

House Research Act Summary

CHAPTER: 24

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TOPIC: Uniform Community Property Rights at Death Act

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Overview

The Uniform Community Property Rights at Death Act provides for a system of disposition of assets in non-community property states, such as Minnesota, to preserve the rights of each spouse in property which was community property prior to moving to Minnesota. Community property is property acquired during the marriage by a husband and wife and in community property states is considered to be joint property despite being only in one spouse's name. This uniform law has been enacted by 14 states: Alaska, Arkansas, Colorado, Florida, Hawaii, Kentucky, Michigan, Montana, New York, North Carolina, Oregon, Utah, Virginia, and Wyoming.

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- 1 Application.** This act applies to personal property of a married person that was acquired as community property in a community property jurisdiction, and any property acquired through rents, issues, income, or proceeds relating to that community property. It also includes any real property situation in Minnesota acquired using the rents, income and proceeds that are traceable to that property that was acquired as community property. The real property affected is only real property located in Minnesota that is purchased with assets or income acquired in the community property state.
- 2 Rebuttable presumptions.** Creates a rebuttable presumption that if the property was acquired in a community property state it has remained community property for the purposes of this statute. Also creating a rebuttable presumption that property acquired in common law states, not community property states, that indicates there is a right of survivorship or other joint ownership, will be excluded as property that this act applies to, regardless of the source

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of the funds used to purchase that property.

- 3** **Disposition upon death.** Awards one-half of all property to which this chapter applies to the surviving spouse and excluding that half of the property from the testamentary disposition or distribution by the laws of succession. The one-half of the property that this act applies to that does not go to the surviving spouse, is not part of the estate for the purposes of the elective share of the surviving spouse and is not subject to the surviving spouse's right to elect a share against the will.
- 4** **Perfection of title of surviving spouse.** Provides that the court can issue an order to change the title from the deceased spouse to the surviving spouse for applicable property. The court and the personal representative do not have a duty to discover property this act applies to unless a written demand is made by the surviving spouse or the spouse's successor in interest within a specific period of time provided in the law.
- 5** **Perfection of title of estate.** Provides that a representative of the estate can sue the surviving spouse to perfect title for property subject to this act. The personal representative does not have a duty to discover if the property is subject to this act unless notice is provided by an heir, devisee, beneficiary, or creditor of the decedent within a time period specified by law.
- 6** **Purchaser for value by lender.** Provides protection to purchasers of a security interest when the security interest is acquired for value, with consideration paid, after the death of a decedent from the title holder.
- 7** **Creditor's rights.** Creditor's rights are not affected by property in this act.
- 8** **Acts of married persons.** Married persons are not prohibited from severing or altering their interest in property.
- 9** **Limitations on testamentary disposition.** Prevents disposition through a will or trust if the law prevents testamentary disposition.
- 10** **Uniformity of application and construction.** Provides that this chapter is to be applied to make it uniform with the states that enact it.
- 11** **Title.** The short title for this chapter is "Uniform Community Property Rights at Death Act."