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1995 SENATE BILL 489

January 16, 1996 – Introduced by Senators Huelsman, Fitzgerald, Rude and Buettner, cosponsored by Representatives Ward, Goetsch, Musser, Cullen, La Fave, Olsen, Hasenohrl, Baldwin, Wilder, Green, F. Lasee and Klusman, by request of Real Property, Probate and Trusts Section of the State Bar of Wisconsin. Referred to Committee on Judiciary.

- 1 AN ACT to renumber and amend 701.27(2) (b); and to create 701.27(2) (b) 2.
- and 3. and 701.27 (6) (d) of the statutes; **relating to:** allowing surviving joint
- 3 tenants to disclaim rights to property.

Analysis by the Legislative Reference Bureau

Under current law, a surviving joint tenant may not disclaim (give up all rights to) property that would pass to that surviving joint tenant because of the death of another joint tenant. This bill provides that a joint tenant may disclaim jointly held property upon the death of another joint tenant, which is consistent with federal law. Any jointly held property that is disclaimed passes as part of the estate of the decreased joint tenant.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- **SECTION 1.** 701.27 (2) (b) of the statutes is renumbered 701.27 (2) (b) 1. and amended to read:
 - 701.27 (2) (b) 1. Upon the death of a joint tenant that occurs on or after the effective date of this subdivision [revisor inserts date], a surviving joint tenant may not disclaim any property or interest in property which is the subject of the joint tenancy, or any portion of any property or interest in property, that would otherwise
- pass to the surviving joint tenant because of the decedent's death.

Section 2. 701.27 (2) (b) 2. and 3. of the statutes are created to read:
701.27 (2) (b) 2. The valuation of any property or interest in property or portion
of property or interest in property that is disclaimed under subd. 1. shall be based
on the value of that property or interest in property that is included in the gross
estate of the decedent for federal estate tax purposes.
3. Any property or interest in property or portion of property or interest in
property that is disclaimed under subd. 1. shall become an asset in the decedent's
probate estate.
Section 3. 701.27 (6) (d) of the statutes is created to read:
701.27 (6) (d) Nonapplicability. This subsection does not apply to a disclaimer
under sub. (2) (b), the effect of which is provided in sub. (2) (b) 3.

(END)