

HOUSE BILL NO. 5232

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

A bill to amend 1948 (1st Ex Sess) PA 39, entitled
"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,""

by amending sections 3 and 4 (MCL 557.253 and 557.254).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Any property ~~which, at the time this act takes~~
 2 ~~effect, constitutes that, on May 10, 1948, constituted~~ community
 3 property ~~by virtue because~~ of the provisions of Act No. 317 of the
 4 Public Acts of 1947 shall continue **former 1947 PA 317 continues** to
 5 be community property and ~~remain~~ **remains** subject to the provisions
 6 of ~~said that~~ act, and for ~~such that~~ purpose ~~said that~~ act shall
 7 continue **continues** in force. ~~∴ Provided, That, except where~~
 8 **However, unless** the conveyance or other instrument of title under
 9 which the ~~same~~ **property** was acquired or other evidence of ownership
 10 ~~thereof of the property~~ expressly states the intention that ~~such~~
 11 **the** property shall ~~be~~ **is** community property, ~~any such the~~ property
 12 shall, ~~upon the expiration of 1 year after the time this act takes~~
 13 ~~effect, must, after May 9, 1949,~~ be deemed to be the separate
 14 property of **1 or both of** the ~~husband or the wife, or both,~~ **spouses,**
 15 according to the name or names set forth in the conveyance or other
 16 instrument of title under which ~~such the~~ property was acquired or
 17 other evidence of ownership ~~thereof, of the property,~~ unless,
 18 ~~within such 1 year period, after May 9, 1948 and before May 10,~~
 19 **1949,** either spouse having an interest ~~therein, in the property,~~ or
 20 any of the devisees, legatees, heirs, or distributees of either of
 21 them who ~~shall have~~ **has** died ~~prior to or during the running of such~~
 22 ~~1 year period, shall file before May 10, 1949, files~~ notice of
 23 claim that ~~such the~~ property constitutes community property.

24 (2) ~~Such A~~ notice of claim **under this section,** to be
 25 effective, ~~shall must~~ be in writing, ~~shall~~ contain a description of
 26 each item of property to which the ~~same~~ **notice** relates, ~~shall be~~
 27 executed by the party making the ~~same~~ **claim** in the manner required
 28 for the execution of deeds, and ~~shall be~~ filed in the office of the
 29 register of deeds for the county in which the spouse by whom, or in

1 whose behalf, the ~~same~~-**claim** is made resides at the time of the
 2 filing thereof, or, in the event that such ~~if the~~ spouse ~~shall have~~
 3 **has** died, for the county in which ~~such-the~~ spouse resided at the
 4 time of death. In the event that such ~~If the~~ notice of claim
 5 relates to real property located in any other county or counties,
 6 to be effective as to ~~such-that~~ property, a duplicate original of
 7 ~~such-the~~ notice of claim ~~shall-must~~ also be filed in the office of
 8 the register of deeds for each ~~such-other~~ county.

9 (3) ~~No-A~~ disability of any kind or lack of knowledge on the
 10 part of anyone ~~shall~~-**does not** suspend the running of the time for
 11 filing ~~such-a~~ notice of claim **under this section**, but ~~such-the~~
 12 notice may be executed and filed by any other person acting in
 13 behalf of any party by whom ~~such-the~~ notice of claim may be filed
 14 who is under a disability or otherwise unable to make ~~such-the~~
 15 claim in his or her own behalf.

16 Sec. 4. Any property hereafter-derived **after May 10, 1948** from
 17 property ~~which-that~~ constitutes community property by virtue of ~~the~~
 18 ~~provisions of Act No. 317 of the Public Acts of 1947 shall~~
 19 ~~constitute-former 1947 PA 317 constitutes~~ community property and
 20 ~~remain-remains~~ subject to the provisions of ~~said-that~~ act and for
 21 ~~such-that~~ purpose ~~said-that~~ act ~~shall-continue~~-**continues** in force.
 22 ~~:- Provided, That, except where~~ **However, unless** the conveyance or
 23 other instrument of title under which the ~~same~~-**property** is acquired
 24 or other evidence of ownership ~~thereof-of the property~~ expressly
 25 states the intention that ~~such-the~~ property ~~shall-be~~-**is** community
 26 property, any ~~such~~-property acquired ~~within 1 year after the time~~
 27 ~~this act takes effect shall~~ **before May 10, 1949 must** be deemed to
 28 be separate property of **1 or both of** the ~~husband or the wife, or~~
 29 ~~both,~~ **spouses** according to the name or names set forth in the

1 conveyance or other instrument of title under which ~~such-the~~
 2 property is acquired or other evidence of ownership ~~thereof, of the~~
 3 **property**, unless ~~within such 1 year period~~ **after May 9, 1948 and**
 4 **before May 10, 1949**, either spouse having an interest ~~therein, in~~
 5 **the property** or any of the devisees, legatees, heirs, or
 6 distributees of either of them who ~~shall have~~ **has** died ~~prior to or~~
 7 ~~during the running of such 1 year period, shall file~~ **before May 10,**
 8 **1949 files** notice of claim that ~~such-the~~ property constitutes
 9 community property. ~~: And provided further, That any~~ **Any** such
 10 property acquired after ~~the expiration of such 1 year period shall~~
 11 **May 9, 1949 must** be deemed to be separate property, as aforesaid,
 12 **provided in this section**, unless the conveyance or other instrument
 13 of title under which ~~such-the~~ property is acquired or other
 14 evidence of ownership ~~thereof shall of the property~~ expressly ~~state~~
 15 **states** the intention that ~~such-the~~ property ~~shall constitute~~
 16 **constitutes** community property. ~~All of the~~ **The** provisions of
 17 section 3 ~~of this act with respect to any~~ **about a** notice of claim
 18 ~~pursuant thereto shall be applicable with respect~~ **under that**
 19 **section apply** to ~~any-a~~ notice of claim under ~~the provisions of this~~
 20 section.

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