CHAPTER 557. PROPERTY OF HUSBAND AND WIFE

RIGHTS OF MARRIED WOMEN
Act 168 of 1855

557.1-557.5 Repealed. 1981, Act 216, Eff. Mar. 31, 1982.

EARNINGS OF MARRIED WOMEN
Act 196 of 1911

557.11 Repealed. 1981, Act 216, Eff. Mar. 31, 1982.

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RIGHTS AND LIABILITY OF MARRIED WOMEN
Act 216 of 1981

AN ACT to provide for the rights and liabilities of married women with respect to certain real and personal property; to abrogate the common law disabilities of married women with respect to certain contracts; to prescribe the payment and satisfaction of judgments rendered upon certain written contracts; and to repeal certain acts and parts of acts.

History: 1981, Act 216, Eff. Mar. 31, 1982.

The People of the State of Michigan enact:

557.21 Status of property acquired by woman before or after marriage; earnings of married woman.

Sec. 1. (1) If a woman acquires real or personal property before marriage or becomes entitled to or acquires, after marriage, real or personal property through gift, grant, inheritance, devise, or other manner, that property is and shall remain the property of the woman and be a part of the woman's estate. She may contract with respect to the property, sell, transfer, mortgage, convey, devise, or bequeath the property in the same manner and with the same effect as if she were unmarried. The property shall not be liable for the debts, obligations, or engagements of any other person, including the woman's husband, except as provided in this act.

(2) A married woman has the absolute right to have, hold, own, retain, and enjoy earnings acquired by the married woman as the result of her personal efforts and those earnings shall be considered the property of the married woman as described in subsection (1).

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.22 Trustee for married woman; conveyance of property for use and benefit of married woman.

Sec. 2. A person who holds as a trustee for a married woman, real or personal property under a deed or conveyance or otherwise, may convey to the married woman, by deed or otherwise, all or any portion of the property or the rents or profits of the property for the sole and separate use and benefit of the married woman.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.23 Common law disability of married women to contract abrogated.

Sec. 3. The common law disability of married women to make and enter into a contract is abrogated.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.24 Contract by married woman; liability of husband for breach of contract.

Sec. 4. (1) A married woman may enter into a contract with respect to her separate property as described in section 1. She may bring an action to enforce the contract, recover damages for breach of the contract, or seek other remedy with respect to the contract as provided by law. The married woman shall be personally liable upon the contract and a judgment entered against the woman may be satisfied out of the separate property as described in section 1.

(2) The husband of a married woman shall not be liable for breach of a contract which was entered into by the married woman and which relates to the separate property of the married woman as provided in subsection (1) unless the husband acted as a surety, co-signor, or guarantor on the contract.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.25 Married woman as surety for debt or obligation of other person; judgment against married woman; satisfaction.

Sec. 5. A married woman may act as a surety for the debt or obligation of another person, including the debt of her husband, by signing a written instrument providing for the suretyship. A judgment entered against the married woman as a surety may be satisfied out of her separate property as described in section 1, whether or not the contract of suretyship benefits or concerns that separate property.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.26 Pledge or assignment by married woman of interest in separate property as security for debt of other person; contract by married woman giving general guarantee; satisfaction of judgment.

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Sec. 6. (1) A married woman may enter into a written contract pledging or assigning her interest in her separate property, as described in section 1, as security for the debt of another person, including the debt of her husband. If a married woman signs a written contract pledging or assigning an interest in her separate property as security for the debt of another person or her husband, a judgment rendered for payment of the debt may be satisfied out of that separate property whether or not the separate property derives a benefit from the pledge or assignment.

(2) A married woman may enter into a written contract giving a general guarantee obligating her personally for the debt of another person, including the debt of her husband. If the married woman signs such a written contract, a judgment rendered for payment of the debt may be satisfied out of any of the separate property of the married woman described in section 1, whether or not the separate property derives a benefit from the general guarantee.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.27 Married woman entering contract jointly or severally with other person.

Sec. 7. A married woman may enter into a written contract jointly or severally with another person.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.28 Contract relating to property made in contemplation of marriage.

Sec. 8. A contract relating to property made between persons in contemplation of marriage shall remain in full force after marriage takes place.

History: 1981, Act 216, Eff. Mar. 31, 1982.

557.29 Repeal of MCL 557.1 to 557.5, 557.11, and 557.51 to 557.55.

Sec. 9. The following acts and parts of acts are repealed:

(a) Act No. 168 of the Public Acts of 1855, being sections 557.1 to 557.5 of the Compiled Laws of 1970.

(b) Act No. 196 of the Public Acts of 1911, being section 557.11 of the Compiled Laws of 1970.

(c) Act No. 158 of the Public Acts of 1917, being sections 557.51 to 557.55 of the Compiled Laws of 1970.

History: 1981, Act 216, Eff. Mar. 31, 1982.

JOINT LIABILITY OF MARRIED WOMAN WITH HUSBAND ON WRITTEN INSTRUMENTS
Act 158 of 1917

557.51-557.55 Repealed. 1981, Act 216, Eff. Mar. 31, 1982.

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INCOME RIGHTS OF HUSBAND AND WIFE AS TENANTS BY ENTIRETY
Act 288 of 1975

AN ACT to equalize income rights of husband and wife in real estate and other property, held as tenants by the entirety.

History: 1975, Act 288, Imd. Eff. Dec. 10, 1975.

The People of the State of Michigan enact:

557.71 Equal rights of husband and wife holding property as tenants by entirety.

Sec. 1. A husband and wife shall be equally entitled to the rents, products, income, or profits, and to the control and management of real or personal property held by them as tenants by the entirety.

History: 1975, Act 288, Imd. Eff. Dec. 10, 1975.

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LAND HELD AS TENANCY BY ENTIRETY
Act 126 of 1925

AN ACT to provide for the payment to the survivor of husband and wife, of land contracts, and of notes and other obligations secured by a mortgage, given as part of the purchase price of lands held as a tenancy by the entirety, and the vesting of the title of the mortgage or land contract in the survivor.

History: 1925, Act 126, Eff. Aug. 27, 1925.

The People of the State of Michigan enact:

557.81 Sale of land held by entirety; survivorship of rights of vendor.

Sec. 1. In all cases where a husband and wife shall sell land held as a tenancy by the entirety and accept in part payment for the purchase price the note or other obligation of said purchaser payable to said husband and wife, secured by a mortgage on said land payable to husband and wife, the said debt together with all interest thereon, unless otherwise expressly stated in said mortgage, after the death of either shall be payable to the survivor, and the title to said mortgage shall vest in the survivor, and in case a contract for the sale of property owned by the husband and wife as tenants by the entirety, is entered into by them as vendors, the same provisions herein applying to the rights of the survivor in mortgages as above set forth, shall apply to the survivor of the contract.

History: 1925, Act 126, Eff. Aug. 27, 1925;—CL 1929, 13068;—CL 1948, 557.81.

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TERMINATION OF TENANCIES BY ENTIRETY
Act 210 of 1927

AN ACT to provide for the termination of tenancies by the entirety and the conveyance of interests therein.

History: 1927, Act 210, Eff. Sept. 5, 1927.

The People of the State of Michigan enact:

557.101 Tenancy by entirety; termination.

Sec. 1. In all cases where husband and wife own any interest in land as tenants by the entirety, such tenancy by the entirety may be terminated by a conveyance from either one to the other of his or her interest in the land so held.

History: 1927, Act 210, Eff. Sept. 5, 1927;—CL 1929, 13069;—CL 1948, 557.101.

557.102 Act declaratory of common law.

Sec. 2. This act shall be deemed to be declaratory of the common law as heretofore existing in this state.

History: 1927, Act 210, Eff. Sept. 5, 1927;—CL 1929, 13070;—CL 1948, 557.102.

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OWNERSHIP OF PROPERTY ACQUIRED JOINTLY AFTER GOOD FAITH MARRIAGE
Act 118 of 1978

AN ACT to provide for joint ownership by a good faith party to a marriage having an impediment in joint tenancy of real property and certain classes of personal property with right of survivorship.

History: 1978, Act 118, Imd. Eff. Apr. 19, 1978.

The People of the State of Michigan enact:

557.111 Ownership of property acquired jointly after good faith marriage.

Sec. 1. If a marriage is contracted by 1 of the parties in good faith and without knowledge of a prior undissolved marriage of the other party, and if that other party predeceases the party who entered into the marriage in good faith, the real property and any land contract, bond, certificate of stock, mortgage, promissory note, debenture, or other evidence of indebtedness acquired jointly after the marriage by the parties, unless otherwise expressly provided by the parties, shall be considered at the time of the other party's death to have been owned by the parties with full right of survivorship.

History: 1978, Act 118, Imd. Eff. Apr. 19, 1978.

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JOINT OWNERSHIP OF PERSONAL PROPERTY IN JOINT TENANCY
Act 212 of 1927

AN ACT to provide for the joint ownership by husband and wife in joint tenancy of certain classes of personal property with right of survivorship.

History: 1927, Act 212, Eff. Sept. 5, 1927.

The People of the State of Michigan enact:

557.151 Evidence of indebtedness payable to husband and wife; ownership in joint tenancy.

Sec. 1. All bonds, certificates of stock, mortgages, promissory notes, debentures, or other evidences of indebtedness hereafter made payable to persons who are husband and wife, or made payable to them as endorsees or assignees, or otherwise, shall be held by such husband and wife in joint tenancy unless otherwise therein expressly provided, in the same manner and subject to the same restrictions, consequences and conditions as are incident to the ownership of real estate held jointly by husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either.

History: 1927, Act 212, Eff. Sept. 5, 1927;—CL 1929, 13071;—CL 1948, 557.151.

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****** Act 317 of 1947 THIS ACT WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

MICHIGAN COMMUNITY PROPERTY ACT
Act 317 of 1947

AN ACT to provide for the creation of a community estate between husband and wife in real and personal property as defined herein; to prescribe the effect of such community estate; to define and prescribe certain rights and liabilities of parties affected hereby; to eliminate curtesy and dower in such community estate; to preserve the right of dower in the separate property of the husband, and to repeal all acts and parts of acts inconsistent herewith.

History: 1947, Act 317, Imd. Eff. July 1, 1947.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

The People of the State of Michigan enact:

****** 557.201 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.201 Separate property of husband; control, disposition, dower of wife.

Sec. 1. (a) All property of the husband, real and personal, owned by him before marriage or before the effective date of this act, whichever is later, and that afterwards acquired by him by gift, inheritance, devise, or bequest, or received by him as damages or compensation for personal injuries, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be his separate property, subject however to the right of dower.

(b) The husband shall have the right to manage, control, dispose of, and otherwise deal with his separate property in the manner provided by law without limitation by the provisions of this act, subject however to the right of dower.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.201.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.202 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.202 Separate property of wife; control, disposition.

Sec. 2. (a) All property of the wife, real and personal, owned by her before marriage, or before the effective date of this act, whichever is later, and that afterwards acquired by her by gift, inheritance, devise, or bequest, or received by her as damages or compensation for personal injuries, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be her separate property.

(b) The wife shall have the right to manage, control, dispose of, and otherwise deal with her separate property in the manner provided by law without limitation by the provisions of this act.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.202.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.203 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.203 Property owned jointly or by entirety by husband and wife; control, inapplicability of act.

Sec. 3. (a) All property owned by the husband and wife before the effective date of this act as tenants by the entirety or in any other manner recognized by law whereby neither the husband nor the wife individually has a separate property interest therein as defined in sections 1 and 2 of this act, as well as that afterwards owned by the husband and wife in any such manner which has been acquired by gift, devise, or bequest or by the transfer of the separate property of either the husband or the wife as defined in sections 1 and 2 of this act or of the interest of the husband and the wife, or of either of them, in community property as permitted by section 8 of this act, and all property of every kind, character, or description derived originally from property so owned or acquired, shall be the separate property of the husband and wife.

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(b) The husband and wife, or either of them, shall hold, own and have the right to manage, control, dispose of, and otherwise deal with the separate property of the husband and wife in the manner provided by law without limitation by the provisions of this act.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.203.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.204 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.204 Community property; interest of husband and wife.

Sec. 4. All property of every kind, character, or description acquired by either the husband or the wife, or both, after marriage, or on or after the effective date of this act, whichever is later, except that which is defined as the separate property of either or the separate property of both in sections 1, 2 and 3 of this act, shall be deemed the community property of the husband and wife, and each shall be vested with an undivided 1/2 interest therein. The respective interest of the husband and the wife in such community property shall be present, existing, and equal interests and shall arise as an incident of marriage.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.204.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.205 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.205 Presumption that property is community property; exceptions, rebuttal.

Sec. 5. There shall be a rebuttable presumption that all property, real and personal, acquired by the husband or the wife, or both, after marriage, or on or after the effective date of this act, whichever is later, is community property: Provided, however, That nothing contained in this act shall prevent a husband and wife from acquiring and holding property in any manner permitted by law prior to the effective date of this act. Such presumption shall be deemed to be rebutted in any instrument of conveyance of real property where the grantees therein are described as husband and wife.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.205.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.206 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.206 Community property; right of wife or husband to receive and control earnings for personal services; limitations; effect of breach; rights of third persons.

Sec. 6. (a) The wife shall have the right to receive, manage, control, dispose of, and otherwise deal with that portion of the community property which consists of her earnings for personal services and all other community property which shall stand in her name, subject to the limitations set forth in paragraph (c) below.

(b) The husband shall have the right to receive, manage, control, dispose of, and otherwise deal with all other community property, including that portion of the community property which consists of his earnings for personal services and all other community property which shall stand in his name, subject to the limitations set forth in paragraph (c) below.

(c) (1) Neither the husband nor the wife shall dispose of or encumber community real property or encumber any community property exempt under the provisions of section 43 of chapter 23 of Act No. 314 of the Public Acts of 1915, being section 14578 of the Compiled Laws of 1929, as amended, or lease community real property for a longer period than 1 year unless the other shall join in the execution of the instrument. (2) Neither the husband nor the wife shall make any gift of community property or dispose of or encumber the same without adequate consideration, without the consent of the other. (3) Neither the husband nor the wife shall dispose of or encumber the furniture, furnishings, or fittings of the home, to the extent that the same constitutes community property, without the consent of the other. (4) Neither the husband nor the wife shall have the right to devise or bequeath more than 1/2 of the community property. (5) The rights given to the husband and to the wife to manage, control, dispose of, and otherwise deal with community property, as provided in this section, shall be exercised in good faith for the benefit of the community. In case of any violation by the husband or the wife of the above limitations or any part thereof, the spouse aggrieved shall be entitled to appropriate relief against the other spouse at law or in equity. The foregoing provisions shall not entitle the wife or the husband, by court proceedings or otherwise, to interfere with or affect the right of the

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other to collect his or her earnings for personal services.

(d) Breach by either spouse of any of the limitations set forth in paragraph (c) above shall not affect the rights of, or impose any liability upon, any person dealing with such spouse without actual knowledge of such breach, nor affect the rights of, or impose any liability upon, any subsequent party in interest unless such subsequent party has actual knowledge of such breach at the time of acquiring such interest, and not then if any predecessor in interest acquired the same without actual knowledge of such breach. Knowledge of the existence of the marital relationship shall not impose any duty to make inquiry as to the occurrence of such a breach, nor shall any such duty be imposed by knowledge of self-dealing by either spouse.

(e) Notwithstanding any of the provisions of this section, any other person may rely, and shall be fully protected in so doing, upon the right of either spouse to receive, manage, control, dispose of, or otherwise deal with property which shall stand in the names of both of them in such manner that by law, but for the provisions of this act, either would be entitled so to deal therewith.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.206.

Compiler's note: Act 314 of 1915, referred to in this section, was repealed by Act 236 of 1961.
This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.207 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.207 Community property; representation in actions against; enforcement of judgment or decree; exceptions.

Sec. 7. The husband shall represent the community in all actions, suits, and other proceedings at law or in equity, except those relating solely to community property subject to the management and control of the wife, as to which the wife shall represent the community. The spouse representing the community with respect to the matters in issue therein shall be a necessary party, and the other spouse shall be a proper but not a necessary party, to all such actions, suits, and other proceedings brought by or on behalf of the community and to all such actions, suits, and other proceedings brought to enforce any debts or liabilities of the community or to affect the ownership of or foreclose any lien on the community property: Provided, That no judgment, decree, or other order shall be enforced against either spouse personally or against the separate property of such spouse unless such spouse shall be a party. The foregoing provisions of this section 7 are subject to the provisions of any decree which may be entered pursuant to section 11 of this act and shall not be applicable in any proceedings by 1 spouse against the other under the provisions of paragraph (c) of section 6 of this act.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.207.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.208 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.208 Community property; conveyances or transfer between husband and wife; equity of creditors.

Sec. 8. The husband may give, grant, bargain, sell, or convey directly to his wife, and the wife may give, grant, bargain, sell, or convey directly to her husband or the husband and wife may give, grant, bargain, sell, or convey directly to themselves, his, her, or their community right, title, interest, or estate in all or any community property, real or personal. Every such transfer shall operate to divest the property therein described of every claim or demand as community property, and shall vest the same in the transferee or transferees as his, her, or their separate property, as the case may be. No such transfer shall affect any equity in favor of creditors existing at the time thereof.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.208.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.209 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.209 Community property; control or disposition; liability of separate property for debts benefiting community interest; satisfaction of debts; personal services.

Sec. 9. (a) In addition to the liability thereof otherwise provided by law, the separate property of the wife shall be liable for debts contracted and liabilities incurred by reason of any transaction entered into or action

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taken by the wife relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community.

(b) In addition to the liability thereof otherwise provided by law, the separate property of the husband shall be liable for debts contracted and liabilities incurred by reason of any transaction entered into or action taken by the husband relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community.

(c) The community property (1) shall be liable for debts contracted and liabilities incurred by the husband or by the wife or by both in any transaction entered into or action taken by the husband or the wife or both relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property or furthering the interests of the community, and (2) shall also be liable for debts otherwise contracted by the husband and liabilities otherwise incurred by or imposed upon him. With respect to the liability of community property for such debts and liabilities, no distinction shall be made between community property subject to the management and control of the wife and community property subject to the management and control of the husband.

(d) As between the husband and wife, the community property shall be first resorted to for the satisfaction of the debts and liabilities referred to in subdivision (1) of paragraph (c) of this section and the separate property of the husband shall be first resorted to for the satisfaction of the debts and liabilities referred to in subdivision (2) of said paragraph (c), but in the event that community property is applied to the satisfaction of the debts and liabilities referred to in said subdivision (2), the amount which has been so applied shall be chargeable solely against the interest of the husband therein and upon any division of the community property by reason of death, divorce, or other termination of the community, the respective interests of the husband and the wife in the community property shall be adjusted accordingly.

(e) The earnings of the wife for personal services, whether prior or subsequent to the inception of the community, shall be liable for all debts contracted and liabilities incurred by the wife prior to the inception of the community.

(f) The earnings of the husband for personal services, whether prior or subsequent to the inception of the community, shall be liable for all debts contracted and liabilities incurred by the husband prior to the inception of the community.

(g) As between the husband and wife, the separate property shall be first resorted to for the satisfaction of the debts and liabilities referred to in paragraphs (e) and (f) of this section.

(h) For the purposes of paragraphs (e) and (f) of this section, the inception of the community shall be the date of marriage or the effective date of this act, whichever is later.

(i) Nothing in this section shall be deemed to affect or modify the obligation of the husband to support his wife and family and to discharge all debts contracted by the wife for necessaries for herself and family during marriage: Provided, however, That if and whenever there is community property available for such purpose the husband shall be entitled to resort first to such community property.

(j) Nothing in this section shall be deemed to prevent the wife or the husband from mortgaging, pledging, or otherwise encumbering her, his, or their separate property or to prevent the wife and the husband from joining in a mortgage, pledge, or other encumbrance of community property as security for any indebtedness whether of the wife or of the husband or both.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.209.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.210 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.210 Exemptions; homestead, encumbrance or disposition.

Sec. 10. Nothing in this act shall be deemed to affect or modify the exemptions to which the husband and the wife, or either of them, are entitled by law. The homestead, whether it is separate property or community property, shall not be disposed of or encumbered except as provided by law prior to the enactment of this act.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.210.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.211 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.211 Incapacity of husband or wife; substitution of other spouse; petition; hearing; decree; recording copy; jurisdiction of probate code.

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Sec. 11. (a) Whenever the husband or the wife is non compos mentis, or has been convicted of a felony and imprisoned for a period of more than 1 year, or whenever the husband or the wife has deserted the other spouse, or whenever the husband or the wife is an habitual drunkard, or for any other reason is incapacitated or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, the other spouse may present a petition, duly verified, to the circuit court of the county in which the petitioner resides or, if a non-resident of this state, of the county wherein any of the community property is located. The petition shall state the name of the defendant spouse, a summary of all community property, so far as known, and the facts which render the defendant spouse incapable or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, and shall pray that the spouse filing the petition be substituted for the defendant spouse, as to the right to receive, manage, control, dispose of, and otherwise deal with all or any designated portion or portions of the community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse.

(b) In all such cases service of process shall be had as in equity proceedings: Provided, however, That where it is alleged that the other spouse is non compos mentis, his guardian shall represent him or a guardian ad litem shall be appointed having such powers as in other civil actions.

(c) Upon the hearing of the petition, the court shall enter a decree either dismissing said petition or adjudging the spouse filing the same to have such power to receive, manage, control and dispose of, and deal with all or any designated portion or portions of community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse, and containing such other provisions, which as to the court may appear to be just, proper, equitable, and to the best interests of the community.

(d) In case of any change in conditions after the entry of a decree pursuant to this section, either spouse may, by petition duly verified setting forth such change in conditions, apply to the court having jurisdiction thereof for the entry of a decree modifying or rescinding such decree. In such case notice to the other spouse shall be given in such manner as the court may direct. Upon the hearing of such petition the court shall enter a decree either denying such petition or modifying or rescinding the decree, as to the court may appear to be just, proper, equitable, and to the best interests of the community.

(e) A certified copy of such decree shall be recorded in the office of the register of deeds for the county where the decree was entered and for the county where any of the community property is then located and such recording shall constitute notice to all parties of the facts contained in such decree as to all property located in any such county.

(f) Whenever a probate court under the provisions of Act No. 288 of the Public Acts of 1939, as amended, has jurisdiction with respect to a spouse who is mentally incompetent, an habitual drunkard, or otherwise incompetent, such court shall have jurisdiction concurrent with that herein provided for the circuit court with respect to proceedings under the provisions of this section.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.211.

Compiler's note: For provisions of Act 288 of 1939, referred to in this section, see MCL 701.1 et seq.
This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.212 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.212 Community property; rights of husband or wife on divorce or separation.

Sec. 12. In the event of a divorce from the bond of matrimony or from bed and board by decree of any court of competent jurisdiction, community property shall be divided between the parties by the court granting the decree, in such proportions and in such manner as such court, from the facts in the case, shall deem just, proper, and equitable. The respective interests of the parties in any community property which is not divided by such decree shall thereafter be deemed to be those of tenants in common.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.212.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.213 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.213 Community property; disposition upon death of either husband or wife; administration of estate; procedure.

Sec. 13. (a) Upon the death of the husband or the wife, 1/2 of the community property shall continue to belong to the surviving spouse and the other 1/2 shall pass in accordance with testamentary disposition by the

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deceased spouse, or, in the absence of testamentary disposition, then to the heirs at law and distributees of the deceased spouse in the manner provided by law, subject to the following provisions of this section.

(b) The executor of the will or the administrator of the estate of the deceased spouse shall administer all of the community property which stands in the name of the deceased spouse, including the interests therein of the surviving spouse and of the deceased spouse, as well as the separate property of the deceased spouse. Such executor or administrator shall have the same rights, powers, and duties with respect to the administration and disposition of such community property, real and personal, as with respect to the separate property of the deceased spouse. All of the provisions of Act No. 288 of the Public Acts of 1939, as amended, with respect to the administration and disposition of property, real and personal, included in estates, shall be applicable with respect to such community property as well as with respect to such separate property. The probate court having jurisdiction of the estate of the deceased spouse shall determine whether and to what extent property being so administered constitutes separate property of the deceased spouse or community property and shall also determine whether and to what extent property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship, constitutes separate property of the survivor or community property. Such determination shall be made upon application of the executor or administrator, the surviving spouse, or any other interested person, after such notice to the surviving spouse and any other interested person as the court may direct, and, in addition thereto, in any case where creditors of the estate have not yet been determined, notice shall be given as provided for in Act No. 288 of the Public Acts of 1939, as amended. Upon the making of such determination, the court shall enter an order in accordance therewith, including such directions to the executor or administrator and to the surviving spouse as to the execution and delivery of any conveyances, transfers, waivers, or releases as shall be appropriate to carry out the terms thereof, so that all property which constitutes community property shall be subject to administration by the executor or administrator and that which constitutes separate property of the surviving spouse shall be free from such administration, and all of the provisions of Act No. 288 of the Public Acts of 1939, as amended, which are applicable with respect to community property standing in the name of the deceased spouse, as hereinbefore provided, shall likewise be applicable with respect to all community property so subjected to administration by such executor or administrator.

(c) In the order for and at the time of the determination of claims, such court shall also determine whether and to what extent claims and administration expenses are payable out of community property or out of separate property of the deceased spouse and those payable out of community property shall be charged equally against the half of the community property which belongs to the survivor and the half which passes in accordance with testamentary disposition of or to the heirs and distributees of the deceased spouse. No estate, inheritance, succession, or similar taxes payable by reason of the transfer upon the death of the deceased spouse of the interest of such spouse in community property shall be charged against the half of the community property which belongs to the surviving spouse.

(d) When all claims and administration expenses for which the community property is liable have been fully satisfied, or appropriate provision has been made for their satisfaction, the court shall enter an order directing the executor or administrator to execute and deliver such instruments as shall be appropriate to transfer and convey 1/2 of the remainder of the community property to the surviving spouse and thereafter the interest of the surviving spouse in such property shall be that of a tenant in common. The probate court shall have authority to conduct any further hearing and to make any further determination which shall be incidental or necessary to carrying out the provisions of this act.

(e) Notwithstanding any other provision of this act, any other person may rely, and shall be fully protected in so doing, upon the right of the surviving spouse to receive, manage, control, dispose of, or otherwise deal with property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.213.

Compiler's note: For provisions of Act 288 of 1939, referred to in this section, see MCL 701.1 et seq.
This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.214 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.214 Community property; curtesy or dower; dower of wife in separate property of husband.

Sec. 14. No right of curtesy or of dower shall be allowed in community property, but this act shall in no

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way affect the wife's right to dower in her husband's separate property.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.214.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.215 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.215 Applicability of act.

Sec. 15. This act shall apply to personal property, wherever situated, acquired by a husband or wife while domiciled in this state and shall apply to the real property situated in this state of a husband or wife while domiciled therein. This act shall not apply to any property, wherever situated, acquired by a husband or wife while not domiciled in this state.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.215.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.216 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.216 Life insurance proceeds; payment by insurer; discharge; effect of notice by person claiming interest in policy or payment.

Sec. 16. Notwithstanding the provisions of this act, when the proceeds of, or payments under a policy or contract issued by a life insurance company become payable and the company makes payment thereof in accordance with the terms thereof, or in accordance with the terms of any written assignment thereof, if the policy or contract has been assigned, such payment shall fully discharge the company from all claims under such policy or contract unless, before such payment is made, the company has received, at its home office, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.216.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.217 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.217 Effect of act.

Sec. 17. This act shall not be construed to operate retroactively and any right established or accrued and any action taken prior to the effective date of this act shall be governed by the law in force at the time such right was established or accrued or such action was taken.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.217.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.218 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.218 Michigan community property act; short title.

Sec. 18. This act and all amendments thereto shall be known and may be cited as the “Michigan community property act.”

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.218.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.219 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.219 Effective date of act.

Sec. 19. The effective date of this act shall be July 1, 1947.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.219.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

****** 557.220 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

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557.220 Repeal.

Sec. 20. All acts and parts of acts in any wise inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.220.

Compiler's note: This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.

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REPEAL OF COMMUNITY PROPERTY ACT
Act 39 of 1948 (1st Ex. Sess.)

AN ACT to repeal Act No. 317 of the Public Acts of 1947, entitled "An act to provide for the creation of a community estate between husband and wife in real and personal property as defined herein; to prescribe the effect of such community estate; to define and prescribe certain rights and liabilities of parties affected hereby; to eliminate curtesy and dower in such community estate; to preserve the right of dower in the separate property of the husband, and to repeal all acts and parts of acts inconsistent herewith."

History: 1948, 1st Ex. Sess., Act 39, Imd. Eff. May 10, 1948.

The People of the State of Michigan enact:

557.251 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

Compiler's note: The repealed section repealed the community property act, subject to certain saving provisions.

557.252 Repeal of community property act; effect.

Sec. 2. This act shall not impair or affect any right acquired prior to the time this act takes effect, but the same may be enjoyed as fully and to the same extent as if this act had not been passed, under and according to the law in force at the time such right was acquired, except as provided in sections 3 and 4 of this act.

History: 1948, 1st Ex. Sess., Act 39, Imd. Eff. May 10, 1948;—CL 1948, 557.252.

557.253 Repeal of community property act; community property on effective date of repeal, continuance, notice of claim.

Sec. 3. Any property which, at the time this act takes effect, constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall continue to be community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same was acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property shall, upon the expiration of 1 year after the time this act takes effect, be deemed to be the separate property of the husband or the wife, or both, according to the name or names set forth in the conveyance or other instrument of title under which such property was acquired or other evidence of ownership thereof, unless, within such 1 year period, either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property.

Such notice of claim, to be effective, shall be in writing, shall contain a description of each item of property to which the same relates, shall be executed by the party making the same in the manner required for the execution of deeds and shall be filed in the office of the register of deeds for the county in which the spouse by whom, or in whose behalf, the same is made resides at the time of the filing thereof, or, in the event that such spouse shall have died, for the county in which such spouse resided at the time of death. In the event that such notice of claim relates to real property located in any other county or counties, to be effective as to such property, a duplicate original of such notice of claim shall also be filed in the office of the register of deeds for each such county.

No disability of any kind or lack of knowledge on the part of anyone shall suspend the running of the time for filing such notice of claim, but such notice may be executed and filed by any other person acting in behalf of any party by whom such notice of claim may be filed who is under a disability or otherwise unable to make such claim in his or her own behalf.

History: 1948, 1st Ex. Sess., Act 39, Imd. Eff. May 10, 1948;—CL 1948, 557.253.

557.254 Repeal of community property act; community property thereafter derived, continuance, notice of claim.

Sec. 4. Any property hereafter derived from property which constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall constitute community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same is acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property acquired within 1 year after the time this act takes effect shall be deemed to be separate property of the husband or the wife, or both, according to the name or names set forth in the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof, unless

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within such 1 year period either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property: And provided further, That any such property acquired after the expiration of such 1 year period shall be deemed to be separate property, as aforesaid, unless the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof shall expressly state the intention that such property shall constitute community property. All of the provisions of section 3 of this act with respect to any notice of claim pursuant thereto shall be applicable with respect to any notice of claim under the provisions of this section.

History: 1948, 1st Ex. Sess., Act 39, Imd. Eff. May 10, 1948;—CL 1948, 557.254.

557.255 Reliance on acts of husband or wife.

Sec. 5. Notwithstanding any provision of Act No. 317 of the Public Acts of 1947 or any other provision of this act, any other person may rely, and shall be fully protected in so doing, upon the right of the husband or the wife to receive, manage, control, dispose of, or otherwise deal with property standing in his or her name in such manner that, by law, but for the provisions of said acts, he or she would be entitled so to deal therewith.

History: 1948, 1st Ex. Sess., Act 39, Imd. Eff. May 10, 1948;—CL 1948, 557.255.

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UNIFORM DISPOSITION OF COMMUNITY PROPERTY RIGHTS AT DEATH ACT
Act 289 of 1975

AN ACT to make uniform the law with respect to disposition of certain property at death.

History: 1975, Act 289, Eff. Mar. 31, 1976.

The People of the State of Michigan enact:

557.261 Short title.

Sec. 1. This act shall be known and may be cited as the "Uniform disposition of community property rights at death act".

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.262 Property to which act applies.

Sec. 2. This act applies to the disposition at death of the following property acquired by a married person:

(a) Personal property, wherever situated which was acquired as or became, and remained, community property under the laws of another jurisdiction; all or the proportionate part of that property acquired with the rents, issues, or income of, or the proceeds from, or in exchange for, that community property; or traceable to that community property.

(b) All or the proportionate part of any real property situated in this state which was acquired with the rents, issues, or income of, the proceeds from, or in exchange for, property acquired as or which became, and remained, community property under the laws of another jurisdiction, or property traceable to that community property.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.263 Rebuttable presumptions.

Sec. 3. In determining whether this act applies to specific property all of the following rebuttable presumptions apply:

(a) Property acquired during marriage by a spouse of that marriage while domiciled in a jurisdiction under whose laws property could then be acquired as community property is presumed to have been acquired as or to have become, and remained, property to which this act applies.

(b) Real property situated in this state and personal property wherever situated acquired by a married person while domiciled in a jurisdiction under whose laws property could not then be acquired as community property, title to which was taken in a form which created rights of survivorship, is presumed not to be property to which this act applies.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.264 Disposition of property upon death of married person.

Sec. 4. Upon death of a married person, 1/2 of the property to which this act applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent, or distribution under the laws of succession of this state. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this state. With respect to property to which this act applies, the 1/2 of the property which is the property of the decendent is not subject to the surviving spouse's right to elect against the will and an estate of dower does not exist in the property of the decedent.

History: 1975, Act 289, Eff. Mar. 31, 1976.

Compiler's note: In the last sentence of this section, "decendent" evidently should read "decedent."

557.265 Perfecting title of surviving spouse if title held by decedent at time of death; duty of personal representative or court.

Sec. 5. If the title to property to which this act applies was held by the decedent at the time of death, title of the surviving spouse may be perfected by an order of the court or by execution of an instrument by the personal representative or the heirs or devisees of the decedent with the approval of the court. Neither the personal representative nor the court in which the decedent's estate is being administered has a duty to discover or attempt to discover whether property held by the decedent is property to which this act applies, unless a written demand is made by the surviving spouse or the spouse's successor in interest.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.266 Action to perfect title held by surviving spouse at time of decedent's death; duty of

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personal representative.

Sec. 6. If the title to property to which this act applies is held by the surviving spouse at the time of the decedent's death, the personal representative of an heir or devisee of the decedent may institute an action to perfect title to the property. The personal representative does not have a fiduciary duty to discover or attempt to discover whether property held by the surviving spouse is property to which this act applies, unless a written demand is made by an heir, devisee, or creditor of the decedent.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.267 Purchaser for value; lender taking security interest in property.

Sec. 7. (1) If a surviving spouse has apparent title to property to which this act applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.

(2) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this act applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the surviving spouse.

(3) A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly.

(4) The proceeds of a sale or creation of a security interest shall be treated in the same manner as the property transferred to the purchaser for value or a lender.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.268 Rights of creditors.

Sec. 8. This act does not affect rights of creditors with respect to property to which this act applies.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.269 Married persons not prevented from severing or altering interests in property.

Sec. 9. This act does not prevent married persons from severing or altering their interests in property to which this act applies.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.270 Disposition of property by will.

Sec. 10. This act does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

History: 1975, Act 289, Eff. Mar. 31, 1976.

557.271 Application and construction of act.

Sec. 11. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

History: 1975, Act 289, Eff. Mar. 31, 1976.

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