

Chapter 2b

Uniform Disposition of Community Property Rights At Death Act

75-2b-101 Title.

This chapter is known as the "Uniform Disposition of Community Property Rights at Death Act."

Enacted by Chapter 132, 2012 General Session

75-2b-102 Application.

This chapter applies to the disposition at death of the following property acquired by a married person:

- (1) all personal property, wherever situated:
 - (a) which was acquired as or became, and remained, community property under the laws of another jurisdiction;
 - (b) all or the proportionate part of that property acquired with the rents, issues, or income of, or the proceeds from, or in exchange for, that community property; or
 - (c) traceable to that community property; and
- (2) all or the proportionate part of any real property situated in this state which was acquired with the rents, issues or income of, the proceeds from, or in exchange for, property acquired as or which became, and remained, community property under the laws of another jurisdiction, or property traceable to that community property.

Enacted by Chapter 132, 2012 General Session

75-2b-103 Rebuttable presumptions.

In determining whether this chapter applies to specific property, the following rebuttable presumptions apply:

- (1) property acquired during marriage by a spouse of that marriage while domiciled in a jurisdiction under whose laws property could then be acquired as community property, is presumed to have been acquired as or to have become, and remained, property to which this chapter applies; and
- (2) real property situated in this state and personal property wherever situated acquired by a married person while domiciled in a jurisdiction under whose laws property could not then be acquired as community property, title to which was taken in a form which created rights of survivorship, is presumed not to be property to which this chapter applies.

Enacted by Chapter 132, 2012 General Session

75-2b-104 Disposition upon death.

Upon the death of a married person, 1/2 of the property to which this chapter applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this state. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this state. Property to which this chapter applies may not reduce, be subject to, or be used in calculating, the surviving spouse's elective share under this title.

Enacted by Chapter 132, 2012 General Session

75-2b-105 Perfection of title of surviving spouse.

If the title to any property to which this chapter applies was held by the decedent at the time of death, title of the surviving spouse may be perfected by an order of the court or by execution of an instrument by the personal representative or the heirs or devisees of the decedent with the approval of the court. Any action to perfect title shall be brought by the surviving spouse or the surviving spouse's successors in interest within four months after written notification is received from the decedent's personal representative, or the successor trustee of the decedent's revocable trust, informing the surviving spouse of the limitations period. Neither the personal representative nor the court in which the decedent's estate is being administered has a duty to discover or attempt to discover whether property held by the decedent is property to which this chapter applies, unless a written demand is made by the surviving spouse or the spouse's successor in interest.

Enacted by Chapter 132, 2012 General Session

75-2b-106 Perfection of title of personal representative, heir or devisee.

If the title to any property to which this chapter applies is held by the surviving spouse at the time of the decedent's death, the personal representative or an heir or devisee of the decedent may institute an action to perfect title to the property. The personal representative has no fiduciary duty to discover or attempt to discover whether any property held by the surviving spouse is property to which this chapter applies, unless a written demand is made by an heir, devisee, or creditor of the decedent.

Enacted by Chapter 132, 2012 General Session

75-2b-107 Purchaser for value or lender.

- (1) If a surviving spouse has apparent title to property to which this chapter applies, a purchaser for value or a lender taking a security interest in the property, takes the purchaser or lender's interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.
- (2) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this chapter applies, a purchaser for value or a lender taking a security interest in the property takes the purchaser or lender's interest in the property free of any rights of the surviving spouse.
- (3) A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly.
- (4) The proceeds of a sale or creation of a security interest shall be treated in the same manner as the property transferred to the purchaser for value or a lender.

Enacted by Chapter 132, 2012 General Session

75-2b-108 Creditor's rights.

This chapter does not affect rights of creditors with respect to property to which this chapter applies.

Enacted by Chapter 132, 2012 General Session

75-2b-109 Acts of married persons.

This chapter does not prevent married persons from severing or altering their interests in property to which this chapter applies.

Enacted by Chapter 132, 2012 General Session

75-2b-110 Limitations on testamentary disposition.

This chapter does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

Enacted by Chapter 132, 2012 General Session

75-2b-111 Uniformity of application and construction.

This chapter shall be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

Enacted by Chapter 132, 2012 General Session