

BILL ANALYSIS

Senate Research Center
76R9977 JMM-F

H.B. 734
By: Goodman (Harris)
Jurisprudence
5/5/1999
Engrossed

DIGEST

Currently, a spouse or fiancé is authorized to enter into a marital agreement converting community property to separate property; however, the property conversion cannot go from communal to separate. Upon death, separate property is taxed more heavily than community property by the federal government. H.B. 734 authorizes spouses to agree to convert separate property to community property.

PURPOSE

As proposed, H.B. 734 authorizes spouses to agree to convert separate property to community property.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 4, Family Code, by adding Subchapter C, as follows:

SUBCHAPTER C. AGREEMENT TO CONVERT SEPARATE PROPERTY TO COMMUNITY PROPERTY

Sec. 4.201. DEFINITION. Defines “property.”

Sec. 4.202. AGREEMENT TO CONVERT TO COMMUNITY PROPERTY. Authorizes spouses to convert certain property to community property.

Sec. 4.203. FORMALITIES OF AGREEMENT. Sets forth requirements of an agreement to convert separate property to community property. Provides that transferring property ownership between spouses is not sufficient to convert the property to community property.

Sec. 4.204. MANAGEMENT OF CONVERTED PROPERTY. Sets forth provisions to which property converted to community property is subject.

Sec. 4.205. ENFORCEMENT. Provides that a conversion to community property is not enforceable if the spouse against whom enforcement is sought proves that the spouse did not take certain actions. Sets forth language which provides fair and reasonable disclosure of the legal effect of converting property.

Sec. 4.206. RIGHTS OF CREDITORS; RECORDING. Provides that a property conversion does not affect the rights of a preexisting creditor of the spouse whose separate property is being converted. Authorizes the conversion in county deed records. Provides that the conversion is constructive notice to a good faith purchaser for value or creditor without actual notice, if certain conditions are met.

SECTION 2. Effective date: January 1, 2000, if a certain constitutional amendment is approved; otherwise, this Act has no effect.

SECTION 3. Emergency clause.