

ENROLLED ACT NO. 70, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2023 GENERAL SESSION

AN ACT relating to wills and probate; specifying the revocation of probate and nonprobate transfers to a spouse upon divorce or annulment; defining terms; specifying the role and use of governing instruments for revocations; repealing existing provisions concerning the revocation of transfers upon divorce or annulment; specifying applicability; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 2-6-125 is created to read:

**2-6-125. Revocation of probate and nonprobate transfers by divorce or annulment; effect; revival; other changes excluded.**

(a) As used in this section:

(i) "Divorce" or "annulment" means any dissolution of marriage through a divorce or annulment that results in the exclusion of the spouse as a surviving spouse for purposes of probate and nonprobate transfers upon death of the spouse. A decree of separation that does not terminate the status of spouses is not a divorce or annulment for purposes of this section;

(ii) "Divorced person" means a person who has divorced from the person's spouse or whose marriage has been annulled;

(iii) "Governing instrument" means an instrument executed by a divorced person before the divorce or annulment of the marriage to the person's former spouse that the divorced person could have revoked or amended;

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(iv) "Relative of the divorced person's former spouse" or "former spouse's relative" means any person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity;

(v) "Revocable" means a disposition, appointment, provision or nomination under which the divorced person, at the time of the divorce or annulment, was alone empowered by law or under the terms of a governing instrument to cancel the designation in favor of the divorced person's former spouse or former spouse's relative regardless of whether the divorced person was then empowered to designate himself in place of his former spouse or former spouse's relative and regardless of whether the divorced person then had the capacity to exercise the power of designation.

(b) Unless the express terms of a governing instrument provide for the disposition to a former spouse after divorce or unless a governing law, court order or contract relating to the division of the marital estate made between two (2) divorced persons before or after the marriage, divorce or annulment states otherwise, the divorce or annulment of a marriage shall immediately:

(i) Revoke any revocable:

(A) Disposition or appointment of property made by a divorced person to the former spouse in a governing instrument;

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(B) Disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(C) Provision in a governing instrument that confers a general or special power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse;

(D) Nomination in a governing instrument that nominates the divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity including a personal representative, executor, trustee, conservator, agent or guardian.

(ii) Sever the interests of the former spouse in property held by the divorced person and the former spouse at the time of the divorce or annulment as joint tenants with the right of survivorship and property held as tenants by the entirety. Property interests of the divorced person and former spouse severed under this paragraph shall become tenancies in common.

(c) A severance of interests under paragraph (b)(ii) of this section shall not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor or in the name of the survivor of the former spouse of the divorced person unless a writing declaring the severance has been noted, registered, filed or recorded prior to the third party gaining an interest in the property in records appropriate to the kind and location of the property that are relied upon in the ordinary course of transactions involving property that are evidence of ownership.

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(d) Upon entry of an order of a divorce or annulment, provisions of a governing instrument shall be given effect as if the former spouse and relatives of the former spouse disclaimed all interests revoked by this section. For nominations in a fiduciary or representative capacity revoked by this section, provisions of a governing instrument shall be given effect as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

(e) Provisions that are revoked solely by operation of this section shall be revived upon the divorced person's remarriage to the former spouse unless revival is specifically prohibited by a prenuptial or other written agreement signed by both parties.

(f) No change of circumstances other than as described in this section revokes a will.

(g) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, unless the payor or other third party received reasonable written notice of the divorce, annulment or remarriage. A payor or other third party shall not have a duty or obligation to inquire as to the continued marital relationship between a divorced person and a beneficiary or to seek any evidence with respect to a marital relationship. Nothing in this subsection shall be construed to deprive the rightful owner of any funds, item of property or other benefit from seeking to recover the

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payment, item of property or other benefit from the wrongful recipient of that payment, item of property or other benefit.

**Section 2.** W.S. 2-6-118 is repealed.

**Section 3.** The provisions of this act shall apply to all wills and revocable governing instruments as defined in section 1 of this act that are in effect before, on and after the effective date of this act.

**Section 4.** This act is effective July 1, 2023.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk