

# Sponsor Statement for HB 181

## Community Property

**An Act relating to the obligations of spouses, to insurance policies of spouses, to the nonprobate transfer of property on death to a community property trust, to the division of the community property of spouses at death, and to the Alaska Community Property Act; and providing for an effective date.**

**Last Updated:** March 23, 2001

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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.