

By: Dutton

H.B. No. 885

A BILL TO BE ENTITLED

AN ACT

relating to the rights of spouses in relation to separate and community property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 4.102, Family Code, is amended to read as follows:

Sec. 4.102. PARTITION OR EXCHANGE OF ~~[COMMUNITY]~~ PROPERTY. At any time, the spouses may partition or exchange between themselves all or ~~[any]~~ part of their ~~[community]~~ property, then existing or to be acquired, as the spouses may desire. Property or a property interest transferred to a spouse by a partition or exchange agreement becomes that spouse's separate property. The partition or exchange of property includes earnings and income arising from the property.

SECTION 2. Section 7.002, Family Code, is amended to read as follows:

Sec. 7.002. DIVISION AND DISPOSITION OF CERTAIN PROPERTY ACQUIRED IN ANOTHER STATE ~~[UNDER SPECIAL CIRCUMSTANCES]~~. (a) In addition to the division of the estate of the parties required by Section 7.001, in a decree of divorce or annulment the court shall order a division of the following real and personal property, wherever situated, in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage:

1 (1) property that was acquired by either spouse while
2 domiciled in another state and that would have been community
3 property if the spouse who acquired the property had been domiciled
4 in this state at the time of the acquisition; or

5 (2) property that was acquired by either spouse in
6 exchange for real or personal property and that would have been
7 community property if the spouse who acquired the property so
8 exchanged had been domiciled in this state at the time of its
9 acquisition.

10 (b) In a decree of divorce or annulment, the court shall
11 award to a spouse the following real and personal property,
12 wherever situated, as the separate property of the spouse:

13 (1) property that was acquired by the spouse while
14 domiciled in another state and that would have been the spouse's
15 separate property if the spouse had been domiciled in this state at
16 the time of acquisition; or

17 (2) property that was acquired by the spouse in
18 exchange for real or personal property and that would have been the
19 spouse's separate property if the spouse had been domiciled in this
20 state at the time of acquisition.

21 SECTION 3. (a) This Act takes effect September 1, 2003.

22 (b) The change in law made by this Act by the amendment of
23 Section 4.102, Family Code, applies only to an agreement to
24 partition or exchange property made on or after the effective date
25 of this Act. An agreement made before the effective date of this
26 Act is governed by the law in effect on the date the agreement was
27 made, and the former law is continued in effect for that purpose.

1 (c) The change in law made by this Act by the amendment of
2 Section 7.002, Family Code, applies to a suit for dissolution of a
3 marriage pending before a trial court on or filed on or after the
4 effective date of this Act.