

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

61 (1) property acquired during marriage by a spouse of that marriage while domiciled in
 62 a jurisdiction under whose laws property could then be acquired as community property, is
 63 presumed to have been acquired as or to have become, and remained, property to which this
 64 chapter applies; and

65 (2) real property situated in this state and personal property wherever situated acquired
 66 by a married person while domiciled in a jurisdiction under whose laws property could not then
 67 be acquired as community property, title to which was taken in a form which created rights of
 68 survivorship, is presumed not to be property to which this chapter applies.

69 Section 4. Section **75-2b-104** is enacted to read:

70 **75-2b-104. Disposition upon death.**

71 Upon the death of a married person, 1/2 of the property to which this chapter applies is
 72 the property of the surviving spouse and is not subject to testamentary disposition by the
 73 decedent or distribution under the laws of succession of this state. One-half of that property is
 74 the property of the decedent and is subject to testamentary disposition or distribution under the
 75 laws of succession of this state. ~~H→ [With respect to property to which this chapter applies, the 1/2~~
 76 ~~of the property which is the property of the decedent is not subject to the surviving spouse's~~
 77 ~~right to elect against the will and no estate of dower or curtesy exists in the property of the~~
 78 ~~decedent.] Property to which this chapter applies may not reduce, be subject to, or be used in~~
 78a ~~calculating, the surviving spouse's elective share under this title. ←H~~

79 Section 5. Section **75-2b-105** is enacted to read:

80 **75-2b-105. Perfection of title of surviving spouse.**

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