
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1229 Session of
1981

INTRODUCED BY HAGARTY AND REBER, APRIL 21, 1981

SENATOR GEKAS, JUDICIARY, IN SENATE, AS AMENDED,
NOVEMBER 15, 1982

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,"

1 amended May 17, 1949 (P.L.1394, No.412) and repealed in part
2 April 28, 1978 (P.L.202, No.53), is amended and sections are
3 added to read:

4 Section 3. The proceeds of any sale had under the provisions
5 of this act, after the payment of the expenses thereof, shall be
6 equally divided between the parties, subject, however, to the
7 [deduction therefrom of the amount of any lien entered of record
8 jointly against both of the respective parties, together with
9 any interest due thereon and docket costs;] provisions of
10 section 3.1 and to the following deductions: (i) the amount of
11 any lien entered of record jointly against both of the
12 respective parties, together with any interest due thereon and
13 docket costs shall be deducted from the proceeds of the sale and
14 shall be paid by the court to the person or persons to whom the
15 same is due and payable; (ii) and the amount of any liens
16 entered of record against either of such parties, together with
17 interest due and costs taxed thereon, shall be deducted from the
18 share of the party against whom such lien is filed, and paid to
19 the person or persons to whom the same is due and payable:

20 Provided, however, That no decree of divorce as aforesaid shall
21 be effective to change the existing law relating to liens upon
22 property held by tenants by the entireties, except a decree of
23 divorce that is valid in this Commonwealth, and not until the
24 said decree of divorce, or a certified copy thereof, shall be
25 recorded in the office of the recorder of deeds of the county
26 where the property is situate, which decree shall be indexed in
27 the grantor's index against each of the said tenants by the
28 entireties.

29 Section 3.1. (a) If the court finds that an equal division
30 of the proceeds would cause one of the parties to be either

1 unjustly enriched or injured, it shall divide the proceeds so as
2 to eliminate any unjust enrichment or injury that may have
3 resulted from an equal division.

4 (b) For the purpose of this section, an "unjust enrichment <—
5 or injury" may arise out of, but is not limited to, repair
6 payments, mortgage payments, tax payments, insurance payments,
7 or other items which are necessary for the proper enjoyment of
8 the property. IN DETERMINING WHETHER A PARTY HAS BEEN UNJUSTLY <—
9 ENRICHED OR INJURED, THE COURT SHALL CONSIDER ALL RELEVANT
10 FACTORS AS SET FORTH IN SECTION 401(D) OF THE ACT OF APRIL 2,
11 1980 (P.L.63, NO.26), KNOWN AS THE "DIVORCE CODE."

12 Section 3.2. This act shall not apply to any division or
13 distribution of marital property or to any distribution of the
14 proceeds from the sale of marital property, which is subject to
15 the provisions of the act of April 2, 1980 (P.L.63, No.26),
16 known as the "Divorce Code." THIS ACT SHALL APPLY ONLY TO CASES <—
17 WHERE DIVORCES OCCUR SUBSEQUENT TO ENACTMENT OF THIS ACT.

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