

PROPOSED REVISIONS TO ARTICLE 2—PROBATE CODE

September 18, 2012

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1. All South Carolina citizens have a right to decide who will receive their property at death.
2. All South Carolina citizens have a right to expect that their property will pass as quickly as possible after their death and at the lowest possible cost.
3. All South Carolina citizens have a right to expect the probate court to enforce all laws that apply to their property.
4. All South Carolina citizens have a right to expect the probate court to not incur or pay unreasonable and unnecessary fees to lawyers or personal representatives.
5. All South Carolina citizens have a right to pass their property free of any costs and fees generated by the probate court.

62-2-203: should read, “The right of election of the surviving spouse may be exercised only during his lifetime by him or by his duly appointed attorney in fact, if his power of attorney specifically grants the attorney in fact that specific authority. In the case of a protected person, the right of election may be exercised only by order of the court in which protective proceedings as to this property are pending.

62-2-207: (5) should be deleted.

62-2-207: (6) should be deleted.

62-2-207: (7) should be deleted.

62-2-207: (c)(2) should read, “The value of such qualifying property shall be the value at the date of death as finally determined in the decedent’s estate tax proceedings, or if there is no federal estate tax proceeding, as shown on the inventory and appraisal. The personal representative shall choose assets, in order of abatement pursuant to Section 62-3-902, to satisfy the elective share, using the fair market value at the date of death. The elective share is pecuniary in nature.”

62-2-601: (B) should be deleted. A court should never be allowed to reform the terms of a will.

62-2-801: (d)(4) should be deleted.

62-2-801: (f) should be deleted.

62-2-806: should be deleted.