

By: Goodman

H.B. No. 410

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 benefit had vested.

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

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

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

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

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

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

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

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

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

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

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

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