

By: Goodman

H.B. No. 206

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. Subchapter A, Chapter 3, Family Code, is amended  
6 by adding Sections 3.007 and 3.008 to read as follows:

7 Sec. 3.007. SEPARATE PROPERTY INTEREST IN CERTAIN EMPLOYEE  
8 BENEFITS. (a) A spouse who is a participant in a defined benefit  
9 retirement plan has a separate property interest in the monthly  
10 accrued benefit the spouse had a right to receive on normal  
11 retirement age, as defined by the plan, as of the date of marriage,  
12 regardless of whether the spouse had vested.

13 (b) The separate property interest of a spouse who is a  
14 participant in a defined contribution retirement plan may be traced  
15 using the tracing and characterization principles that apply to a  
16 nonretirement asset.

17 (c) A spouse who is a participant in an employer-provided  
18 stock option plan or an employer-provided restricted stock plan has  
19 a separate property interest in the options or restricted stock  
20 granted to the spouse under the plan as follows:

21 (1) if the option or stock was granted to the spouse  
22 before marriage but vested all or in part during the marriage, the  
23 spouse's separate property interest is equal to the fraction in  
24 which the numerator is the period from the date the option or stock

1 was granted until the date of marriage and the denominator is the  
2 period from the date the option or stock was granted until the date  
3 of vesting; and

4 (2) if the option or stock was granted to the spouse  
5 during the marriage but vested after the date of dissolution of the  
6 marriage, the spouse's separate property interest is equal to the  
7 fraction in which the numerator is the period from the date of  
8 dissolution of the marriage until the date of vesting and the  
9 denominator is the period from the date the option or stock was  
10 granted until the date of vesting.

11 (d) The computation described by Subsection (c) applies to  
12 each component of the benefit.

13 (e) A spouse's separate property interest in an option or  
14 restricted stock described by Subsection (c) must be recalculated  
15 if, after the initial division of the option or stock, the vesting  
16 occurs on a date earlier than the vesting date stated in the  
17 original grant of the option or stock. The recalculation required  
18 by this subsection must adjust for the shortened vesting period and  
19 applies to options and stock granted before and during the  
20 marriage.

21 Sec. 3.008. PROPERTY INTEREST IN CERTAIN INSURANCE  
22 PROCEEDS. (a) Insurance proceeds paid or payable to a spouse that  
23 arise from a casualty loss to property are characterized in the same  
24 manner as the property to which the claim is attributable.

25 (b) Insurance proceeds paid or payable to a spouse in the  
26 form of disability insurance coverage shall be characterized in the  
27 same manner as the income the loss of which gave rise to the

1 insurance claim. Payments from disability insurance, including  
2 workers' compensation, paid or payable to a spouse during the  
3 marriage for loss of earning capacity is community property  
4 regardless of the date on which the disability occurred. Payments  
5 from disability insurance, including workers' compensation, paid  
6 or payable to a spouse after the date of dissolution of the marriage  
7 for loss of earning capacity is that spouse's separate property  
8 regardless of the date on which the disability occurred.

9 SECTION 2. The changes in law made by this Act apply to a  
10 suit for dissolution of a marriage pending before a trial court on  
11 or filed on or after the effective date of this Act.

12 SECTION 3. This Act takes effect September 1, 2005.