

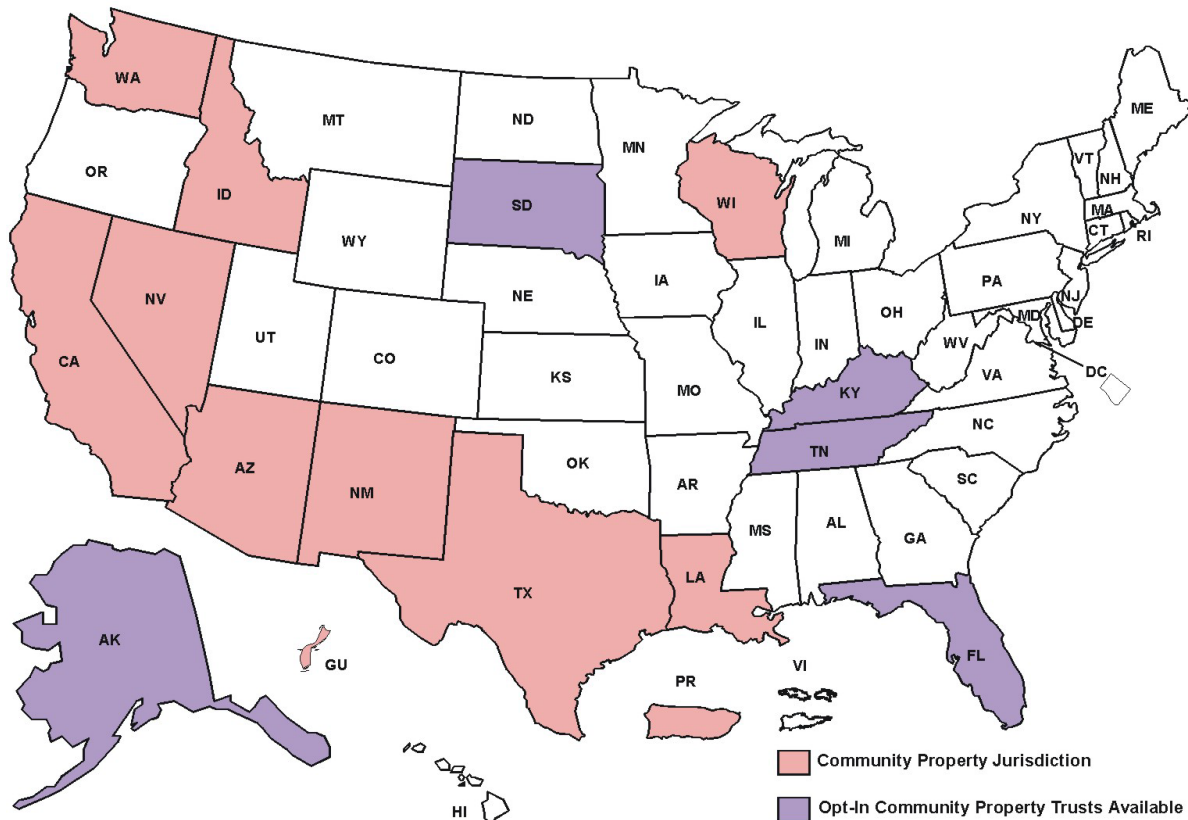


## THE UNIFORM COMMUNITY PROPERTY DISPOSITION AT DEATH ACT

### - A Summary -

The law of marital property in the United States is far from uniform. The majority of jurisdictions use a system of property rights based on English common law, but nine states and two U.S. territories use a system based on civil law instead. In those jurisdictions, a married couple's property is generally presumed to be "community property," unless the couple agrees to a different distribution. At the time of the first spouse's death, 50% of the community property is owned by the surviving spouse and 50% by the deceased spouse's estate. Additionally, a few states have enacted laws that permit couples to opt-in to a community property system by creating a trust.

#### COMMUNITY PROPERTY JURISDICTIONS



As of October 2021

Non-uniform property laws can create problems when a married couple moves to another state. Though the governing law may be different, the nature of the couple's previously acquired property is not changed. It stands to reason that many couples will accumulate both community and non-community property over time, complicating estate administration when the first spouse dies.

The Uniform Community Property Disposition at Death Act (UCPDDA) is appropriate for enactment in ***non-community property states*** (i.e., the states shown in white and purple on the map above) where trustees, judges, and estate administrators may be unfamiliar with the rules governing distribution of community property.

The UCPDDA provides a set of default rules to ensure the equitable distribution of community property when the first spouse dies. It assists courts in determining the character of property when there is a dispute between potential heirs. The act also clarifies the process for partitioning and reclassifying community property for couples who mutually agree to separate their interests, and provides a remedy to address bad-faith transfers intended to impair the property rights of one spouse.

The UCPDDA is an update of a 1971 law that specifically governed the *probate* of estates containing community property. The update was necessary due to the increased popularity of trusts and other vehicles for nonprobate transfers, and also because of the recognition of same-sex marriage throughout the United States. The act is intended for enactment in non-community property states where the legal status of community property may otherwise be unclear.

For more information about the Uniform Community Property Disposition at Death Act, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or [borzeske@uniformlaws.org](mailto:borzeske@uniformlaws.org).