

By: Goodman

H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the property interests of spouses in connection with
3 certain separate and community property.

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

5 SECTION 1. Sections 3.007(a) and (b), Family Code, as
6 enacted by H.B. No. 410, Acts of the 79th Legislature, Regular
7 Session, 2005, effective September 1, 2005, are amended to read as
8 follows:

9 (a) The community property interest [~~A spouse who is a~~
10 ~~participant~~] in a defined benefit retirement plan is an amount
11 equal to the product of the amount a participant [~~has a separate~~
12 ~~property interest in the monthly accrued benefit the~~] spouse would
13 have the [~~had a~~] right to receive on normal retirement age, as
14 defined by the plan, if the participant spouse had terminated
15 employment on the date of dissolution of the marriage, multiplied
16 by a percentage determined by dividing the number of months of
17 participation in the plan during the marriage by the number of
18 months of participation in the plan as of the date of dissolution of
19 the marriage. The resulting amount shall be determined as of the
20 time of dissolution [~~as~~] of the [~~date of~~] marriage[~~7~~] regardless of
21 whether the participant spouse's right to the benefit is [~~had~~
22 vested and without regard to the percentage of vesting, if any. The
23 community property interest includes post-dissolution plan
24 adjustments and cost-of-living adjustments in a proportion equal to

1 the amount of the community property interest in relation to the
2 amount of the total benefit.

3 (b) The separate [~~community~~] property interest in a defined
4 benefit plan is the portion of the benefit that is not community
5 property under Subsection (a) [~~shall be determined as if the spouse~~
6 ~~began to participate in the plan on the date of marriage and ended~~
7 ~~that participation on the date of dissolution or termination of the~~
8 ~~marriage, regardless of whether the benefit had vested]~~.

9 SECTION 2. The change in law made by this Act applies:

10 (1) to a suit for dissolution of a marriage pending
11 before a trial court on or filed on or after the effective date of
12 this Act; and

13 (2) to the estate of a person who dies on or after the
14 effective date of this Act.

15 SECTION 3. This Act takes effect September 1, 2005, if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for effect on that
19 date, this Act takes effect December 1, 2005.