

SECOND REGULAR SESSION

HOUSE BILL NO. 2788

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KEATHLEY.

5667H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 474, RSMo, by adding thereto sixteen new sections relating to the disposition of community property at death.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 474, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 474.700, 474.703, 474.706, 474.709, 474.712, 474.715, 474.718, 474.721, 474.724, 474.727, 474.730, 474.733, 474.736, 474.739, 474.742, and 474.745, to read as follows:

474.700. Sections 474.700 to 474.745 may be cited as the "Uniform Community Property Disposition at Death Act".

474.703. In sections 474.700 to 474.745:

(1) "Community-property spouse" means an individual in a marriage or other relationship:

(a) Under which community property could be acquired during the existence of the relationship; and

(b) That remains in existence at the time of death of either party to the relationship;

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(3) "Jurisdiction" means the United States, a state, a foreign country, or a political subdivision of a foreign country;

(4) "Partition" means voluntarily divide property to which sections 474.700 to 474.745 otherwise would apply;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (5) "Person" means an individual, estate, business or nonprofit entity, public
15 corporation, government or governmental subdivision, agency, or instrumentality, or
16 other legal entity;

17 (6) "Personal representative" includes an executor, administrator, successor
18 personal representative, special administrator, and other person that performs
19 substantially the same function;

20 (7) "Property" means anything that may be the subject of ownership, whether
21 real or personal, tangible or intangible, legal or equitable, or any interest therein;

22 (8) "Reclassify" means change the characterization or treatment of community
23 property to property owned separately by community-property spouses;

24 (9) "Record" means information:

25 (a) Inscribed on a tangible medium; or

26 (b) Stored in an electronic or other medium and retrievable in perceivable form;

27 (10) "Sign" means, with present intent to authenticate or adopt a record:

28 (a) Execute or adopt a tangible symbol; or

29 (b) Attach to or logically associate with the record an electronic symbol, sound,
30 or process;

31 (11) "State" means a state of the United States, the District of Columbia, Puerto
32 Rico, the United States Virgin Islands, or any other territory or possession subject to the
33 jurisdiction of the United States. The term includes a federally recognized Indian tribe.

474.706. 1. Subject to subsection 2 of this section, sections 474.700 to 474.745
2 apply to the following property of a community-property spouse, without regard to how
3 the property is titled or held:

4 (1) If a decedent was domiciled in this state at the time of death:

5 (a) All or a proportionate part of each item of personal property, wherever
6 located, that was community property under the law of the jurisdiction where the
7 decedent or the surviving community-property spouse was domiciled when the
8 property:

9 a. Was acquired; or

10 b. After acquisition, became community property;

11 (b) Income, rent, profit, appreciation, or other increase derived from or
12 traceable to property described in paragraph (a) of this subdivision; and

13 (c) Personal property traceable to property described in paragraph (a) or (b) of
14 this subdivision; and

15 (2) Regardless whether a decedent was domiciled in this state at the time of
16 death:

17 **(a) All or a proportionate part of each item of real property located in this state**
18 **traceable to community property or acquired with community property under the law**
19 **of the jurisdiction where the decedent or the surviving community-property spouse was**
20 **domiciled when the property:**

21 **a. Was acquired; or**

22 **b. After acquisition, became community property; and**

23 **(b) Income, rent, profit, appreciation, or other increase, derived from or**
24 **traceable to property described in paragraph (a) of this subdivision.**

25 **2. If community-property spouses acquired community property by complying**
26 **with the law of a jurisdiction that allows for creation of community property by transfer**
27 **of property to a trust, sections 474.700 to 474.745 apply to the property only to the**
28 **extent the property is held in the trust or characterized as community property by the**
29 **terms of the trust or the law of the jurisdiction under which the trust was created.**

30 **3. Sections 474.700 to 474.745 do not apply to property that:**

31 **(1) Community-property spouses have partitioned or reclassified; or**

32 **(2) Is the subject of a waiver of rights granted by sections 474.700 to 474.745.**

474.709. 1. Community-property spouses domiciled in this state may partition
2 **or reclassify property to which sections 474.700 to 474.745 otherwise would apply. The**
3 **partition or reclassification must be in a record signed by both community-property**
4 **spouses.**

5 **2. A community-property spouse domiciled in this state may waive a right**
6 **granted by sections 474.700 to 474.745 only by complying with the law of this state,**
7 **including this state's choice-of-law rules, applicable to waiver of a spousal property**
8 **right.**

474.712. All property acquired by a community-property spouse when domiciled
2 **in a jurisdiction where community property then could be acquired by the community-**
3 **property spouse by operation of law is presumed to be community property. This**
4 **presumption may be rebutted by a preponderance of the evidence.**

474.715. 1. One-half of the property to which sections 474.700 to 474.745 apply
2 **belongs to the surviving community-property spouse of a decedent and is not subject to**
3 **disposition by the decedent at death.**

4 **2. One-half of the property to which sections 474.700 to 474.745 apply belongs to**
5 **the decedent and is subject to disposition by the decedent at death.**

6 **3. For the purpose of calculating the augmented estate of the decedent and the**
7 **elective-share right of the surviving community-property spouse:**

8 **(1) Property under subsection 1 of this section is deemed to be property of the**
9 **surviving community-property spouse; and**

10 **(2) Property under subsection 2 of this section is deemed to be property of the**
11 **decedent.**

12 **4. Except for the purpose of calculating the augmented estate of the decedent**
13 **and the elective-share right of the surviving community-property spouse, this section**
14 **does not apply to property transferred by right of survivorship or under a revocable**
15 **trust or other nonprobate transfer.**

16 **5. This section does not limit the right of a surviving community-property spouse**
17 **to the statutory allowances under this chapter.**

18 **6. If at death a decedent purports to transfer to a third person property that,**
19 **under this section, belongs to the surviving community-property spouse and transfers**
20 **other property to the surviving community-property spouse, this section does not limit**
21 **the authority of the court under other law of this state to require that the community-**
22 **property spouse elect between retaining the property transferred to the community-**
23 **property spouse or asserting rights under sections 474.700 to 474.745.**

474.718. 1. At the death of a community-property spouse, the surviving
2 **community-property spouse or a personal representative, heir, or nonprobate transferee**
3 **of the decedent may assert a right based on an act of:**

4 **(1) The surviving community-property spouse or decedent during the marriage**
5 **or other relationship under which community property then could be acquired; or**

6 **(2) The decedent that takes effect at the death of the decedent.**

7 **2. In determining a right under subsection 1 of this section and corresponding**
8 **remedy, the court:**

9 **(1) Shall apply equitable principles; and**

10 **(2) May consider the community property law of the jurisdiction where the**
11 **decedent or surviving community-property spouse was domiciled when property was**
12 **acquired or enhanced.**

474.721. 1. The surviving community-property spouse of the decedent may
2 **assert a claim for relief with respect to a right under sections 474.700 to 474.745 in**
3 **accordance with the following rules:**

4 **(1) In an action asserting a right in or to property, the surviving community-**
5 **property spouse must:**

6 **(a) Not later than three years after the death of the decedent, commence an**
7 **action against an heir, devisee, or nonprobate transferee of the decedent that is in**
8 **possession of the property; or**

9 **(b) Not later than six months after appointment of the personal representative of**
10 **the decedent, send a demand in a record to the personal representative;**

11 **(2) In an action other than an action under subdivision (1) of this subsection, the**
12 **surviving community-property spouse must:**

13 **(a) Not later than six months after appointment of the personal representative of**
14 **the decedent, send a demand in a record to the personal representative; or**

15 **(b) If a personal representative is not appointed, commence the action not later**
16 **than three years after the death of the decedent.**

17 **2. Unless a timely demand is made under paragraph (b) of subdivision (1) of**
18 **subsection 1 of this section or paragraph (a) of subdivision (2) of subsection 1 of this**
19 **section, the personal representative may distribute the assets of the decedent's estate**
20 **without personal liability for a community-property spouse's claim under sections**
21 **474.700 to 474.745.**

474.724. An heir, devisee, or nonprobate transferee of a deceased community-
2 **property spouse may assert a claim for relief with respect to a right under sections**
3 **474.700 to 474.745 in accordance with the following rules:**

4 **(1) In an action asserting a right in or to property, the heir, devisee, or**
5 **nonprobate transferee must:**

6 **(a) Not later than three years after the death of the decedent, commence an**
7 **action against the surviving community-property spouse of the decedent who is in**
8 **possession of the property; or**

9 **(b) Not later than six months after appointment of the personal representative of**
10 **the decedent, send a demand in a record to the personal representative;**

11 **(2) In an action other than an action under subdivision (1) of this section, the**
12 **heir, devisee, or nonprobate transferee must:**

13 **(a) Not later than six months after the appointment of the personal**
14 **representative of the decedent, send a demand in a record to the personal**
15 **representative; or**

16 **(b) If a personal representative is not appointed, commence the action not later**
17 **than three years after the death of the decedent.**

474.727. 1. With respect to property to which sections 474.700 to 474.745 apply,
2 **a person is not liable under sections 474.700 to 474.745 to the extent the person:**

3 **(1) Transacts in good faith and for value:**

4 **(a) With a community-property spouse; or**

5 **(b) After the death of the decedent, with a surviving community-property**
6 **spouse, personal representative, heir, devisee, or nonprobate transferee of the decedent;**
7 **and**

8 **(2) Does not know or have reason to know that the other party to the transaction**
9 **is exceeding or improperly exercising the party's authority.**

10 **2. Good faith under subdivision (1) of subsection 1 of this section does not**
11 **require the person to inquire into the extent or propriety of the exercise of authority by**
12 **the other party to the transaction.**

474.730. The principles of law and equity supplement sections 474.700 to 474.745
2 **except to the extent inconsistent with sections 474.700 to 474.745.**

474.733. In applying and construing this uniform act, a court shall consider the
2 **promotion of uniformity of the law among jurisdictions that enact it.**

474.736. If a right with respect to property to which sections 474.700 to 474.745
2 **apply is acquired, extinguished, or barred on the expiration of a limitation period that**
3 **began to run under another statute before August 28, 2024, that statute continues to**
4 **apply to the right even if the statute has been repealed or superseded by sections 474.700**
5 **to 474.745.**

474.739. Except as provided in section 474.736, sections 474.700 to 474.745 apply
2 **to a judicial proceeding with respect to property to which sections 474.700 to 474.745**
3 **apply commenced on or after August 28, 2024, regardless of the date of death of the**
4 **decedent.**

474.742. If a provision of sections 474.700 to 474.745 or its application to a
2 **person or circumstance is held invalid, the invalidity does not affect another provision**
3 **or application that can be given effect without the invalid provision.**

474.745. Sections 474.700 to 474.745 take effect on August 28, 2024.

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