

HB

181

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 181
 (H) Publish Date: 4/21/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the obligations of spouses, to BRU Civil Division
the insurance policies of spouses, to the nonprobate transfer ..." Component Fair Business Practices
 Sponsor Representative Murkowski
 Requester House Judiciary Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 181 repeals four sections of the Alaska Community Property Act and replaces them with a general rule that an obligation incurred by a spouse can only be satisfied from that spouse's non-community property and that spouse's interest in the community property, no matter when the obligation was incurred. In addition, the bill provides for how community property is to be divided upon the death of a spouse, and how it is to be distributed; allows for transfers of community property to a community property trust; and makes changes to how community property relates to life insurance purchases.

Passage of HB 181 will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone 465-5370
 Division: Attorney General's Office Date/Time 4/19/01 3:42 PM
 Approved by: Kathryn Daughhelee for Bruce M. Botelho, Attorney General Date 4/19/01
 Agency: Department of Law

For distribution information, call the Governor's Legislative Office

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Sponsor Statement HB 181 Community Property

In 1998, the legislature passed Alaska's community property act, which allows married couples to characterize some or all of their assets as community property. Since the enactment of Alaska's community property act, experts, through experience and application of community property and trust planning, have identified certain statutes requiring improvement and adjustment. House Bill 181 makes these improvements and adjusts Alaska's community property statutes in four ways:

The extent to which a creditor can reach a couple's community property. Section 1 provides that a creditor of a debtor spouse may only reach the separate property of that spouse and that spouse's half of the jointly held property. If only one spouse is the debtor, then the creditor can reach half of the community property. If both spouses are debtors, then the creditor can reach all of the community property.

Transfers of property to a community property trust by beneficiary designation. This new provision allows property such as life insurance policies and IRAs to be transferred to a community property trust by designating the trust as the beneficiary of the property. This will assist nonresidents of Alaska in using Alaska community property trusts.

Clarification of sources of funds used to purchase life insurance. Community property funds may be used by a couple to purchase life insurance, and where the primary beneficiaries are family members, then it is presumed that both spouses consented to the choice of such beneficiaries. The existing statute already creates the presumption for the parent or child of either spouse. This amendment expands the category of family members to include ancestors or descendants of either spouse, or a trust for the benefit of those persons. In order to minimize estate taxes, it is presumed that a spouse who buys life insurance has used his or her own property to purchase the life insurance.

Division of community property at death. Section 4 clarifies that on the death of a spouse, half of the community property reflects the share of the decedent and the other half reflects the share of the surviving spouse. However, each item of the community property does not have to be divided equally. Rather, different items can be allocated to the spouse's shares, as long as each spouse's share receives half of the total aggregate value of the community property. This added flexibility will allow for better income and estate tax planning for couples using Alaska community property.

Last Updated March 30, 2001
Staff Contact: Amy Erickson 465-4954

Sponsor Statement

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 24, 2001

SUBJECT: Sectional Summary of CSHB 181(JUD) relating to the property and obligations of spouses (Work Order No. 22-LS0567\O)

TO: Representative Lisa Murkowski
Attn: Amy

FROM: 
Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. AS 34.77.070(j) and (k). Establishes from what property an obligation incurred by only one spouse can be satisfied. Establishes from what property an obligation incurred during marriage by both spouses may be satisfied.

Section 2. AS 34.77.100. Establishes that nonprobate transfers on death of property under AS 13.33.101 can be transferred to a community property trust.

Section 3. AS 34.77.120(b). In (b)(5), establishes a presumption that a designation of certain persons or a certain trust, to the extent the trust's beneficiaries consist of certain persons, as the beneficiaries of an insurance policy has been made with the consent of the other spouse. Adds under (b)(7) a presumption relating to the community property interests of spouses in an insurance policy on the life of one of the spouses and owned by an irrevocable trust, to the extent the trust's beneficiaries consist of certain persons. In (b)(8), makes a spouse's testimony sufficient to rebut a presumption under (b)(5) or (b)(7).

Section 4. AS 34.77.120(e). Adds a reference to a trust described under new AS 34.77.120(b)(7).

Section 5. AS 34.77.155. Adds a new section establishing rules to govern the division of community property upon the death of a spouse.

Section 6. Repeals certain sections.

Representative Lisa Murkowski

April 24, 2001

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Section 7. Describes how AS 34.77.120(b)(8) changes a court rule of evidence.

Section 8. Gives the Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:jhb

01-088.jhb

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ATTORNEY AT LAW

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April 23, 2001

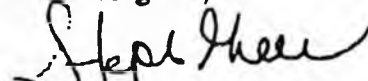
To: Rep. Lisa Murkowski
Faxed: (907) 465-2293

HB 181
(The Community Property Bill)

Dear Representative Murkowski:

I am presently the chairman of the Estate Planning and Probate Section of the Alaska Bar Association. I am not writing in that capacity but as a private practitioner. I also want to mention I have no connection or allegiance to any trust company. The interests which I represent are those of my clients, all of whom are Alaskan citizens. I am writing to express support for HB 181 (the community property bill). This bill is an important adjunct to our existing community property law and corrects many of the provisions which presently create legal ambiguities for our clients. Every provision contained in this bill has been well thought out and scrupulously articulated. This bill would be a good thing for all Alaskans and I strongly recommend this bill. I will available to explain its provisions to anyone who has a question.

Kindest regards,



Stephen E. Greer

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Donna Marie, J.D. ♦ ●
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♦ Admitted in AK
● Admitted in CA
+ Admitted in WA
● Admitted in MA

March 26, 2001

SENT VIA FACSIMILE TO (907) 465-2293

Representative Lisa Murkowski
Alaska State Legislature
State Capitol, Room 406
Juneau, AK 99801-1182

Re: House Bill 181, Alaska Community Property Act Amendments

Dear Representative Murkowski:

Thank you very much for introducing House Bill 181. Our firm emphasizes estate planning and estate and trust administration. This bill adds important amendments to the Alaska Community Property Act. These provisions will enable Alaskans, and nonresidents using Alaska's Act, to take advantage of estate planning approaches now used by residents of other community property states.

Sincerely,



David G. Shaftel

DGS/cf



**HUGHES THORSNESS POWELL
HUDDLESTON & BAUMAN LLC**
ATTORNEYS AT LAW

March 29, 2001

VIA FACSIMILE
(907) 465-2293

Representative Lisa Murkowski
State of Alaska
Juneau, Alaska

Re: HB 181

Dear Lisa:

As you know I am in estate planning attorney in Anchorage and am a member of the estate planning section of the Alaska Bar Association. I want to express my support for passage of HB 181. This bill would accomplish important amendments to our Alaska Community Property Act and will benefit the residents of Alaska.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Manley", with a long horizontal flourish extending to the right.

Robert L. Manley

RLM/mjm