

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1229

Session of
1981

INTRODUCED BY HAGARTY AND REBER, APRIL 21, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 23, 1981

AN ACT

1 Amending the act of May 10, 1927 (P.L.884, No.451), entitled, as
2 amended, "An act modifying the common-law rule relating to
3 property hereafter acquired by husband and wife as tenants by
4 entireties, where such husband and wife are subsequently
5 divorced; creating a tenancy in common in such cases;
6 providing for the sale of property held by husband and wife
7 as tenants by entireties where they have been divorced; and
8 directing the distribution of the proceeds of such sale,"
9 further providing for division of proceeds and preventing
10 unjust enrichment and providing for constriction of the act.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 3, act of May 10, 1927 (P.L.884, No.451),
14 entitled, as amended, "An act modifying the common-law rule
15 relating to property hereafter acquired by husband and wife as
16 tenants by entireties, where such husband and wife are
17 subsequently divorced; creating a tenancy in common in such
18 cases; providing for the sale of property held by husband and
19 wife as tenants by entireties where they have been divorced; and
20 directing the distribution of the proceeds of such sale,"
21 amended May 17, 1949 (P.L.1394, No.412) and repealed in part

1 April 28, 1978 (P.L.202, No.53), is amended and sections are
2 added to read:

3 Section 3. The proceeds of any sale had under the provisions
4 of this act, after the payment of the expenses thereof, shall be
5 equally divided between the parties, subject, however, to the
6 [deduction therefrom of the amount of any lien entered of record
7 jointly against both of the respective parties, together with
8 any interest due thereon and docket costs;] provisions of
9 section 3.1 and to the following deductions: (i) the amount of
10 any lien entered of record jointly against both of the
11 respective parties, together with any interest due thereon and
12 docket costs shall be deducted from the proceeds of the sale and
13 shall be paid by the trustee appointed by the court to the <—
14 person or persons to whom the same is due and payable; (ii) and
15 the amount of any liens entered of record against either of such
16 parties, together with interest due and costs taxed thereon,
17 shall be deducted from the share of the party against whom such
18 lien is filed, and paid to the person or persons to whom the
19 same is due and payable: Provided, however, That no decree of
20 divorce as aforesaid shall be effective to change the existing
21 law relating to liens upon property held by tenants by the
22 entreties, except a decree of divorce that is valid in this
23 Commonwealth, and not until the said decree of divorce, or a
24 certified copy thereof, shall be recorded in the office of the
25 recorder of deeds of the county where the property is situate,
26 which decree shall be indexed in the grantor's index against
27 each of the said tenants by the entreties.

28 Section 3.1. (a) If the court finds that an equal division
29 of the proceeds would cause one of the parties to be either
30 unjustly enriched or injured, it shall divide the proceeds so as

1 to eliminate any unjust enrichment or injury that may have
2 resulted from an equal division.

3 (b) For the purpose of this section, an "unjust enrichment
4 or injury" may arise out of, but is not limited to, repair
5 payments, mortgage payments, tax payments, insurance payments,
6 or other items which are necessary for the proper enjoyment of
7 the property.

8 ~~Section 3.2. The provisions of this act shall be construed~~ <—
9 ~~in conjunction with the provisions of Chapter 4 of the act of~~
10 ~~April 2, 1980 (No.26), known as the "Divorce Code." To the~~
11 ~~extent that any conflict exists between the provisions of the~~
12 ~~two acts, the provisions of the "Divorce Code" shall control.~~

13 SECTION 3.2. THIS ACT SHALL NOT APPLY TO ANY DIVISION OR <—
14 DISTRIBUTION OF MARITAL PROPERTY OR TO ANY DISTRIBUTION OF THE
15 PROCEEDS FROM THE SALE OF MARITAL PROPERTY, WHICH IS SUBJECT TO
16 THE PROVISIONS OF THE ACT OF APRIL 2, 1980 (P.L.63, NO.26),
17 KNOWN AS THE "DIVORCE CODE."

18 Section 2. This act shall take effect in 60 days.