

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0559.01 Chelsea Princell x4335

SENATE BILL 23-100

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Snyder,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE "UNIFORM COMMUNITY PROPERTY DISPOSITION AT**
102 **DEATH ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Colorado Commission on Uniform State Laws. The bill enacts the "Uniform Community Property Disposition at Death Act" (act), drafted by the Uniform Law Commission.

The bill applies to community property acquired by community property spouses while domiciled in a community property jurisdiction and makes clear that if community property spouses partition or reclassify

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

their community property or waive rights under the act, the act no longer applies to that property.

The bill provides the form required to partition or reclassify property or waive a right granted under the act.

The bill creates a rebuttable presumption that all property acquired by a community property spouse when domiciled in a jurisdiction where community property could be acquired by the community property spouse is presumed to be community property.

The bill provides that upon death of one community property spouse, half of the property belongs to the decedent and the other half to the surviving community property spouse.

The bill allows a court to recognize reimbursement rights and rights of redress for certain bad faith actions by one community property spouse that might impair the rights of the other community property spouse.

The bill provides limitation periods within which a party must act in order to preserve rights under the act.

The bill provides protection for third persons transacting in good faith and for value.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** article 20 of title 15 as follows:

4 **ARTICLE 20**

5 **Uniform Community Property Disposition at Death Act**

6 **15-20-101. Short title.** THIS ARTICLE 20 SHALL BE KNOWN AND
7 MAY BE CITED AS THE "UNIFORM COMMUNITY PROPERTY DISPOSITION AT
8 DEATH ACT", WHICH IS ALSO REFERRED TO AS "THIS ACT" OR "ACT"
9 WITHIN THIS ARTICLE 20.

10 **15-20-102. Definitions.** IN THIS ARTICLE 20:

11 (1) "COMMUNITY PROPERTY SPOUSE" MEANS AN INDIVIDUAL IN A
12 MARRIAGE OR OTHER RELATIONSHIP UNDER WHICH COMMUNITY PROPERTY
13 COULD BE ACQUIRED DURING THE EXISTENCE OF THE RELATIONSHIP AND
14 THAT REMAINS IN EXISTENCE AT THE TIME OF DEATH OF EITHER PARTY TO

1 THE RELATIONSHIP.

2 (2) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
3 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,
4 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

5 (3) "JURISDICTION" MEANS THE UNITED STATES, A STATE, A
6 FOREIGN COUNTRY, OR A POLITICAL SUBDIVISION OF A FOREIGN COUNTRY.

7 (4) "PARTITION" MEANS TO VOLUNTARILY DIVIDE PROPERTY TO
8 WHICH THIS ACT OTHERWISE WOULD APPLY.

9 (5) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
10 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR
11 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER
12 LEGAL ENTITY.

13 (6) "PERSONAL REPRESENTATIVE" MEANS AN EXECUTOR,
14 ADMINISTRATOR, SUCCESSOR PERSONAL REPRESENTATIVE, SPECIAL
15 ADMINISTRATOR, AND OTHER PERSON THAT PERFORMS SUBSTANTIALLY
16 THE SAME FUNCTION.

17 (7) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF
18 OWNERSHIP, WHETHER REAL OR PERSONAL, TANGIBLE OR INTANGIBLE,
19 LEGAL OR EQUITABLE, OR ANY INTEREST THEREIN.

20 (8) "RECLASSIFY" MEANS A CHANGE IN THE CHARACTERIZATION
21 OR TREATMENT OF COMMUNITY PROPERTY TO PROPERTY OWNED
22 SEPARATELY BY A COMMUNITY PROPERTY SPOUSE.

23 (9) "RECORD" MEANS INFORMATION INSCRIBED ON A TANGIBLE
24 MEDIUM OR STORED IN AN ELECTRONIC OR OTHER MEDIUM AND
25 RETRIEVABLE IN PERCEIVABLE FORM.

26 (10) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR
27 ADOPT A RECORD, TO EXECUTE OR ADOPT A TANGIBLE SYMBOL OR ATTACH

1 TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL.

2 (11) "STATE" MEANS A STATE OF THE UNITED STATES, THE
3 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
4 ISLANDS, OR ANY OTHER TERRITORY OR POSSESSION SUBJECT TO THE
5 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY
6 RECOGNIZED INDIAN TRIBE.

7 **15-20-103. Included and excluded property.** (1) SUBJECT TO
8 SUBSECTION (3)(b) OF THIS SECTION, THIS ACT APPLIES TO THE FOLLOWING
9 PROPERTY OF A COMMUNITY PROPERTY SPOUSE, WITHOUT REGARD TO HOW
10 THE PROPERTY IS TITLED OR HELD:

11 (a) IF A DECEDENT WAS DOMICILED IN THIS STATE AT THE TIME OF
12 DEATH:

13 (I) ALL OR A PROPORTIONATE PART OF EACH ITEM OF PERSONAL
14 PROPERTY, WHEREVER LOCATED, THAT WAS COMMUNITY PROPERTY
15 UNDER THE LAW OF THE JURISDICTION WHERE THE DECEDENT OR THE
16 SURVIVING COMMUNITY PROPERTY SPOUSE WAS DOMICILED WHEN THE
17 PROPERTY:

18 (A) WAS ACQUIRED; OR

19 (B) AFTER ACQUISITION, BECAME COMMUNITY PROPERTY;

20 (II) INCOME, RENT, PROFIT, APPRECIATION, OR OTHER INCREASE
21 DERIVED FROM OR TRACEABLE TO PROPERTY DESCRIBED IN SUBSECTION
22 (1)(a)(I) OF THIS SECTION; AND

23 (III) PERSONAL PROPERTY TRACEABLE TO PROPERTY DESCRIBED
24 IN SUBSECTION (1)(a)(I) OR (1)(a)(II) OF THIS SECTION.

25 (2) IF COMMUNITY PROPERTY SPOUSES ACQUIRED COMMUNITY
26 PROPERTY BY COMPLYING WITH THE LAW OF A JURISDICTION THAT ALLOWS
27 FOR CREATION OF COMMUNITY PROPERTY BY TRANSFER OF PROPERTY TO

1 A TRUST, THIS ACT APPLIES TO THE PROPERTY TO THE EXTENT THE
2 PROPERTY IS HELD IN THE TRUST OR CHARACTERIZED AS COMMUNITY
3 PROPERTY BY THE TERMS OF THE TRUST OR THE LAW OF THE JURISDICTION
4 UNDER WHICH THE TRUST WAS CREATED.

5 (3) THIS ACT DOES NOT APPLY TO PROPERTY THAT:

6 (a) COMMUNITY PROPERTY SPOUSES HAVE PARTITIONED OR
7 RECLASSIFIED;

8 (b) IS THE SUBJECT OF A WAIVER OF RIGHTS GRANTED BY THIS ACT;
9 OR

10 (c) IS ACQUIRED BY SPOUSES DOMICILED IN THIS STATE THAT IS
11 NOT PROPERTY IDENTIFIED IN SUBSECTIONS (1) AND (2) OF THIS SECTION.

12 **15-20-104. Form of partition, reclassification, or waiver.**

13 (1) COMMUNITY PROPERTY SPOUSES DOMICILED IN THIS STATE MAY
14 PARTITION OR RECLASSIFY PROPERTY TO WHICH THIS ACT WOULD
15 OTHERWISE APPLY. THE PARTITION OR RECLASSIFICATION MUST BE IN A
16 RECORD SIGNED BY COMMUNITY PROPERTY SPOUSES.

17 (2) A COMMUNITY PROPERTY SPOUSE DOMICILED IN THIS STATE
18 MAY WAIVE A RIGHT GRANTED BY THIS ACT ONLY BY COMPLYING WITH
19 THE LAW OF THIS STATE, INCLUDING THIS STATE'S CHOICE-OF-LAW RULES,
20 APPLICABLE TO WAIVER OF A SPOUSAL PROPERTY RIGHT.

21 **15-20-105. Community property presumption.** ALL PROPERTY
22 ACQUIRED BY A COMMUNITY PROPERTY SPOUSE WHEN DOMICILED IN A
23 JURISDICTION WHERE COMMUNITY PROPERTY THEN COULD BE ACQUIRED
24 BY THE COMMUNITY PROPERTY SPOUSE BY OPERATION OF LAW IS
25 PRESUMED TO BE COMMUNITY PROPERTY. THIS PRESUMPTION MAY BE
26 REBUTTED BY A PREPONDERANCE OF THE EVIDENCE.

27 **15-20-106. Disposition of property at death.** (1) ONE-HALF OF

1 THE PROPERTY TO WHICH THIS ACT APPLIES BELONGS TO THE SURVIVING
2 COMMUNITY PROPERTY SPOUSE OF A DECEDENT AND IS NOT SUBJECT TO
3 DISPOSITION BY THE DECEDENT AT DEATH OR DISTRIBUTION UNDER THE
4 LAWS OF SUCCESSION OF THIS STATE AS A RESULT OF THE DECEDENT'S
5 DEATH.

6 (2) ONE-HALF OF THE PROPERTY TO WHICH THIS ACT APPLIES
7 BELONGS TO THE DECEDENT AND IS SUBJECT TO DISPOSITION BY THE
8 DECEDENT AT DEATH.

9 (3) FOR PURPOSES OF CALCULATING THE AUGMENTED ESTATE OF
10 THE DECEDENT AND THE ELECTIVE-SHARE RIGHT OF THE SURVIVING
11 COMMUNITY PROPERTY SPOUSE:

12 (a) PROPERTY UNDER SUBSECTION (1) OF THIS SECTION IS
13 PROPERTY OF THE SURVIVING COMMUNITY PROPERTY SPOUSE; AND

14 (b) PROPERTY UNDER SUBSECTION (2) OF THIS SECTION IS
15 PROPERTY OF THE DECEDENT.

16 (4) EXCEPT FOR THE PURPOSE OF CALCULATING THE AUGMENTED
17 ESTATE OF THE DECEDENT AND THE ELECTIVE SHARE RIGHT OF THE
18 SURVIVING COMMUNITY PROPERTY SPOUSE PURSUANT TO PART 2 OF
19 ARTICLE 11 OF THIS TITLE 15, THIS SECTION DOES NOT APPLY TO PROPERTY
20 TRANSFERRED BY RIGHT OF SURVIVORSHIP OR UNDER A REVOCABLE TRUST
21 OR OTHER NONPROBATE TRANSFER.

22 (5) THIS SECTION DOES NOT LIMIT THE RIGHT OF A SURVIVING
23 COMMUNITY PROPERTY SPOUSE TO THE STATUTORY ALLOWANCES
24 PURSUANT TO SECTIONS 15-11-402, 15-11-403, AND 15-11-404.

25 (6) IF AT DEATH A DECEDENT PURPORTS TO TRANSFER TO A THIRD
26 PERSON, PROPERTY THAT, UNDER THIS SECTION, BELONGS TO THE
27 SURVIVING COMMUNITY PROPERTY SPOUSE AND TRANSFERS OTHER

1 PROPERTY TO THE SURVIVING COMMUNITY PROPERTY SPOUSE, THIS
2 SECTION DOES NOT LIMIT THE AUTHORITY OF THE COURT UNDER OTHER
3 LAW OF THIS STATE TO REQUIRE THAT THE COMMUNITY PROPERTY SPOUSE
4 ELECT BETWEEN RETAINING THE PROPERTY TRANSFERRED TO THE
5 COMMUNITY PROPERTY SPOUSE OR ASSERTING RIGHTS UNDER THIS ACT.

6 **15-20-107. Other remedies available at death.** (1) UPON THE
7 DEATH OF A COMMUNITY PROPERTY SPOUSE, THE SURVIVING COMMUNITY
8 PROPERTY SPOUSE OR A PERSONAL REPRESENTATIVE, HEIR, OR
9 NONPROBATE TRANSFEREE OF THE DECEDENT MAY ASSERT A RIGHT BASED
10 ON AN ACT OF:

11 (a) THE SURVIVING COMMUNITY SPOUSE OR DECEDENT DURING
12 THE MARRIAGE OR OTHER RELATIONSHIP UNDER WHICH COMMUNITY
13 PROPERTY THEN COULD BE ACQUIRED; OR

14 (b) THE DECEDENT THAT TAKES EFFECT AT THE DEATH OF THE
15 DECEDENT.

16 (2) IN DETERMINING A RIGHT PURSUANT TO SUBSECTION (1)(a) OF
17 THIS SECTION, AND A CORRESPONDING REMEDY, THE COURT:

18 (a) SHALL APPLY EQUITABLE PRINCIPLES; AND

19 (b) MAY CONSIDER THE COMMUNITY PROPERTY LAW OF THE
20 JURISDICTION WHERE THE DECEDENT OR SURVIVING COMMUNITY
21 PROPERTY SPOUSE WAS DOMICILED WHEN PROPERTY WAS ACQUIRED OR
22 ENHANCED.

23 **15-20-108. Right of surviving community property spouse.**

24 (1) THE SURVIVING COMMUNITY PROPERTY SPOUSE OF THE DECEDENT
25 MAY ASSERT A CLAIM FOR RELIEF WITH RESPECT TO A RIGHT UNDER THIS
26 ACT IN ACCORDANCE WITH THE FOLLOWING:

27 (a) IN AN ACTION ASSERTING A RIGHT IN OR TO PROPERTY, THE

1 SURVIVING COMMUNITY PROPERTY SPOUSE MUST:

2 (I) COMMENCE AN ACTION AGAINST AN HEIR, DEVISEE, OR
3 NONPROBATE TRANSFEREE OF THE DECEDENT THAT IS IN POSSESSION OF
4 THE PROPERTY NOT LATER THAN THREE YEARS AFTER THE DEATH OF THE
5 DECEDENT; OR

6 (II) AFTER THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE
7 OF THE DECEDENT, SEND A DEMAND IN A RECORD TO THE PERSONAL
8 REPRESENTATIVE NOT LATER THAN THE TIME PERIODS SET FORTH IN
9 SECTION 15-12-803; AND

10 (b) IN AN ACTION OTHER THAN AN ACTION PURSUANT TO
11 SUBSECTION (1)(a) OF THIS SECTION, THE SURVIVING COMMUNITY
12 PROPERTY SPOUSE MUST:

13 (I) AFTER THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE
14 OF THE DECEDENT, SEND A DEMAND IN RECORD TO THE PERSONAL
15 REPRESENTATIVE NOT LATER THAN THE TIME PERIODS SET FORTH IN
16 SECTION 15-12-803; OR

17 (II) IF A PERSONAL REPRESENTATIVE IS NOT APPOINTED,
18 COMMENCE AN ACTION NOT LATER THAN THREE YEARS AFTER THE DEATH
19 OF THE DECEDENT.

20 (2) UNLESS A TIMELY DEMAND IS MADE UNDER SUBSECTION
21 (1)(a)(I) OR (1)(b)(I) OF THIS SECTION, THE PERSONAL REPRESENTATIVE
22 MAY DISTRIBUTE THE ASSETS OF THE DECEDENT'S ESTATE WITHOUT
23 PERSONAL LIABILITY FOR A COMMUNITY PROPERTY SPOUSE'S CLAIM UNDER
24 THIS ACT.

25 **15-20-109. Right of heir, devisee, or nonprobate transferee.**

26 (1) AN HEIR, DEVISEE, OR NONPROBATE TRANSFEREE OF A DECEASED
27 COMMUNITY PROPERTY SPOUSE MAY ASSERT A CLAIM FOR RELIEF WITH

1 RESPECT TO A RIGHT UNDER THIS ACT PURSUANT TO THE FOLLOWING
2 RULES:

3 (a) IN AN ACTION ASSERTING A RIGHT IN OR TO PROPERTY, THE
4 HEIR, DEVISEE, OR NONPROBATE TRANSFEREE MUST:

5 (I) COMMENCE AN ACTION AGAINST THE SURVIVING COMMUNITY
6 PROPERTY SPOUSE OF THE DECEDENT WHO IS IN POSSESSION OF THE
7 PROPERTY, NOT LATER THAN THREE YEARS AFTER THE DEATH OF THE
8 DECEDENT; OR

9 (II) SEND A DEMAND IN A RECORD TO THE PERSONAL
10 REPRESENTATIVE, NOT LATER THAN THE TIME PERIODS SET FORTH IN
11 SECTION 15-12-803.

12 (b) IN AN ACTION OTHER THAN AN ACTION PURSUANT TO
13 SUBSECTION (1)(a) OF THIS SECTION, THE HEIR, DEVISEE, OR NONPROBATE
14 TRANSFEREE MUST:

15 (I) SEND A DEMAND IN A RECORD TO THE PERSONAL
16 REPRESENTATIVE, NOT LATER THAN THE TIME PERIODS SET FORTH IN
17 SECTION 15-12-803 AFTER THE APPOINTMENT OF THE PERSONAL
18 REPRESENTATIVE OF THE DECEDENT; OR

19 (II) IF A PERSONAL REPRESENTATIVE IS NOT APPOINTED,
20 COMMENCE THE ACTION NOT LATER THAN THREE YEARS AFTER THE DEATH
21 OF THE DECEDENT.

22 (2) UNLESS A TIMELY DEMAND IS MADE UNDER SUBSECTION
23 (1)(a)(II) OR (1)(b)(I) OF THIS SECTION, THE PERSONAL REPRESENTATIVE
24 MAY DISTRIBUTE THE ASSETS OF THE DECEDENT'S ESTATE WITHOUT
25 PERSONAL LIABILITY FOR AN HEIR'S, DEVISEE'S, OR NONPROBATE
26 TRANSFEREE'S CLAIM UNDER THIS ACT.

27 **15-20-110. Protection of third person.** (1) WITH RESPECT TO

1 PROPERTY TO WHICH THIS ACT APPLIES, A PERSON IS NOT LIABLE UNDER
2 THIS ACT TO THE EXTENT THE PERSON:

3 (a) TRANSACTS IN GOOD FAITH AND FOR VALUE:

4 (I) WITH A COMMUNITY PROPERTY SPOUSE;

5 (II) AFTER THE DEATH OF THE DECEDENT, WITH A SURVIVING
6 COMMUNITY PROPERTY SPOUSE, PERSONAL REPRESENTATIVE, HEIR,
7 DEVISEE, OR NONPROBATE TRANSFEREE OF THE DECEDENT; OR

8 (III) WITH A FIDUCIARY ACTING ON BEHALF OF ANY SUCH PERSON,
9 OR A TRUSTEE OF A TRUST HOLDING COMMUNITY PROPERTY; AND

10 (b) DOES NOT KNOW OR HAVE REASON TO KNOW THAT THE OTHER
11 PARTY TO THE TRANSACTION IS EXCEEDING OR IMPROPERLY EXERCISING
12 THE PARTY'S AUTHORITY.

13 (2) GOOD FAITH UNDER SUBSECTION (1)(a) OF THIS SECTION DOES
14 NOT REQUIRE THE PERSON TO INQUIRE INTO THE EXTENT OR PROPRIETY OF
15 THE EXERCISE OF AUTHORITY BY THE OTHER PARTY TO THE TRANSACTION.

16 **15-20-111. Principles of law and equity.** THE PRINCIPLES OF LAW
17 ANDEQUITY SUPPLEMENT THIS ACT EXCEPT TO THE EXTENT INCONSISTENT
18 WITH THIS ACT.

19 **15-20-112. Uniformity of application and construction.** IN
20 APPLYING AND CONSTRUING THIS ACT, A COURT SHALL CONSIDER THE
21 PROMOTION OF UNIFORMITY OF THE LAW AMONG JURISDICTIONS THAT
22 ENACT IT.

23 **15-20-113. Saving provision.** IF A RIGHT WITH RESPECT TO
24 PROPERTY TO WHICH THIS ACT APPLIES IS ACQUIRED, EXTINGUISHED, OR
25 BARRED ON THE EXPIRATION OF A LIMITATION PERIOD THAT BEGAN TO RUN
26 UNDER ANOTHER STATUTE BEFORE THE EFFECTIVE DATE OF THIS ACT,
27 THAT STATUTE CONTINUES TO APPLY TO THE RIGHT EVEN IF THE STATUTE

1 HAS BEEN REPEALED OR SUPERSEDED BY THIS ACT.

2 **15-20-114. Transitional provision.** EXCEPT AS PROVIDED IN
3 SECTION 15-20-113, THIS ACT APPLIES TO A JUDICIAL PROCEEDING WITH
4 RESPECT TO PROPERTY TO WHICH THIS ACT APPLIES COMMENCED ON OR
5 AFTER THE EFFECTIVE DATE OF THIS ACT, REGARDLESS OF THE DATE OF
6 DEATH OF THE DECEDENT.

7 **15-20-115. Severability.** IF A PROVISION OF THIS ACT OR ITS
8 APPLICATION TO A PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
9 VALIDITY DOES NOT AFFECT ANOTHER PROVISION OR APPLICATION THAT
10 CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION.

11 **15-20-116. Effective date.** THIS ACT TAKES EFFECT JULY 1, 2023.

12 **SECTION 2.** In Colorado Revised Statutes, 15-11-208, **add** (4)
13 as follows:

14 **15-11-208. Exclusions, valuations, and overlapping**
15 **application. (4) Community property.** IF THERE IS A DISPARITY IN THE
16 TITLING OF PROPERTY PURSUANT TO SECTIONS 15-11-204, 15-11-205,
17 15-11-206, AND 15-11-207, AND THE OWNERSHIP OF THE PROPERTY
18 PURSUANT TO ARTICLE 20 OF TITLE 15, THEN THE COMMUNITY PROPERTY
19 OWNERSHIP CONTROLS AND ONE-HALF OF THE COMMUNITY PROPERTY
20 MUST BE INCLUDED PURSUANT TO SECTIONS 15-11-204, 15-11-205,
21 15-11-206, AND 15-11-207, AS APPLICABLE, AND ANY ADMINISTRATIVE
22 EXPENSES RELATING TO AND ENFORCEABLE CLAIMS AGAINST THE
23 COMMUNITY PROPERTY MUST BE ALLOCATED EQUALLY BETWEEN THE
24 DECEDENTS AND THE SURVIVING SPOUSE'S SHARES OF THE COMMUNITY
25 PROPERTY.

26 **SECTION 3. Effective date.** This act takes effect July 1, 2023.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.