

HOUSE BILL NO. 5216

July 01, 2021, Introduced by Reps. Young and Rabhi and referred to the Committee on Government Operations.

A bill to amend 1909 PA 259, entitled

"An act to provide that judgments of divorce and judgments of separate maintenance shall make provision in satisfaction of the claims of the wife in the property of the husband and in satisfaction of the claims of the husband and wife in contracts of insurance and annuity upon the life of the husband or wife, and in satisfaction of claims of the husband and wife in or to any pension, annuity, retirement allowance, or accumulated contributions in any pension, annuity, or retirement system, including any rights or contingent rights in and to unvested pension, annuity, or retirement benefits; and to change the tenure of lands owned by husband and wife in case of divorce, and to provide for the disposition or partition of such lands or the

proceeds thereof,"

by amending sections 1 and 2 (MCL 552.101 and 552.102), section 1 as amended by 2016 PA 378.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~Each~~**A** judgment of divorce or judgment of separate
2 maintenance ~~shall~~**must** determine all rights of ~~the wife~~**a spouse** in
3 and to the proceeds of any policy or contract of life insurance,
4 endowment, or annuity ~~upon~~**on** the life of ~~the husband~~**his or her**
5 **spouse** in which the ~~wife~~**spouse** was named or designated as
6 beneficiary, or to which the ~~wife~~**spouse** became entitled by
7 assignment or change of beneficiary during the marriage or in
8 anticipation of marriage. If the judgment of divorce or judgment of
9 separate maintenance does not determine the rights of the ~~wife~~
10 **spouse** in and to a policy of life insurance, endowment, or annuity,
11 the policy ~~shall be~~**is** payable to the estate of ~~the husband~~**his or**
12 **her spouse** or to the named beneficiary if ~~the husband~~**his or her**
13 **spouse** so designates. The company issuing the policy is discharged
14 of all liability on the policy by payment of its proceeds in
15 accordance with the terms of the policy unless before the payment
16 the company receives written notice, by or on behalf of the insured
17 or the estate of the insured, 1 of the heirs of the insured, or any
18 other person having an interest in the policy, of a claim under the
19 policy and the divorce.

20 ~~(2) Each judgment of divorce or judgment of separate~~
21 ~~maintenance shall determine all rights of the husband in and to the~~
22 ~~proceeds of any policy or contract of life insurance, endowment, or~~
23 ~~annuity upon the life of the wife in which the husband was named or~~
24 ~~designated as beneficiary, or to which he became entitled by~~
25 ~~assignment or change of beneficiary during the marriage or in~~

1 ~~anticipation of marriage. If the judgment of divorce or judgment of~~
 2 ~~separate maintenance does not determine the rights of the husband~~
 3 ~~in and to the policy of life insurance, endowment, or annuity, the~~
 4 ~~policy shall be payable to the estate of the wife, or to the named~~
 5 ~~beneficiary if the wife so designates. The company issuing the~~
 6 ~~policy is discharged of all liability on the policy by payment of~~
 7 ~~the proceeds in accordance with the terms of the policy unless~~
 8 ~~before the payment the company receives written notice, by or on~~
 9 ~~behalf of the insured or the estate of the insured, 1 of the heirs~~
 10 ~~of the insured, or any other person having an interest in the~~
 11 ~~policy, of a claim under the policy and the divorce.~~

12 (2) ~~(3)~~—Each judgment of divorce or judgment of separate
 13 maintenance shall determine all rights, including any contingent
 14 rights, of the ~~husband and wife~~ **spouses** in and to all of the
 15 following:

16 (a) Any vested pension, annuity, or retirement benefits.

17 (b) Any accumulated contributions in any pension, annuity, or
 18 retirement system.

19 (c) In accordance with section 18 of 1846 RS 84, MCL 552.18,
 20 any unvested pension, annuity, or retirement benefits.

21 (3) ~~(4)~~—For any divorce or separate maintenance action filed
 22 on or after September 1, 2006, if a judgment of divorce or judgment
 23 of separate maintenance provides for the assignment of any rights
 24 in and to any pension, annuity, or retirement benefits, a
 25 proportionate share of all components of the pension, annuity, or
 26 retirement benefits ~~shall~~ **must** be included in the assignment unless
 27 the judgment of divorce or judgment of separate maintenance
 28 expressly excludes 1 or more components. Components include, but
 29 are not limited to, supplements, subsidies, early retirement

1 benefits, postretirement benefit increases, surviving spouse
2 benefits, and death benefits. This subsection applies regardless of
3 the characterization of the pension, annuity, or retirement benefit
4 as regular retirement, early retirement, disability retirement,
5 death benefit, or any other characterization or classification,
6 unless the judgment of divorce or judgment of separate maintenance
7 expressly excludes a particular characterization or classification.

8 Sec. 2. ~~Every husband and wife owning~~ **On being divorced,**
9 **spouses who own** real estate as joint tenants or as tenants by
10 entiresities ~~shall, upon being divorced,~~ become tenants in common of
11 ~~such~~ **the** real estate, unless the ownership ~~thereof~~ **of the real**
12 **estate** is otherwise determined by the ~~decree~~ **judgment** of divorce.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Joint Resolution ____ or House Joint Resolution ____
15 (request no. 02344'21) of the 101st Legislature becomes a part of
16 the state constitution of 1963 as provided in section 1 of article
17 XII of the state constitution of 1963.