

Committee on Judiciary

CS/HB 923 — Wills and Estates

by Civil Justice Subcommittee and Reps. Fabricio, Robinson, W., and others (CS/SB 1064 by Banking and Insurance Committee and Senator Powell)

The bill provides and clarifies procedures to resolve probate disputes regarding property owned by spouses in this state but acquired while the spouses lived in one of the nine community property states.

In a community property state, property acquired during a marriage is presumed to be owned 50/50 by the spouses regardless of how it may be titled. Once the spouses move to this state, state law provides that community property generally retains its status as community property. In 1992, the Legislature adopted the Florida Uniform Disposition of Community Property Rights at Death Act, to provide guidance for preserving the rights of a surviving spouse in any such community property upon a spouse's death if probate is opened in this state.

Nothing in the Act requires a surviving spouse to make a probate creditor claim to preserve his or her community property rights. However, a recent court case held that probate creditor claim procedures apply to title disputes arising under the Act, including the statute of limitations period and the two-year statute of repose applicable to such claims.

To address these issues, the bill amends and repeals various provisions of the Act, and other related provisions of the Florida Probate Code, to:

- Clarify existing law by exempting title disputes arising under the Act from:
- The term “claim” as defined in the Florida Probate Code.
- The limitations and the two-year statute of repose applicable to probate creditor claims under the Florida Probate Code.
- Create a new dispute resolution mechanism and two-year statute of repose specifically designed for title disputes arising under the Act.
- Make targeted and narrowly-focused modifications to the Act and other related provisions of the Florida Probate Code to improve clarity and reduce the risk of unintended forfeitures of the property rights the Act is intended to preserve.

Beginning on January 1, 2025, the bill requires Clerks of the Circuit Courts to record orders admitting wills to probate and orders determining beneficiaries in the official records of their counties. This practice will aid in ensuring that necessary information about deceased individuals is contained in the land records so that proper heirs can be identified in the chain of title, thereby protecting the public interest of certainty in the ownership of real property.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 35-0; House 116-0