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New Alaska Law Will Enhance Nationwide Estate Planning-Part 2

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ALASKA LEGISLATION

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This second part of an article on Alaska's new trust and estate legislation describes amendments that facilitate estate planning in Alaska for both residents and nonresidents.

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The first installment of this two-part article described the portions of Alaska's new legislation that provided for lifetime transfers of IRAs to trusts, strengthened asset protection for trust beneficiaries, asset protection for inherited IRAs, and enacted Alaska's revised decanting statute. [1] This second part of the article focuses on important new procedural and administrative provisions that will facilitate estate planning in Alaska for both residents and nonresidents.

Expanded authority for directed trustees and advisors

Settlors frequently desire to appoint an advisor to direct a trustee of a trust with respect to certain actions, such as investment decisions. Many states have adopted legislation authorizing trust advisors; some statutes limit a trustee's liability for following the direction of the advisor, while others do not. **2** Alaska law had authorized a settlor to appoint a trust advisor to advise the trustee but did not require the trustee to follow the advisor's directions and did not relieve the trustee from liability regarding decisions taken on the advice of an advisor. **3**

The recently enacted Alaska legislation changes the relationship between the trustee and a trust advisor, provides limitations on a trustee's liability for following the advice of the advisor, and clarifies an advisor's obligations to the beneficiaries. **4**

A settlor can provide in the trust instrument that a trustee must follow the advice of an appointed trust advisor and will not be liable individually or as a fiduciary for following the advice, regardless of the information available to the trustee. The statute goes further and relieves the trustee from any obligation to review, inquire, investigate, or make recommendations with respect to the advice given to the trustee. The statute clarifies that an advisor is a fiduciary with respect to the advisor's directions to a trustee. The advisor also has the exclusive obligation to account to the beneficiaries with respect to its direction to the trustees. The advisor must solely defend any action with respect to the exercise of the power.

This limitation on liability isolates a trustee who is mandated to follow the advice of a trust advisor from any actions brought by a beneficiary relating to the advice as if the trustee were not in office. Drafters now have more flexibility to delineate the responsibilities and liabilities between an advisor and a trustee; for example, a trust instrument can still appoint a trust advisor whose advice a trustee need not follow, in which case, the trust advisor would not be considered a fiduciary. **5**

The Alaska legislation also adds a new provision to further limit the liability of a co-trustee if the terms of the trust instrument confer a specific power on one trustee to the exclusion of the other trustees. **6** Many times a settlor wishes to grant one trustee certain powers over the trust and another trustee other powers. For example, a settlor may wish to have one trustee exercise all authority over discretionary distributions and another trustee to exercise investment powers. The question remains, however, whether a co-trustee was liable for the action of the other trustee even where the trust instrument granted exclusive authority to one trustee with respect to a particular power.

The amendments permit a settlor to provide, in the terms of the trust instrument, for the appointment of more than one trustee but to confer on one or more trustees, to the exclusion of other trustee, the power to direct specified actions. **7** To the extent a specified power is granted solely to one co-trustee or one group of co-trustees, the excluded co-trustees must follow the directions provided by the trustee with the specified power. The statute limits the excluded co-trustees liability for a consequence resulting from following the direction, regardless of the information available to an excluded trustee. The statute further limits the co-trustee's obligation to inquire, investigate, or make recommendations with respect to the direction. The trustee granted the power has the exclusive obligation to account to the beneficiaries for its exercise of the power to direct or prevent specified actions by other trustees.

In summary, the new Alaska legislation greatly expands the ability of a settlor to appoint trust advisors and trustees with exclusive powers and to require that the trustees follow the directions provided by the advisors and co-trustees. Directed trustees are limited in their obligation to investigate the direction provided and do not have liability to beneficiaries for following the advice.

Clarification of virtual representation

Many states permit one person (such as a parent) who has a more immediate interest in a trust or estate (such as being the presumptive remainder beneficiary) to represent others (such as the parent's children) who have more remote interests (such as being contingent beneficiaries who would take only if the one with the more immediate interest dies). **8** That is known as "virtual" representation, which means that the persons virtually represented need not be served with legal process and are bound by proceedings and orders involving the estate or trust. This can reduce costs and avoid the appointment of a guardian for minors, for example.

Some states, such as Alaska, have much broader forms of virtual representation than do other states, including allowing adult and competent members of a class to represent those who are not. Also, in Alaska, the settlor of a trust may name a trust protector who may represent beneficiaries.

In some jurisdictions, virtual representation applies also to certain matters not before a court. For instance, in New York, the state's virtual representation rules apply only to nonjudicial settlements of fiduciary accountings and to proceedings before a court. Hence, an out-of-court settlement of a matter in New York could not use virtual representation. Therefore, every person having even a contingent interest would need to be a party to the settlement or the matter would have to be presented before the court. Other jurisdictions allow virtual representation to apply more broadly to out-of-court matters.

Alaska law was uncertain as to the scope of its virtual representation provisions in out-of-court matters. Its law now has been clarified to apply expressly to a judicial order; nonjudicial order; result of the settlement of an account of a fiduciary under a procedure authorized by Alaska law; settlement agreement resulting from any judicial or nonjudicial proceeding; and settlement negotiation, even if the settlement negotiation does not involve a judicial or nonjudicial third party who decides or facilitates a settlement. **9**

Charging order excludes equitable remedies

The Revised Uniform Limited Partnership Act provides, in part:

> **SECTION 703. RIGHTS OF CREDITOR OF PARTNER OR TRANSFEREE.**

> (a) On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
>
> (b) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

Under this provision, courts have allowed foreclosure and other remedies. **10** In 2000, Alaska was the leader in enacting an amendment that eliminated the "other remedies" and stated that a charging order is the exclusive remedy that a judgment creditor of a member of a limited liability company (LLC), or of a limited partner of a limited partnership, may use to satisfy a judgment out of the debtor-member's or limited partner's interest in the entity. "Other remedies," including those stated in the RULPA provision, were expressly excluded. **11** Many other states followed Alaska and enacted similar sole remedy provisions. **12**

Commentators have raised the issue of whether "other remedies" include equitable remedies-e.g., constructive or resulting trusts. **13** At least seven states already prohibit a creditor from asserting equitable remedies against an LLC interest owned by the debtor. **14**

The Alaska Legislature decided to clarify its creditor protector provisions. The new amendments expressly state that both legal and equitable remedies are not available to a judgment creditor and may not be ordered by a court. **15**

Charging order remedy for single-member LLCs

As discussed above, many states have enacted provisions making a charging order the exclusive remedy that a judgment creditor of an LLC member may use to satisfy a judgment out of the member's interest in the LLC. Does this limited charging order remedy apply if the LLC is owned by a single member?

Several bankruptcy courts have said no. The bankruptcy court in *In re Albright* **16** reasoned that the charging order provision in Colorado's Limited Liability Company Act exists to protect other members of an LLC from having to share governance responsibilities with someone they did not choose, or from having to accept a creditor of another member as a co-manager. The court concluded that these concerns did not apply where there was only one member of the LLC.

Nevada and Wyoming have responded by clarifying that their statutes, which provide that a charging order is the exclusive remedy, apply also to single-member LLCs. **17** The Alaska Legislature agreed with these jurisdictions and enacted Alaska Statute 10.50.380(e), which expressly provides that the restriction to a charging order remedy applies to LLCs with only one member. Therefore, in Alaska state courts, the member of a single-member LLC has the same asset protection as do members of multi-member LLCs. None of the existing bankruptcy court cases that allow the creditor to reach the interest of a sole member of an LLC involved a state with a statute expressly protecting the interest of such a member.

Life insurance trustee duty, exoneration, and insurable interests

Life insurance often is a key ingredient of an estate or financial plan. In order to avoid having the proceeds included in the gross estate of the insured and, therefore, potentially subject to estate tax, a policy that would otherwise be subject to the tax is contributed to (or acquired by) a trustee under what is commonly called an irrevocable life insurance trust (ILIT). **18**

Life insurance is a very complicated financial instrument. There are dozens of variations of policies, and choosing an appropriate product is challenging. In addition, many policies used to fund estate taxes that will be due at the death of the insured have a cash value or investment component. If the cash value contract is a variable one, the owner (e.g., the ILIT) has dozens of investment choices.

Typically, if the trustee of a trust makes an inappropriate investment, whether it is the selection of a life insurance policy as opposed to another policy, or as opposed to an alternative investment or an investment within the insurance contract (where it is a variable one), the trustee could be liable. Yet, as a practical matter, the trustee of the ILIT (which cannot be the insured or estate tax inclusion of the proceeds will arise) does not choose the policy or the type of investments it will contain-rather, it is the insured himself or herself that makes the choice. But the insured does not usually acquire the policy and transfer it to the trust; rather, the trustee acquires it because the proceeds paid on death will be included in the insured's gross estate if the insured transfers the policy to the ILIT within three years of death. That three-year inclusion period does not arise if the trustee acquires it.

To eliminate the liability risk to trustees of ILITs, over a dozen states have recently adopted legislation that exonerate the trustee of an ILIT typically in the choice of policy and investment choices in it. **19**

Such legislation, in some ways, is unnecessary for an Alaska ILIT because Alaska law has long provided that the person who creates an Alaska trust may provide virtually any type of exoneration for a trustee, including the duty of care. **20** Nonetheless, Alaska has now adopted legislation based primarily on the Florida ILIT trustee statute because not all Alaska ILITs provide the appropriate exoneration for the trustees. **21** Specifically, if either the instrument makes reference to the new Alaska statute or notification is given to the beneficiaries (using the broad virtual representation provisions of Alaska law), the trustee is exonerated from:

- Determining whether a contract of life insurance is a proper investment.
- Investigating the financial strength of the person issuing the life insurance policy.
- Determining whether to exercise a policy option available under the insurance contract.
- Diversifying the contract or the assets of the trust with respect to the policy.
- Inquiring about or investigating the health or financial condition of an insured.

Moreover, the new statute expressly states that a trustee is not liable to the beneficiaries of the trust or to another person for a loss sustained with respect to a life insurance contract.

In addition, Alaska's insurable interest provisions were amended to clarify that a trustee of a life insurance trust has an insurable interest. Further, a person who has an insurable interest in an individual may form a business firm for the purpose of purchasing, holding, or administering an insurance contract on the life of such individual. **22**

Trusts that avoid state income tax

Individuals living in jurisdictions with high state (or state and local) income taxes usually can avoid those taxes on income that does not have a source within the taxing state by transferring the assets generating the income to trusts that are not grantor trusts. **23** However, as a general rule, a transfer by a taxpayer of assets to a non-grantor trust is a taxable gift.

Under a series of private letter rulings, the IRS has held that, under a specific trust structure, transfers to the trust would not be completed gifts (and, therefore, would not be subject to gift tax). Also, the trust would not be a grantor trust, which could permit the avoidance of state and local income taxation if the trust was formed in a state, such as Alaska, that does not impose an income tax on trust income. **24**

All the rulings involved trusts formed under jurisdictions that protect self-settled trusts from claims of the settlor's creditors even though the settlor was a beneficiary of the trusts. Although the IRS stopped issuing these rulings in 2007 **25** (not on the basis that the transfers to the trusts were completed gifts or the trusts were grantor trusts but on whether the members of the committee that controlled distributions held general powers of appointment), the IRS issued a new one (with respect to a Nevada trust) this year. **26**

Under the Nevada trust that was the subject of **Ltr. Rul. 201310002** , unlike apparently the trusts involved in the earlier rulings, the grantor not only held a testamentary non-general power of appointment **27** but also a lifetime non-general power of appointment under which the grantor, acting in a non-fiduciary capacity, could, but was not required to, distribute principal to his or her descendants as the grantor determined for health, education, maintenance, and support. **28** The new Alaska legislation expressly authorizes a grantor, in addition to being able to retain a non-general testamentary power, to retain a lifetime one without subjecting the trust to claims of the grantor's creditors. Thus, trusts in the form that was the subject of **Ltr. Rul. 201310002** , where the grantor during lifetime may distribute to one or more of his or her descendants, now can be created under Alaska law.

Uniform Principal and Income Act updated

Alaska updated its version of the Uniform Principal and Income Act in 2003. At that time, Alaska's version was "state of the art." It included the power to adjust and conversions to unitrusts. **29** Since 2003, the IRS has issued regulations **30** and commentators have suggested improvements to the Act. As a result, the Alaska Legislature decided to update its version of this uniform act.

The newly enacted provisions include the following:

(1) The trustee may choose a unitrust amount of between 3% and 5% **31** and a "smoothing period" of three to five years. **32**
(2) If all the trustees have interests in the trust or if their exercise of conversion or discretionary powers would cause adverse tax consequences, they may appoint an independent trustee to exercise such powers. **33**
(3) Provisions were enacted that authorize and describe trusts initially created as express total return unitrusts. **34**
(4) The power to adjust and conversions to unitrusts also apply to retirement benefits, and such benefits may be treated as separate trusts. **35**
(5) The trustee is given the power to treat gains as part of distribution of principal. **36**
(6) Various other clarifying changes were made.

The result is that Alaska's Uniform Principal and Income Act again is "state of the art."

Extended term for custody under the UTMA

Uniform Transfer to Minor Accounts are widely used to hold assets that have been gifted or otherwise transferred to a minor. Alaska's present Uniform Act provides that the custodianship terminates at age 18 (transfers by fiduciaries or obligors) or age 21 (transfers by gift or by will). With respect to custodianships created by gift, the Alaska Act provides for extension of a custodianship up to age 25, if the minor is given notice and has the right to compel distribution at age 21. **37** Frequently, situations have arisen where it is appropriate to extend the custodianship beyond age 25 and perhaps in the future to have additional extensions. These situations may be the result of the "minor" not having the ability, experience, or interest in managing the assets. The Alaska Legislature decided to allow for such extensions as long as the minor is given notice and has the right to compel outright distribution of the assets at age 18 or 21 and at any extended dates. **38**

In order to extend the custodial term, the custodian must give the minor written notice specifying the new custodial term and informing the minor of the minor's right to compel immediate distribution. The minor may compel immediate distribution of all or part of the custodial property by giving written notice to the custodian within 90 days after receiving the custodian's notice. If the minor does not exercise the minor's right to compel immediate distribution, the custodial term shall be extended. The custodian may extend the custodial term more than once. Since the minor has the right to compel immediate distribution at age 21, contributions to the UTMA account will qualify for the annual exclusion provided by Section 2503(b). **39**

If the minor dies during an extended custodial term, then the custodian is directed to transfer the custodial property to the minor's estate. **40** Even though the minor did not object to the extended term, there will be no gift by the minor at the time of the extension. **41**

Alaska's optional community property system

In 1998, Alaska became the tenth state to enact a community property system. Unlike the other nine states, Alaska's community property system is optional. Separate property is the default system. However, married couples who are residents may opt into the Alaska community property system by executing a community property agreement. Nonresidents of Alaska, and residents if they so choose, may opt into the system by executing a community property trust. The Alaska Legislature has periodically "fine tuned" the community property system as the state has had more and more experience with it. **42**

The 2013 amendments include the following improvements. With the transition to a new community property system, title issues have developed. The new amendments now provide that:

- If the spouses have opted into the community property system, the designated property is owned as community property regardless of the form of title to the property, even if the title indicates the property is owned unequally by the spouses or is only in the name of one spouse. **43**
- If title to community property is in a form that provides for ownership by survivorship between the spouses, then ownership by survivorship is presumed to have been made with the consent of both spouses. **44**

If a spouse designates a beneficiary for community property on the death of one or both of the spouses, the beneficiary designation is effective only for the designating spouse's one-half interest, unless the other spouse consents to the designation. Certain designations are presumed to have been made with the consent of the other spouse. **45** However, the testimony of one spouse is sufficient to rebut the presumptions described above. **46**

Gifts of community property made by only one spouse are limited by Alaska Statute 34.77.050 to $1,000 in a calendar year, or a larger amount if, when made, the gift is reasonable in amount considering the economic position of the spouses. However, the existing statute does not clearly provide remedies available to the non-donor spouse nor limitation periods. The new amendments fill these gaps by providing specific remedies that must be exercised within certain limitation periods. **47**

Trust protector provision liberalized

Alaska Statute 13.36.370 is Alaska's statutory trust protector provision. Subject to the terms of the trust instrument, a trust protector is not liable or accountable as a trustee or fiduciary. 48 Subsection (a) states: "A trust instrument may provide for the appointment of a disinterested third party to act as a trust protector." Subsection (b) describes the powers of the trust protector.

Planning situations have arisen where it is appropriate to use family members or beneficiaries as trust protectors. As a result, the requirement that a trust protector be a "disinterested third-party" was eliminated. 49 However, planners need to be sensitive to tax and asset protection reasons which will continue to dictate that the trust protector be a disinterested third party.

Disposition of human remains

Alaska now joins the ranks of states that authorize persons to leave legally binding directions in a separate document or in a will for the disposition of their remains as well as to appoint an agent to make burial decisions or to ensure the person's directions are followed. The statute is particularly significant for an unmarried person in a relationship who now can appoint his or her partner to make these important decisions with certainty that the next-of-kin cannot override the partner's decisions. The statute provides a standard form and creates a hierarchy of who has decision-making authority in the absence of a direction. 50

Conclusion

The changes made by the Alaska Legislature this year provide expanded opportunities for estate and income tax planning for many Americans, regardless of where they live. As described in Part 1 of this article, the ability to transfer interests in Alaska IRAs, without sacrificing creditor protection, presents a broad new form of lifetime estate planning for retirement plan assets. The expanded protection from creditor claims (including super-creditors such as the IRS) for beneficiaries of trusts and IRAs suggests that Alaska be used as the place to create trusts and IRAs. The enactment of Alaska's new decanting statute and the ability to have it apply regardless of the law that governs the validity, construction, and effect of a trust presents expanded opportunities to "revise" preexisting trusts to achieve better results than would be available under the trust's current terms. Equally important, the new legislation, as described in this Part 2, provides numerous procedural and administrative provisions that will make estate planning in Alaska very attractive for both residents and nonresidents.

1

Blattmachr, Chapman, Gans, and Shaftel, "New Alaska Law Will Enhance Nationwide Estate Planning-Part 1," 40 ETPL 3 (September 2013).

2

See, Zeydel and Clarke, "Direct Trusts: The Statutory Approaches to Authority and Liability," 35 ETPL 8

(September 2008).

3
Alaska Stat. 13.36.375(b) permits a settlor in the trust instrument to limit a trustee's liability for following the advice of an advisor, even though the statute provides that the advisor is not held to a fiduciary standard.

4
2013 Alaska Sess. Laws ch. 45 (SB 65), available online at http://www.legis.state.ak.us/PDF/28/Bills/SB0065Z.pdf §15, Alaska Stat.13.36.375(c).

5
2013 Alaska Sess. Laws ch. 45 (SB 65), §15, Alaska Stat.13.36.375(b).

6
2013 Alaska Sess. Laws ch. 45 (SB 65), §8, Alaska Stat. 13.36.072; Alaska Stat. 13.36.110 currently provides that a trustee who is not authorized to exercise a power is not liable to the beneficiaries or others for the exercise by a co-trustee of the power; or the failure to exercise that power.

7
2013 Alaska Sess. Laws ch. 45 (SB 65), §8, Alaska Stat.13.36.072(c).

8
See, e.g., N.Y. Surr. Ct. Proc. Act 315.

9
2013 Alaska Sess. Laws ch. 45 (SB 65), §6, Alaska Stat. 13.06.120.

10
For example, see Hellman v. Anderson, 233 Cal App 3d 840, 284 Cal Rptr 830, 1991 WL 164480 (Cal. App., 1991).

11
Alaska Stat. 10.50.380(c) and Alaska Stat. 32.11.340(b).

12
See the table included in Merric and Comer, "Forum Shopping for Favorable FLP and LLC Law," Leimberg's Asset Protection Planning Email Newsl. (5/25/2010).

13
Id.

14
Delaware, Nebraska, New York, South Dakota, Texas, Utah, and Virginia. See *id*.

15

2013 Alaska Sess. Laws ch. 45 (SB 65), §4, Alaska Stat. 10.50.380(c) and §38, Alaska Stat. 32.11.340(b).

16

291 Bkrptcy.Rptr. 538 (Bkrtcy. DC Colo., 2003). See also In re A-Z Elec., LLC, 350 Bkprtcy. Rptr. 886 (Bkrptcy. DC Idaho, 2006); In re Modanlo, 412 Bkrptcy. Rptr. 715 (Bkrptcy. DC Md., 2006).

17

Nev. Rev. Stat. 86.401; Wyo. Stat. §17-29-503.

18

See Slade, *Personal Life Insurance Trusts*, BNA Tax Mgt. Portfolio 210-2; Zeydel, "A Complete Tax Guide for Irrevocable Life Insurance Trusts," **34 ETPL 13 (July 2007)** ; Zeydel, "How to Create and Administer a Successful Irrevocable Life Insurance Trust," 34 ETPL 3 (June 2007).

19

See Kiziah, "Statutory Exculpation of Trustees Holding Life Insurance Policies," 47 Real Prop. Prob. & Tr. J. 327 (Fall 2012).

20

Alaska Stat. 13.36.192.

21

2013 Alaska Sess. Laws ch. 45 (SB 65), §13, Alaska Stat. 13.36.273.

22

2013 Alaska Sess. Laws ch. 45 (SB 65), § 37, Alaska Stat. 21.42.020(e) and (f).

23

See, generally, Schwab and LaPiana, "The Income Taxation of New York Resident Trusts," 30 N.Y. St. B.J. 42 (March/April 1996).

24

See, e.g., **Ltr. Ruls. 200715005** , 200647001, 200637025, 200612002, and 200502014. Although most of the trusts involved in these rulings were created under Alaska law, these trusts have been described by some practitioners as Delaware Incomplete Not Grantor (DING) trusts.

25

IRS News Release IR-2007-127, 7/9/2007.

26

Ltr. Rul. 201310002 , which is discussed in Lipkind, "PLR 201310002: DING Redux," LISI Est. Plan. Newsl. no. 2076 (3/12/2013).

27

See **Section 674(b)(3)** (in general, a testamentary power does not cause the trust to be a grantor trust).

28

Apparently, the lifetime power helped to ensure that transfers to the trust were not completed gifts without making the trust a grantor trust on account of the exception contained in **Section 674(b)(5)(A)** .

29

Alaska Stat. 13.38.200, *et seq*.

30

Reg. 1.643(b)-1 .

31

2013 Alaska Sess. Laws ch. 45 (SB 65), §21, Alaska Stat. 13.38.330(d).

32

Id. at §22, Alaska Stat. 13.38.340(6). "[S]moothing period" means the period of years over which the fair market value of the assets of a unitrust are averaged. Alaska Stat. 13.38.435(1).

33

Id. at §25, Alaska Stat. 13.38.390(b).

34

Id. at §27, Alaska Stat. 13.38.420.

35

Id. at §30, Alaska Stat. 13.38.690(c).

36

Id. at §27, Alaska Stat. 13.38.430. See also Alaska Stat. 13.36.109(29), which gives a trustee the power to consider discretionary distributions to a beneficiary as being made from capital gains realized during the year.

37

Alaska Stat. 13.46.195.

38

2013 Alaska Sess. Laws ch. 45 (SB 65), §34, Alaska Stat. 13.46.197.

39

Section 2503(c) ; **Reg. 25.2503-4(b)(2)** ; **Rev. Rul. 74-43, 1974-1 CB 285** ; **Ltr. Rul. 8521089** (not precedent). See Griffith, **11 AFTR 2d 1785** , 63-1 USTC ¶12124 (DC Tex., 1962); Heidrich, **55 TC 746** (1971).

40

2013 Alaska Sess. Laws ch. 45 (SB 65), §33, Alaska Stat. 13.46.190.

41

Cf. Reg. 25.2511-2(b).

42

In 2000, amendments were enacted which clarified how a community property agreement or a community property trust could be amended or revoked (Alaska Stat. 34.77.090(e); Alaska Stat. 34.77.100(e)). In 2001, amendments were enacted which provided that an obligation incurred by only one spouse before or during marriage may be satisfied only from the property of that spouse which is not community property and from that spouse's interest in community property. The obligation could not be satisfied from the non-obligated spouse's share of community property. Alaska Stat. 34.77.070(j). Further, in 2001, amendments were enacted providing for the division of community property at death. These amendments gave the deceased spouse's personal representative and the trustee of a community property trust the power to divide community property in kind on the basis of a non-pro rata division of the aggregate value of the community property, or on the basis of a pro rata division or by using both methods. Alaska Stat. 34.77.155.

43

2013 Alaska Sess. Laws ch. 45 (SB 65), §34, Alaska Stat. 34.77.110(f).

44

Id. at §43, Alaska Stat. 34.77.110(g).

45

Id. at §43, Alaska Stat. 34.77.110(h).

46

Id. at §43, Alaska Stat. 34.77.110(i).

47

Id. at §45, Alaska Stat. 34.77.140(e) through (h).

48

Alaska Stat. 13.36.370(d).

49

2013 Alaska Sess. Laws ch. 45 (SB 65), §14, Alaska Stat. 13.36.370.

50

Id. at §36, Alaska Stat. 13.75.010-.195 ("Disposition of Human Remains Act").