being made to more than one beneficiary, the personal repre-
12 sentative may distribute assets among them on a prorated or nonpro-
13 rated basis, with the assets valued as of the date of distribution.

14 3.4 BOND. (The bond provides a fund to pay those who do not
15 receive the share of your estate to which they are entitled, including
16 your creditors, because of improper performance of duties by the
17 personal representative or guardian. Bond premiums are paid out of
18 your estate.)

19 My signature means that a bond is not required for any individual
20 named in this will as personal representative or guardian. If I do
21 not sign, then a bond is required for each of those persons as set out
22 in the Alaska Uniform Probate Code.

23 _____
24 (signature of testator)

25 I sign my name to this Alaska
26 Statutory Will

27 on _____ at _____, _____
28 Date City State

(signature of testator)

STATEMENT OF WITNESSES (You must use two competent witnesses. It is advisable, but not required in most instances, that you do not allow persons who receive property under your will to serve as witnesses.)

Each of us declares under penalty of perjury under the laws of Alaska that the testator signed this Alaska statutory will in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declaring that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address: _____

Print Name

Here: _____

Signature _____ Residence Address: _____

Print Name

Here: _____

5-1369B
Utermohle
4/5/88

Original sponsors: Koponen, Ellis
and Davidson

Adopted 4/5
w/ Amds

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 438 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to statutory wills." *7*

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

8 * Section 1. AS 13.11 is amended by adding a new section to Article 5
9 to read:

10 Sec. 13.11.215. STATUTORY WILL FORM. The following is the form
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15 TANCE OF A LAWYER MAY RESULT IN ADDITIONAL EXPENSES AT THE TIME OF
16 DISTRIBUTION AND MAY RESULT IN A DISTRIBUTION OF PROPERTY CONTRARY TO
17 THE INTENT OF THE TESTATOR.

18 2. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY
19 AND PROPERTY. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT
20 UNDERSTAND, YOU SHOULD CONSULT A LAWYER FOR AN EXPLANATION.

21 3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR
22 DEATH TO ANY PERSON BY OPERATION OF LAW OR BY CONTRACT. FOR EXAMPLE,
23 THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, PARTNERSHIP ASSETS,
24 OR YOUR SPOUSE'S ELECTIVE SHARE, AND IT DOES NOT NORMALLY APPLY TO
25 PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENE-
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27 4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER
28 TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A
29 COMPETENT TAX ADVISOR.

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5. YOU SHOULD MARK THROUGH ALL SECTIONS OR PARTS OF SECTIONS THAT YOU DO NOT COMPLETE. YOU MAY REVOKE THIS ALASKA STATUTORY WILL BY SIGNING A NEW WILL. YOU MAY AMEND THIS WILL BY CODICIL.

6. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE YOUR NATURAL CHILDREN.

7. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

8. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

9. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO USE ANOTHER TYPE OF WILL.

10. IF YOU ARE MAKING SPECIFIC GIFTS TOTALING MORE THAN \$10,000 TO PERSONS OUTSIDE OF YOUR IMMEDIATE FAMILY OR TO ORGANIZATIONS, YOU SHOULD CONSULT A LAWYER. A GIFT OF SPECIFIC REAL OR PERSONAL PROPERTY MAY PREVAIL OVER A GENERAL GIFT TO YOUR SPOUSE OR CHILDREN AND THUS MAY REDUCE THE AMOUNT AVAILABLE TO YOUR SPOUSE OR CHILDREN.

11. COMMERCIAL FISHING ENTRY PERMITS PASS TO YOUR SPOUSE UNLESS YOU HAVE EXPRESSED A CONTRARY INTENT IN YOUR WILL. IF YOU HAVE NO SPOUSE, THE PERMIT WILL BE DISTRIBUTED AS PART OF YOUR PERSONAL PROPERTY.

12. CERTAIN REAL PROPERTY, SUCH AS NATIVE ALLOTMENTS, HELD IN TRUST FOR ALASKA NATIVES AND AMERICAN INDIANS BY THE FEDERAL GOVERNMENT ARE SUBJECT TO SPECIAL PROVISIONS OF FEDERAL LAW. IF YOU OWN THIS TYPE OF PROPERTY, YOU SHOULD CONTACT A LAWYER, YOUR TRIBAL GOVERNMENT, OR THE FEDERAL BUREAU OF INDIAN AFFAIRS BEFORE ATTEMPTING TO USE THIS WILL FORM TO DISPOSE OF THE PROPERTY.

13. THIS WILL IS NOT VALID UNLESS IT IS SIGNED BY AT LEAST TWO WITNESSES. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL.

1 14. YOU SHOULD ~~KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER~~
 2 ~~SAFE PLACE OR~~ DEPOSIT THIS WILL WITH THE SUPERIOR COURT NEAREST
 3 YOUR COMMUNITY. YOU SHOULD ALSO KEEP AN INVENTORY OF YOUR IMPORTA
 4 PROPERTY WITH YOUR WILL. THE INVENTORY SHOULD INCLUDE INFORMATION
 5 YOUR BANK ACCOUNTS, SAFE DEPOSIT BOXES, INSURANCE POLICIES, STOCK
 6 BONDS, AND SIMILAR PROPERTY.

7 15. YOU SHOULD NOT CHANGE, DELETE, OR ADD WORDS TO THE FACE O
 8 THIS ALASKA STATUTORY WILL WITHOUT CONSULTING A LAWYER. IF YOU HA
 9 ANY DOUBTS WHETHER OR NOT THIS WILL ADEQUATELY SETS OUT YOUR WISH
 10 FOR THE DISPOSITION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

11 16. DEFINITIONS.

12 *New* A. "CODICIL" MEANS AN AMENDMENT OR ADDITION TO A WILL; IT MA
 13 EXPLAIN, MODIFY, QUALIFY, ALTER, OR REVOKE PROVISIONS OF A WILL.

14 B. "ELECTIVE SHARE" MEANS THAT PORTION OF A DECEDENT'S ESTAT
 15 WHICH A SPOUSE MAY CHOOSE TO RECEIVE IF THE DECEDENT'S SPOUSE DECIDE
 16 TO REJECT THE PROVISIONS MADE FOR THE SPOUSE IN THE DECEDENT'S WILL
 17 THE ELECTIVE SHARE IS EQUAL TO ONE-THIRD OF THE DECEDENT'S ESTATE.

18 C. "JOINT TENANCY ASSET" MEANS PROPERTY OWNED JOINTLY BY TWO O
 19 MORE PERSONS AND WHICH PASSES TO THE SURVIVING PERSONS AT THE DEATH O
 20 ONE OF THE JOINT OWNERS RATHER THAN PASSING THROUGH THE ESTATE OF TH
 21 DECEASED.

22 D. "PARTNERSHIP ASSETS" MEANS PROPERTY OF ANY KIND THAT BELONG
 23 TO THE PARTNERSHIP AND THAT IS NOT THE SEPARATE PROPERTY OF TH
 24 PARTNERS.

25 E. "PERSONAL PROPERTY" MEANS AN ITEM OF PROPERTY THAT IS NO
 26 REAL PROPERTY.

27 F. "REAL PROPERTY" MEANS LAND AND ANYTHING THAT IS CONSTRUCTE
 28 UPON, GROWING UPON, OR ATTACHED TO LAND.

29 (A printed form for the Alaska basic will must set

1 out the above notice in 10-point boldface type.)

2 ALASKA BASIC WILL OF

3
4 _____
5 (Print your name)

6 Article 1. Declaration.

7 This is my will and I revoke all prior wills and codicils.

8 Article 2. Disposition of my property.

9 2.1 REAL PROPERTY. Except as provided in paragraph 2.3, I give
10 all my real property to my spouse, if living; otherwise it shall be
11 equally divided among my children who survive me. If my spouse does
12 not survive me and if none of my children survives me, my real prop-
13 erty that is not distributed by paragraph 2.3 shall become part of
14 the residuary estate.

15 2.2 PERSONAL AND HOUSEHOLD ITEMS. Except as provided in para-
16 graph 2.3, I give my spouse, if my spouse survives me, all my books
17 jewelry, clothing, personal automobiles, recreational equipment
18 household furnishings and effects, and other tangible articles of
19 household, recreational, or personal use, together with all policies
20 of insurance insuring these items. If my spouse does not survive me,
21 the personal representative shall distribute these items among my
22 children who survive me, in as nearly equal shares as feasible in the
23 personal representative's discretion. If my spouse does not survive
24 me and if none of my children survives me, the items described in this
25 paragraph shall become part of the residuary estate.

26 2.3 GIFTS TO PERSONS OR CHARITIES. I make the following gifts
27 of real or personal property to the persons or charities in the cash
28 amount stated in words (.....Dollars) and figures (\$.....) or of the
29 property described. I SIGN OPPOSITE EACH GIFT MADE. I WRITE THE
WORDS "NOT USED" ON THE REMAINING LINES. If I fail to sign opposite

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any gift, then that gift is not made. If the person mentioned does not survive me or if the charity does not accept the gift, then the gift is not made.

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	OR DESCRIPTION OF PROPERTY.	TESTATOR.

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	OR DESCRIPTION OF PROPERTY.	TESTATOR.

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	OR DESCRIPTION OF PROPERTY.	TESTATOR.

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
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OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
CEIVE GIFT. (Name only	PROPERTY.	
one. Please print.)		

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
CEIVE GIFT. (Name only	PROPERTY.	
one. Please print.)		

2.4 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause by placing my initials on the line in front of the letter "A," "B," or "C" signifying which clause I wish to adopt. I place my signature after clause "A," clause "B," or clause "C." If I fail to sign the appropriate distribution(s) or if I sign in more than one clause or if I fail to place my initials on the appropriate line, this paragraph will be invalid and the remainder of my property shall be distributed as if I did not make a will as set out in AS 13.11.005 - 13.11.065 or a subsequent provision of law.

Property Disposition Clauses (select only one):

_____ A. I leave all my remaining property to my spouse, if (initials of testator) living. If my spouse is not living, then in equal shares to my children and the descendants of any deceased child.

(signature of testator)

_____ B. I leave all my remaining property to my children and
(initials of
testator)

the descendants of any deceased child. I leave nothing to my spouse
even if my spouse survives me.

(signature of testator)

_____ C. The executor shall distribute my residuary estate to my
(initials of
testator)

heirs at law, their identities and respective shares to be determined
under the laws of the State of Alaska relating to intestate succession
in effect on the date of my death as set out in AS 13.11.005 - 13.11.-
065 or a subsequent provision of law.

(signature of testator)

Article 3. Nomination of guardian, conservator, and
personal representative.

3.1 GUARDIAN. (If you have a child or children under 18 years
of age, you may name at least one person to serve as guardian for the
child or children.)

A. If a guardian is needed for my child or children, then I
nominate the first guardian named below to serve as guardian of my
child or children. If the person does not serve, then the others
shall serve in the order I list them. My nomination of a guardian is
not valid without my signature.

FIRST GUARDIAN _____

(signature of testator)

SECOND GUARDIAN _____

(signature of testator)

THIRD GUARDIAN _____

(signature of testator)

B. A guardian of the person or of the estate shall have all of the powers conferred by law. All powers of the guardian may be exercised without court authorization.

3.2 CONSERVATOR. (A conservator may be named to manage the property of a minor child or minor children. You do not need to name a conservator if you wish the guardian to act as conservator. If you wish to name a conservator in addition to a guardian, complete this paragraph. If you do not wish to name a separate conservator, do not complete this paragraph.)

A. I nominate the first conservator named below to serve as conservator for my minor child or minor children. If the first conservator does not serve, then the others shall serve in the order I list them. My nomination of a conservator is not valid without my signature.

FIRST CONSERVATOR _____

(signature of testator)

SECOND CONSERVATOR _____

(signature of testator)

THIRD CONSERVATOR _____

(signature of testator)

B. The conservator shall have all of the powers conferred by law.

3.3 PERSONAL REPRESENTATIVE. (Name at least one.)

A. I nominate the person or institution named as first personal

1 representative below to administer the provisions of this will. I
 2 that person or institution does not serve, then I nominate the others
 3 to serve in the order I list them. My nomination of a personal repre-
 4 sentative is not valid without my signature.

5 FIRST PERSONAL

6 REPRESENTATIVE _____

7 (signature of testator)

8 SECOND PERSONAL

9 REPRESENTATIVE _____

10 (signature of testator)

11 THIRD PERSONAL

12 REPRESENTATIVE _____

13 (signature of testator)

14 B. In addition to powers conferred upon personal representatives
 15 by law, the personal representative may sell estate assets at public
 16 or private sale, for cash or on credit terms; lease estate assets
 17 without restriction as to duration; or invest surplus money of the
 18 estate in real or personal property, as the personal representative
 19 considers advisable. The personal representative may distribute
 20 estate assets otherwise distributable to a minor beneficiary to the
 21 guardian of the minor's person or estate, an adult person with whom
 22 the minor resides and who has the care, custody, or control of the
 23 minor, or a custodian, serving on behalf of the minor under the Uni-
 24 form Gifts to Minors Act of any state, or the Uniform Transfers to
 25 Minors Act of any state. The personal representative is free of
 26 liability and is discharged from further accountability for distribut-
 27 ing assets in compliance with this paragraph.

28 On any distribution of assets from the estate, the personal
 29 representative may partition, allot, and distribute the assets in

1 kind, including undivided interests in an asset or in any part of it
 2 partly in cash and partly in kind; or entirely in cash. If a distri
 3 bution is being made to more than one beneficiary, the personal repre
 4 sentative may distribute assets among them on a prorated or
 5 nonprorated basis, with the assets valued as of the date of distribu
 6 tion.

7 3.4 BOND. (The bond provides a fund to pay those who do not
 8 receive the share of your estate to which they are entitled, including
 9 your creditors, because of improper performance of duties by the
 10 personal representative or guardian. Bond premiums are paid out of
 11 your estate.)

12 My signature means that a bond is not required for any individual
 13 named in this will as personal representative or guardian. If I do
 14 not sign, then a bond is required for each of those persons as set out
 15 in the Alaska Uniform Probate Code.

16 _____
 17 (signature of testator)

18 I sign my name to this Alaska

19 Statutory Will

20 on _____ at _____, _____

21 Date City State

22 _____
 23 (signature of testator)

24 STATEMENT OF WITNESSES (You must use two competent witnesses. It is
 25 advisable, but not required in most instances, that you do not allow
 26 persons who receive property under your will to serve as witnesses.)

27 Each of us declares under penalty of perjury under the laws of
 28 Alaska that the testator signed this Alaska statutory will in our
 29 presence, all of us being present at the same time, and we now, at the

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testator's request, in the testator's presence, and in the presence of
each other, sign below as witnesses, declaring that the testator
appears to be of sound mind and under no duress, fraud, or undue
influence.

Signature _____

Residence Address: _____

Print Name

Here: _____

Signature _____

Residence Address: _____

Print Name

Here: _____

Adopted CS 4/5/88

5-1369B
Utermohle
4/5/88

Original sponsors: Koponen, Ellis
and Davidson

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 438 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to statutory wills."

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

8 * Section 1. AS 13.11 is amended by adding a new section to Article 5
9 to read:

10 Sec. 13.11.215. STATUTORY WILL FORM. The following is the form
11 for the Alaska basic will:

12 Alaska Basic Will

13 NOTICE TO THE PERSON WHO SIGNS THIS WILL:

14 1. EXECUTING THIS STATUTORY WILL WITHOUT THE ADVICE AND ASSIS-
15 TANCE OF A LAWYER MAY RESULT IN ADDITIONAL EXPENSES AT THE TIME OF
16 DISTRIBUTION AND MAY RESULT IN A DISTRIBUTION OF PROPERTY CONTRARY TO
17 THE INTENT OF THE TESTATOR.

18 2. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY
19 AND PROPERTY. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT
20 UNDERSTAND, YOU SHOULD CONSULT A LAWYER FOR AN EXPLANATION.

21 3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR
22 DEATH TO ANY PERSON BY OPERATION OF LAW OR BY CONTRACT. FOR EXAMPLE,
23 THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, PARTNERSHIP ASSETS,
24 OR YOUR SPOUSE'S ELECTIVE SHARE, AND IT DOES NOT NORMALLY APPLY TO
25 PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENE-
26 FITS.

27 4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER
28 TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A
29 COMPETENT TAX ADVISOR.

dist. info

1 5. YOU SHOULD MARK THROUGH ALL SECTIONS OR PARTS OF SECTION
2 THAT YOU DO NOT COMPLETE. YOU MAY REVOKE THIS ALASKA STATUTORY WILL
3 BY SIGNING A NEW WILL. YOU MAY AMEND THIS WILL BY CODICIL.

4 6. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE YOUR NATURAL
5 CHILDREN.

6 7. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD
7 MAKE AND SIGN A NEW WILL.

8 8. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS WILL, YOU
9 SHOULD MAKE AND SIGN A NEW WILL.

10 9. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO
11 USE ANOTHER TYPE OF WILL.

12 10. IF YOU ARE MAKING SPECIFIC GIFTS TOTALING MORE THAN \$10,000
13 TO PERSONS OUTSIDE OF YOUR IMMEDIATE FAMILY OR TO ORGANIZATIONS, YOU
14 SHOULD CONSULT A LAWYER. A GIFT OF SPECIFIC REAL OR PERSONAL PROPERTY
15 MAY PREVAIL OVER A GENERAL GIFT TO YOUR SPOUSE OR CHILDREN AND THEREFORE
16 MAY REDUCE THE AMOUNT AVAILABLE TO YOUR SPOUSE OR CHILDREN.

17 11. COMMERCIAL FISHING ENTRY PERMITS PASS TO YOUR SPOUSE UNLESS
18 YOU HAVE EXPRESSED A CONTRARY INTENT IN YOUR WILL. IF YOU HAVE NO
19 SPOUSE, THE PERMIT WILL BE DISTRIBUTED AS PART OF YOUR PERSONAL
20 PROPERTY.

21 12. CERTAIN REAL PROPERTY, SUCH AS NATIVE ALLOTMENTS, HELD IN
22 TRUST FOR ALASKA NATIVES AND AMERICAN INDIANS BY THE FEDERAL GOVERNMENT
23 ARE SUBJECT TO SPECIAL PROVISIONS OF FEDERAL LAW. IF YOU OWN
24 THIS TYPE OF PROPERTY, YOU SHOULD CONTACT A LAWYER, YOUR TRIBAL
25 GOVERNMENT, OR THE FEDERAL BUREAU OF INDIAN AFFAIRS BEFORE ATTEMPTING
26 TO USE THIS WILL FORM TO DISPOSE OF THE PROPERTY.

27 13. THIS WILL IS NOT VALID UNLESS IT IS SIGNED BY AT LEAST TWO
28 WITNESSES. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE
29 DESCRIBED AT THE END OF THIS WILL.

1 14. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER
2 SAFE PLACE OR DEPOSIT THIS WILL WITH THE SUPERIOR COURT NEAREST TO
3 YOUR COMMUNITY. YOU SHOULD ALSO KEEP AN INVENTORY OF YOUR IMPORTANT
4 PROPERTY WITH YOUR WILL. THE INVENTORY SHOULD INCLUDE INFORMATION ON
5 YOUR BANK ACCOUNTS, SAFE DEPOSIT BOXES, INSURANCE POLICIES, STOCKS
6 BONDS, AND SIMILAR PROPERTY.

7 15. YOU SHOULD NOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF
8 THIS ALASKA STATUTORY WILL WITHOUT CONSULTING A LAWYER. IF YOU HAVE
9 ANY DOUBTS WHETHER OR NOT THIS WILL ADEQUATELY SETS OUT YOUR WISHES
10 FOR THE DISPOSITION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

11 16. DEFINITIONS.

12 A. "CODICIL" MEANS AN AMENDMENT OR ADDITION TO A WILL; IT MAY
13 EXPLAIN, MODIFY, QUALIFY, ALTER, OR REVOKE PROVISIONS OF A WILL.

14 B. "ELECTIVE SHARE" MEANS THAT PORTION OF A DECEDENT'S ESTATE
15 WHICH A SPOUSE MAY CHOOSE TO RECEIVE IF THE DECEDENT'S SPOUSE DECIDES
16 TO REJECT THE PROVISIONS MADE FOR THE SPOUSE IN THE DECEDENT'S WILL.
17 THE ELECTIVE SHARE IS EQUAL TO ONE-THIRD OF THE DECEDENT'S ESTATE.

18 C. "JOINT TENANCY ASSET" MEANS PROPERTY OWNED JOINTLY BY TWO OR
19 MORE PERSONS AND WHICH PASSES TO THE SURVIVING PERSONS AT THE DEATH OF
20 ONE OF THE JOINT OWNERS RATHER THAN PASSING THROUGH THE ESTATE OF THE
21 DECEASED.

22 D. "PARTNERSHIP ASSETS" MEANS PROPERTY OF ANY KIND THAT BELONGS
23 TO THE PARTNERSHIP AND THAT IS NOT THE SEPARATE PROPERTY OF
24 PARTNERS.

25 E. "PERSONAL PROPERTY" MEANS AN ITEM OF PROPERTY THAT IS NOT
26 REAL PROPERTY.

27 F. "REAL PROPERTY" MEANS LAND AND ANYTHING THAT IS CONSTRUCTED
28 UPON, GROWING UPON, OR ATTACHED TO LAND.

29 (A printed form for the Alaska basic will must set

1 out the above notice in 10-point boldface type.)

2 ALASKA BASIC WILL OF

3
4 _____
5 (Print your name)

6 Article 1. Declaration.

7 This is my will and I revoke all prior wills and codicils.

8 Article 2. Disposition of my property.

9 2.1 REAL PROPERTY. Except as provided in paragraph 2.3, I give
10 all my real property to my spouse, if living; otherwise it shall be
11 equally divided among my children who survive me. If my spouse does
12 not survive me and if none of my children survives me, my real pro-
13 perty that is not distributed by paragraph 2.3 shall become part of
14 the residuary estate.

15 2.2 PERSONAL AND HOUSEHOLD ITEMS. Except as provided in para-
16 graph 2.3, I give my spouse, if my spouse survives me, all my books,
17 jewelry, clothing, personal automobiles, recreational equipment,
18 household furnishings and effects, and other tangible articles of a
19 household, recreational, or personal use, together with all policies
20 of insurance insuring these items. If my spouse does not survive me,
21 the personal representative shall distribute these items among my
22 children who survive me, in as nearly equal shares as feasible in the
23 personal representative's discretion. If my spouse does not survive
24 me and if none of my children survives me, the items described in this
25 paragraph shall become part of the residuary estate.

26 2.3 GIFTS TO PERSONS OR CHARITIES. I make the following gifts
27 of real or personal property to the persons or charities in the cash
28 amount stated in words (.....Dollars) and figures (\$.....) or of the
29 property described. I SIGN OPPOSITE EACH GIFT MADE. I WRITE THE
WORDS "NOT USED" ON THE REMAINING LINES. If I fail to sign opposite

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any gift, then that gift is not made. If the person mentioned does not survive me or if the charity does not accept the gift, then that gift is not made.

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
CEIVE GIFT. (Name only	PROPERTY.	
one. Please print.)		

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
CEIVE GIFT. (Name only	PROPERTY.	
one. Please print.)		

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
CEIVE GIFT. (Name only	PROPERTY.	
one. Please print.)		

FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
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OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
CEIVE GIFT. (Name only PROPERTY.
one. Please print.)

FULL NAME OF PERSON AMOUNT OF CASH GIFT SIGNATURE OF
OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
CEIVE GIFT. (Name only PROPERTY.
one. Please print.)

2.4 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only on
Property Disposition Clause by placing my initials on the line i
front of the letter "A," "B," or "C" signifying which clause I wish t
adopt. I place my signature after clause "A," clause "B," or claus
"C." If I fail to sign the appropriate distribution(s) or if I sig
in more than one clause or if I fail to place my initials on th
appropriate line, this paragraph will be invalid and the remainder c
my property shall be distributed as if I did not make a will as se
out in AS 13.11.005 - 13.11.065 or a subsequent provision of law.

Property Disposition Clauses (select only one):

_____ A. I leave all my remaining property to my spouse, i
(initials of
testator)
living. If my spouse is not living, then in equal shares to my
children and the descendants of any deceased child.

(signature of testator)

_____ B. I leave all my remaining property to my children and
(initials of
testator)

the descendants of any deceased child. I leave nothing to my spouse
even if my spouse survives me.

(signature of testator)

_____ C. The executor shall distribute my residuary estate to my
(initials of
testator)

heirs at law, their identities and respective shares to be determined
under the laws of the State of Alaska relating to intestate succession
in effect on the date of my death as set out in AS 13.11.005 - 13.11.-
065 or a subsequent provision of law.

(signature of testator)

Article 3. Nomination of guardian, conservator, and
personal representative.

3.1 GUARDIAN. (If you have a child or children under 18 years
of age, you may name at least one person to serve as guardian for the
child or children.)

A. If a guardian is needed for my child or children, then I
nominate the first guardian named below to serve as guardian of my
child or children. If the person does not serve, then the others
shall serve in the order I list them. My nomination of a guardian is
not valid without my signature.

FIRST GUARDIAN _____

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(signature of testator)

SECOND GUARDIAN _____

(signature of testator)

THIRD GUARDIAN _____

(signature of testator)

B. A guardian of the person or of the estate shall have all of the powers conferred by law. All powers of the guardian may be exercised without court authorization.

3.2 CONSERVATOR. (A conservator may be named to manage the property of a minor child or minor children. You do not need to name a conservator if you wish the guardian to act as conservator. If you wish to name a conservator in addition to a guardian, complete this paragraph. If you do not wish to name a separate conservator, do not complete this paragraph.)

A. I nominate the first conservator named below to serve as conservator for my minor child or minor children. If the first conservator does not serve, then the others shall serve in the order I list them. My nomination of a conservator is not valid without my signature.

FIRST CONSERVATOR _____

(signature of testator)

SECOND CONSERVATOR _____

(signature of testator)

THIRD CONSERVATOR _____

(signature of testator)

B. The conservator shall have all of the powers conferred by law.

3.3 PERSONAL REPRESENTATIVE. (Name at least one.)

A. I nominate the person or institution named as first personal

1 representative below to administer the provisions of this will. I
 2 that person or institution does not serve, then I nominate the other
 3 to serve in the order I list them. My nomination of a personal repre
 4 sentative is r . . valid without my signature.

5 FIRST PERSONAL

6 REPRESENTATIVE _____

7 _____
 8 (signature of testator)

9 SECOND PERSONAL

10 REPRESENTATIVE _____

11 _____
 12 (signature of testator)

13 THIRD PERSONAL

14 REPRESENTATIVE _____

15 _____
 16 (signature of testator)

17 B. In addition to powers conferred upon personal representative
 18 by law, the personal representative may sell estate assets at publi
 19 or private sale, for cash or on credit terms; lease estate asset
 20 without restriction as to duration; or invest surplus money of th
 21 estate in real or personal property, as the personal representativ
 22 considers advisable. The personal representative may distribut
 23 estate assets otherwise distributable to a minor beneficiary to th
 24 guardian of the minor's person or estate, an adult person with who
 25 the minor resides and who has the care, custody, or control of th
 26 minor, or a custodian, serving on behalf of the minor under the Uni
 27 form Gifts to Minors Act of any state, or the Uniform Transfers to
 28 Minors Act of any state. The personal representative is free o
 29 liability and is discharged from further accountability for distribut
 ing assets in compliance with this paragraph.

On any distribution of assets from the estate, the persona
 representative may partition, allot, and distribute the assets in

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kind, including undivided interests in an asset or in any part of it partly in cash and partly in kind; or entirely in cash. If a distribution is being made to more than one beneficiary, the personal representative may distribute assets among them on a prorated or nonprorated basis, with the assets valued as of the date of distribution.

3.4 BOND. (The bond provides a fund to pay those who do not receive the share of your estate to which they are entitled, including your creditors, because of improper performance of duties by the personal representative or guardian. Bond premiums are paid out of your estate.)

My signature means that a bond is not required for any individual named in this will as personal representative or guardian. If I do not sign, then a bond is required for each of those persons as set out in the Alaska Uniform Probate Code.

(signature of testator)

I sign my name to this Alaska
Statutory Will
on _____ at _____, _____
Date City State

(signature of testator)

STATEMENT OF WITNESSES (You must use two competent witnesses. It is advisable, but not required in most instances, that you do not allow persons who receive property under your will to serve as witnesses.)

Each of us declares under penalty of perjury under the laws of Alaska that the testator signed this Alaska statutory will in our presence, all of us being present at the same time, and we now, at the

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testator's request, in the testator's presence, and in the presence of
each other, sign below as witnesses, declaring that the testator
appears to be of sound mind and under no duress, fraud, or undue
influence.

Signature _____ Residence Address: _____

Print Name

Here: _____

Signature _____ Residence Address: _____

Print Name

Here: _____



MAR 20 1988

ALASKA STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Miss Patricia Oakes
Box 30009
Central, AK 99730
(907) 520-5227

VICE CHAIRMAN
Mr. R. W. Pavitt
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Juneau, AK 99801
(907) 586-2066

SECRETARY
Mrs. Marian R. Triggs
475 Panorama Drive
Fairbanks, AK 99712
(907) 457-4386

3/22/88

*Halt where are we
on this bill??*

The Honorable John Sund, Chairman
House Judiciary Committee
PO Box V
Juneau, AK 99811

Dear Representative Sund:

We urge favorable Judiciary Committee consideration of HB 438,
"An Act Relating to statutory wills."

We feel such legislation is vital to clearly defining for Alaskans what is necessary for a legal will. Such clarification is not only important to those who consult attorneys to have wills draw up, but also to those low-income citizens who tend to use "stationery store" wills or ignore wills altogether. Clarifying and simplifying the process will not only enable more citizens to clearly state their estate wishes, but may cause less pressure on the State Court system from time spent in handling probate cases.

It was a step forward to get the "rights of the terminally ill" legislation through in the 14th Legislature. We are hopeful that the present legislature will be able to provide good legislation on statutory wills and statutory powers of attorney to assist all citizens in these matters.

Sincerely yours,

Miss Patricia Oakes, Chairman
AARP/Alaska State Legislative Committee

STATE OF ALASKA
THE LEGISLATURE

DOUGHY STATE CAPITAL
LINEAD ALASKA PRINT
107 265 1300

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 22, 1988

SUBJECT: Section-by-section summary of HB 438,
an Act relating to statutory wills

TO: Representative Niilo Koponen

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum contains a section-by-section summary of HB 438, an Act relating to statutory wills.

A section-by-section summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

HB 438 amends AS 13.11, by adding a new section providing for statutory will forms.

Sec. 13.11.215(a) contains the text of the Alas'a basic will form.

The introductory language of the basic will advises persons of the limitations of the basic will and of the procedure for completing the basic will. The introductory language must be printed in large, 10-point boldface type in order to emphasize the importance of reading the introductory language before using the basic will.

ARTICLE 1. Declaration.

Article 1 of the basic will contains the declaration that the will revokes all prior wills and codicils previously executed by the testator. The testator is the person who makes a will.

ARTICLE 2. Disposition of Property.

Article 2 of the basic will contains provisions for distribution of the testator's property.

Article 2.1 provides that all real property of the testator that is not given away under Article 2.3 is given to the testator's spouse if the spouse is alive. If the testator's spouse is not living then the real property is divided equally among the testator's children. If the testator has no living spouse or children then the real property is distributed as part of the residuary estate under Article 2.4.

Article 2.2 of the basic will provides that all personal and household property of the testator that is not given away under Article 2.3 is given to the testator's spouse if the spouse is alive. If the testator's spouse is not living then the personal and household property is divided equally among the testator's children. If the testator has no living spouse or children then the personal and household property is distributed as part of the residuary estate under Article 2.4.

Article 2.3 provides for the gift of specific real and personal property to specific persons or charities. The basic will provides space for five specific gifts. If the testator wants to make more than five specific gifts, then the testator must execute a codicil containing the additional gifts.

Article 2.4 provides for the disposition of all other property of the testator that is not given away under 2.1-2.3 of this Article. The testator has three alternatives for distribution of the residuary estate. The testator may leave residuary property to:

1. the testator's spouse, if living, or equally to all living children and the living descendants of deceased children if the spouse is not living;
2. the testator's living children and living descendants of deceased children, regardless of whether the testator's spouse is living; or,
3. the testator's heirs as determined under the laws of Alaska for intestate succession.

ARTICLE 3. Nomination of guardian, conservator,
and personal representative.

Article 3 of the basic will provides for the appointment of a guardian, conservator, and personal representative.

Article 3.1 provides for the appointment of a guardian and alternate guardians for minor children. The guardian is given authority to exercise all powers conferred by law.

Article 3.2 provides for the appointment of a conservator to manage the property of minor children. Two alternate conservators may be appointed. The conservator is given authority to exercise all powers conferred by law.

Article 3.3 provides for the appointment of a personal representative to administer the provisions of the will. Two alternate personal representatives may be appointed. The personal representative is given authority to sell assets of the estate at public or private sale, for cash or on credit and to invest the proceeds of the sale. The personal representative may distribute assets given to a minor under the will to the minor's guardian or custodian. The personal representative is free from liability if the personal representative distributes the assets in accordance with the will. The personal representative is given authority to distribute assets of the estate among the beneficiaries of the estate.

Article 3.4 provides that the testator may release the personal representative and guardian from the requirement to obtain a bond. If the testator decides to require a bond, then the premiums for the bond are paid from the estate.

The completed will is then signed by the testator in the presence of two witnesses who also sign the will.

Section 13.11.215(b) contains the text of the Alaska basic will with trust form.

The introductory language of the basic will with trust advises persons of the limitations of the basic will with trust and of the procedures for completing the basic will with trust. The introductory language must be printed in large, 10-point bold face type in order to emphasize the importance of reading the introductory language before using the basic will with trust.

ARTICLE 1. Declaration.

Article 1 of the basic will with trust contains the declaration that the will revokes all prior wills and codicils.

ARTICLE 2. Disposition of Property.

Article 2 of the basic will with trust provides for distribution of the testator's property.

Article 2.1 provides that all personal and household property of the testator that is not given away under Article 2.2 is given to the testator's spouse if the spouse is alive. If the testator's spouse is not living, then the personal and household property is divided equally among the testator's children. If the testator has no living spouse or children, then the property is distributed as part of the residuary estate under Article 2.3.

Article 2.2 provides for the gift of specific real and personal property to specific persons or charities. The basic will with trust provides space for five specific gifts. If the testator wants to make more than five specific gifts, then the testator must execute a codicil containing the additional gifts.

Article 2.3 provides for the distribution of the residuary estate. The testator has three options for distribution of the residuary estate. The testator may select from the two options provided in the basic will with trust, or may elect not to choose either option. If the testator does not select either option, then the residuary estate is distributed as if the testator does not have a will.

Option A provides that the testator's spouse receives the residuary estate if the spouse is alive. If the spouse is not alive, then the residuary estate is placed into a trust if any child of the testator is under 21 years of age. As long as any of the testator's children are under the age of 21 years, the trustee shall distribute the principal and income of the trust as necessary for the health, support, maintenance, and education of the children. The trustee has authority to distribute the trust disproportionately among the children in accordance with their needs. The trust is terminated when the last child reaches the age of 21 years. If the testator's spouse and children do not survive the testator, the residuary is distributed to the testator's descendants. The testator may elect to change the critical age for the purposes of the trust provisions from 21 years to any age down to 18 years.

Option B provides that the residuary estate is placed into a trust if any child of the testator is under 21 years of age.

The spouse receives none of the residuary estate under this option even if the spouse is living. As long as one of the testator's children is under the age of 21 years, the trustee shall distribute the principal and income of the trust as necessary for the health, support, maintenance, and education of the children. The trustee has authority to distribute the trust disproportionately among the children in accordance with their needs. The trust is terminated when the last child reaches the age of 21 years. If the testator's spouse and children do not survive the testator, the residuary is distributed to the testator's descendants. The testator may elect to change the critical age for the purposes of the trust provisions from 21 years to any age down to 18 years.

ARTICLE 3. Nomination of guardian, trustee,
and personal representative.

Article 3 of the basic will with trust provides for the appointment of a guardian, trustee, and personal representative.

Article 3.1 provides for the appointment of a guardian and alternate guardians for minor children. The guardian is given authority to exercise all powers conferred by law.

Article 3.2 provides for the appointment of trustees to administer the trust. Two alternate trustees may be appointed. The powers of the trustee, and the conditions attached to the administration of the trust, are set out in the will. The terms of the trust also provide for the distribution of the trust if there has been an ineffective disposition of the remaining trust assets.

Article 3.3 provides for the appointment of a personal representative to administer the provisions of the will. Two alternate personal representatives may be appointed. The personal representative is given authority to sell assets of the estate at public or private sale for cash or on credit and to invest the proceeds of the sale. The personal representative may distribute assets given to a minor under the will to the minor's guardian or custodian. The personal representative is free from liability if the personal representative distributes the assets in accordance with the will. The personal representative is given authority to distribute assets of the estate.

Article 3.4 provides that the testator may release the personal representative or guardian from the requirement to

Representative Koponen
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obtain a bond. If the testator requires a bond, then the premiums for the bond are paid from the estate.

The completed basic will with trust is then signed by the testator in the presence of two witnesses who also sign the will.

GU:bb
wkb3/009

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99801
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 17, 1988

SUBJECT: HB 438 and federal regulations relating to disposition of certain property of Alaska Natives

TO: Representative Niilo Koponen

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum discusses the interaction of HB 438, an Act relating to statutory wills, and federal regulations relating to disposition of certain property by of Alaska Natives.

Under federal regulations an Alaska Native may provide for the disposition of trust property by will if the Alaska Native is 21 years old, and the will is attested by two disinterested adult witnesses. (43 CFR 4.260(a)) Trust property is real or personal property possessed by an Alaska Native but which is owned by the United States for the benefit of the Alaska Native, or any real or personal property that the Alaska Native may not alienate without the consent of the Secretary of the Interior. Other real or personal property of Alaska Natives is not affected by these restrictions.

These provisions of federal law are at variance from the probate laws of Alaska. In Alaska any person over the age of 18 may make a will and any person may witness a will. The Uniform Probate Code, as adopted in Alaska, does not restrict a person from serving as a witness to a will because the person has an interest in the will (AS 13.11.170).

AS 13.11.170 provides that any competent person may witness a will and that a will or provision of a will is not invalid because it is witnessed by an interested person. An interested person is an heir, child, spouse, creditor,

beneficiary, or any other person having a property right in or a claim against the estate of a deceased.

AS 13.11.170 was enacted in 1972 as part of the Uniform Probate Code. The Uniform Probate Code was developed by the National Conference of Commissioners on Uniform State Laws. In developing the Uniform Probate Code the commissioners considered whether interested persons should be allowed to witness wills and decided that the mere fact that a person had an interest in the will was not sufficient to invalidate the will or a provision of the will. The commissioners explained their position on interested witnesses as follows:

Interest no longer disqualifies a person as a witness, nor does it invalidate or forfeit a gift under the will. Of course, the purpose of this change is not to foster use of interested witnesses, and attorneys will continue to use disinterested witnesses in execution of wills. But the rare and innocent use of a member of the testator's family on a home-drawn will would no longer be penalized. This change does not increase appreciably the opportunity for fraud or undue influence. A substantial gift by will to a person who is one of the witnesses to the execution of the will would itself be a suspicious circumstance, and the gift could be challenged on grounds of undue influence. The requirement of disinterested witnesses has not succeeded in preventing fraud and undue influence; and in most cases of undue influence, the influencer is careful not to sign as witness but to use disinterested witnesses.

HB 438 adopts statutory will forms for use by persons who have relatively small and uncomplicated testamentary estates. Since the statutory wills implement Alaska's probate laws, the statutory wills may be executed by any Alaskan, Alaska Native or otherwise, who is 19 years or older and witnessed by any competent person regardless of whether the person has an interest in the will.

The restrictions contained in the federal regulations do not reflect the modern view of testamentary capacity and competency to witness wills. Most states have lowered the age of majority to 18, 19, or 20 years of age and the federal voting age is 19 years of age. It seems inconsistent to maintain this disability for Alaska Natives and American Indians until they reach the age of 21 years.

Representative Niilo Koponen
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In regard to witnesses to wills, the modern view on whether interest should disqualify a witness is reflected in the comments of the Commissioners of Uniform Laws quoted above.

The federal regulations are a frequent source of concern because they vary from state laws. A valid will under the laws of Alaska may not be sufficient to transfer an interest in trust property subject to the federal regulations. Because the federal regulations apply to a certain limited class of property, and because the federal regulations reflect an archaic view toward the execution and witnessing of wills as a policy matter, the federal regulations should be changed rather than amending state law to be consistent with the federal regulations.

Until the federal regulations are changed, however, trust property held by Alaska Natives will be a class of property that can be passed by a statutory will only if the testator is at least 21 years of age, and if the witnesses to the will are disinterested parties. Since state law to the contrary in this matter is preempted by federal law, it might be useful to amend state law to reflect this fact.

Another option available to the Legislature is to request the Department of Interior, by resolution or other means, to amend the federal regulations so that state law on these issues controls the age at which a person may make a will, and who may witness wills.

If I can provide further information on this subject, please contact me.

GJ:bb
wkb2/104

Alaska State Legislature
Representative Niilo Koponen

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POSITION PAPER

HB 438 "An Act relating to statutory wills."

February 1988

HB 438, "An act relating to statutory wills, " has been introduced by request of many senior citizens who have contacted my office in the past years concerning the costs and difficulty that they have had in preparing their wills.

HB 438 is intended to provide an alternative for people who chose not to hire an attorney to prepare their wills who have relatively small and uncomplicated testamentary estates. Currently such people leave holographic wills or use generic will forms supplied by stationers and business supply houses. These forms should be of greatest value to low income people, members of minority groups and residents in rural areas of Alaska. Their availability will permit public interest and "pro-bono" attorneys working with these constituencies to focus on the more immediate needs of their clients.

Many states have statutory will forms. The basic will form allows individuals to fill in the blanks. This will can also be changed over and over again without the expense of an attorney. Under AS 13.11.170 any person over the age of 18 may make a will and any person may witness a will. The statutory will forms asks for two witnesses to sign the will in order for the will to be valid.

Conversation with Frank Collin, lawyer who helped draft California's legislation in 1983.

It was California's Bar Association that sponsored this legislation.

They have two basic will forms 1) trust 2) w/out a trust.

"Absolutely no pressure at the State Bar about taking work away from lawyers" in fact it has helped and been quite useful. The reason being is that the basic will form serves people who won't normally have a will and in the long run it is better to have one than to not, despite intestate statutes. These will forms also serve people lawyers would never see anyway and the forms can be handed out at senior citizen centers, legal services etc. Lawyers use these wills to their advantage. When it comes in handy for a lawyer is when someone calls up and says they are going on a trip soon and they want to prepare a will, they just use a basic will form or if a person is in the hospital and not sure if they are going to survive, they can call their lawyer to come over and the lawyer can use a basic will form.

There has not been an increase in litigation cases in fact he thinks it has been cut down because people are using these forms instead of using blank pieces of paper.

1/2 million people have used these will forms.

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February 17, 1988

**ADMITTED IN WASHINGTON, D.C.
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

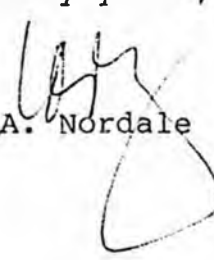
The Honorable Niilo Koponen
The Honorable Max Gruenberg
The Honorable Johnny Ellis
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Niilo, Max and Representative Ellis:

For several years the word was that the Legislature did not like attorneys. From now on we know that at least you three have the welfare of attorneys at heart. The bills setting up statutory wills and powers of attorney are going to produce much, and complicated, litigation and it's enough to make one's mouth water just dreaming about it.

Thanks for the economic boost. It's great to know that you want to stimulate that area of the law where attorneys really make their money. The Alaska Bar Association owes you medals and other suitable awards.

Sincerely yours,


Mary A. Nordale

MAN:sd/11.81

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to statutory wills."
Sponsor: Repr. Koponen
Requestor: Repr. Koponen

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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-
PART-TIME					
TEMPORARY					

ANALYSIS : (Attach a separate page if necessary)

This bill amends Alaska's probate laws by establishing statutory will forms. A person's will is a private matter between individuals and does not involve the Department of Law.

Prepared by: Richard I. Pegues Director Phone: 465-3672
Division: Administrative Services Date: February 10, 1988
Approved by Commissioner: Richard I. Pegues (FOR) Date: February 10, 1988
Agency: Department of Law

Distribution (by preparer):

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

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 438
Publish Date: 2-8-88

Revision Date:
Title: An act relating to statutory wills
Sponsor: Koponen, Ellis
Requestor:

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)						
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING: (Thousands of Dollars)						
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
 Division: Alaska Court System Phone: 264-8228
 Date: 2-16-88
 Approved by: *Arthur H. Snowden, II*
 Agency: Alaska Court System Date: 2-16-88

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

Adams said he plans to hold joint house-senate hearings on the jobs bill beginning next Tuesday.

Legislator wants to make will-making easier: Hoping to reduce the time and expense of making out a will, Rep. Niilo Koponen has introduced a bill to put a fill-in-the-blanks will form into state statute.

Anyone could copy the form from the statute book, fill in the spaces for name and other personal information, and have a completed will.

The Fairbanks Democrat said he started work on the bill in response to senior citizen requests, but since has found a large demand for a basic will form.

"It is legal for people to draft their own will," Koponen said.

His bill (HB438) is intended to provide an alternative for people who chose not to hire an attorney for the job.

He introduced the measure Monday.

Although people may write their own wills, many do not. "A lot of people find a blank piece of paper to be intimidating," said Rosemary Haffner, a staff attorney with Alaska Legal Services Corp. in Fairbanks.

Haffner has been concerned with the issue since 1982, when as a legal service attorney in Anchorage she found herself unable to keep up with senior citizens' requests for wills.

There are some disadvantages to the will form, she said. Like any form, it tries to fit many sizes and types of estates, rather than the exact fit that a private attorney could offer.

LA Empire Feb 16 '88

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