

1 SB222
2 164589-2
3 By Senators Albritton, Ward, Williams and Orr
4 RFD: Judiciary
5 First Read: 12-MAR-15

1 SB222

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4 ENROLLED, An Act,

5 To provide for revocation of certain transferable
6 interests in property in the event of divorce or annulment;
7 and to provide that where former spouses held property as
8 joint tenants at the time of divorce or annulment, the
9 property interest becomes a tenancy in common upon divorce or
10 annulment.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. (a) In this section, the following terms
13 have the following meanings:

14 (1) DISPOSITION OR APPOINTMENT OF PROPERTY. Includes
15 a transfer of an item of property or any other benefit to a
16 beneficiary designated in a governing instrument.

17 (2) DIVORCE or ANNULMENT. Any divorce or annulment,
18 or any dissolution or declaration of invalidity of a marriage,
19 that would exclude the spouse as a surviving spouse within the
20 meaning of Section 43-8-252 of the Code of Alabama 1975. A
21 decree of separation that does not terminate the status of
22 husband and wife is not a divorce for purposes of this
23 section.

24 (3) DIVORCED INDIVIDUAL. An individual whose
25 marriage has been terminated by divorce or annulment.

1 (4) GOVERNING INSTRUMENT. An instrument executed by
2 the divorced individual before the divorce or annulment of his
3 or her marriage to his or her former spouse.

4 (5) RELATIVE OF THE DIVORCED INDIVIDUAL'S FORMER
5 SPOUSE. An individual who is related to the divorced
6 individual's former spouse by blood, adoption, or affinity
7 during the marriage and after the divorce or annulment, who is
8 no longer related to the divorced individual by blood,
9 adoption, or affinity.

10 (6) REVOCABLE. With respect to a disposition,
11 appointment, provision, or nomination, one under which the
12 divorced individual, at the time of the divorce or annulment,
13 was alone empowered, by law or under the governing instrument,
14 to cancel the designation in favor of his or her former spouse
15 or former spouse's relative, whether or not the divorced
16 individual was then empowered to designate himself or herself
17 in place of his or her former spouse or in place of his or her
18 former spouse's relative and whether or not the divorced
19 individual then had the capacity to exercise the power.

20 (b) Except as provided by the express terms of a
21 governing instrument, a court order, or a contract relating to
22 the division of the martial estate made between the divorced
23 individuals before or after the marriage, divorce, or
24 annulment, the divorce or annulment of a marriage:

25 (1) revokes any revocable:

1 a. disposition or appointment of property made by a
2 divorced individual to his or her former spouse in a governing
3 instrument and any disposition or appointment created by law
4 or in a governing instrument to a relative of the divorced
5 individual's former spouse;

6 b. provision in a governing instrument conferring a
7 general or nongeneral power of appointment on the divorced
8 individual's former spouse or on a relative of the divorced
9 individual's former spouse; and

10 c. nomination in a governing instrument, nominating
11 a divorced individual's former spouse or a relative of the
12 divorced individual's former spouse to serve in any fiduciary
13 or representative capacity, including a personal
14 representative, executor, trustee, conservator, agent, or
15 guardian; and

16 (2) severs the interests of the former spouses in
17 property held by them at the time of the divorce or annulment
18 as joint tenants with the right of survivorship transforming
19 the interests of the former spouses into equal tenancies in
20 common.

21 (c) A severance under subdivision (2) of subsection
22 (b) does not affect any third-party interest in property
23 acquired for value and in good faith reliance on an apparent
24 title by survivorship in the survivor of the former spouses
25 unless a writing declaring the severance has been noted,

1 registered, filed, or recorded in records appropriate to the
2 kind and location of the property which are relied upon, in
3 the ordinary course of transactions involving such property,
4 as evidence of ownership.

5 (d) Provisions of a governing instrument are given
6 effect as if the former spouse and relatives of the former
7 spouse disclaimed all provisions revoked by this section or,
8 in the case of a revoked nomination in a fiduciary or
9 representative capacity, as if the former spouse and relatives
10 of the former spouse died immediately before the divorce or
11 annulment.

12 (e) Provisions revoked solely by this section are
13 revived by the divorced individual's remarriage to the former
14 spouse or by a nullification of the divorce or annulment.

15 (f) A payor or other third party is not liable for
16 having made a payment or transferred an item of property or
17 any other benefit to a beneficiary designated in a governing
18 instrument affected by a divorce, annulment, or remarriage, or
19 for having taken any other action in good faith reliance on
20 the validity of the governing instrument, before the payor or
21 other third party received written notice of the divorce,
22 annulment, or remarriage. A payor or other third party is
23 liable for a payment made or other action taken after the
24 payor or other third party received written notice of a
25 claimed forfeiture under this section.

1 (g) (1) A person who purchases property from a former
2 spouse, relative of a former spouse, or any other person for
3 value and without notice, or who receives from a former
4 spouse, relative of a former spouse, or any other person a
5 payment or other item of property in partial or full
6 satisfaction of a legally enforceable obligation, is neither
7 obligated under this section to return the payment, item of
8 property, or benefit nor is liable under this section for the
9 amount of the payment or the value of the item of property or
10 benefit.

11 (2) A former spouse, relative of a former spouse, or
12 other person who receives a payment, an item of property, or
13 any other benefit to which that person is not entitled under
14 this section is obligated to return the payment, item of
15 property, or benefit, or is personally liable for the amount
16 of the payment or the value of the item of property or
17 benefit, to the person who is entitled to the payment,
18 benefit, or property under this section.

19 (3) If this section or any part of this section is
20 preempted by federal law with respect to a payment, an item of
21 property, or any other benefit covered by this section, a
22 former spouse, relative of the former spouse, or any other
23 person who receives a payment, an item of property, or any
24 other benefit to which that person is not entitled under this
25 section is obligated to return that payment, item of property,

1 or benefit, or is personally liable for the amount of the
2 payment of the value of the item of property or benefit, to
3 the person who would have been entitled to it were this
4 section or part of this section not preempted.

5 (h) The provisions of this act shall not apply to
6 any insurance policy for which the former spouse is named
7 beneficiary, if the former spouse is listed as owner of the
8 policy or makes premium payments on the policy following the
9 divorce or annulment.

10 Section 2. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB222

Senate 05-MAY-15

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Amended and passed 28-MAY-15

Senate concurred in House amendment 28-MAY-15

By: Senator Albritton