

2 State of Arkansas

3 90th General Assembly

4 Third Extraordinary Session, 2016

# A Bill

DRAFT SRC/SRC

HOUSE BILL

5  
6 By: Representative Hammer

7 By: Senator J. Hutchinson

8 Filed with: Arkansas Legislative Council  
9 pursuant to A.C.A. §10-3-217.

## 10 For An Act To Be Entitled

11 AN ACT TO AMEND THE DEFINITION OF "MARITAL PROPERTY"  
12 FOR PURPOSES OF DIVISION OF PROPERTY IN AN ACTION FOR  
13 DIVORCE; AND FOR OTHER PURPOSES.

### 14 15 16 Subtitle

17 TO AMEND THE DEFINITION OF "MARITAL  
18 PROPERTY" FOR PURPOSES OF DIVISION OF  
19 PROPERTY IN AN ACTION FOR DIVORCE.

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

25 The General Assembly finds and determines that:

26 In light of the recent Supreme Court case Moore v. Moore, 2016  
27 Ark. 105 (2016), and in the context of division of marital property in an  
28 action for divorce, the common law doctrine of "active appreciation"  
29 established by the Supreme Court in Layman v. Layman, 292 Ark. 539, 731  
30 S.W.2d 771 (1987), should be reflected in the law in order to ensure  
31 continuity and reasonable predictability in divorce proceedings.

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33 SECTION 2. Arkansas Code § 9-12-315(a), concerning the division of  
34 property, is amended to add an additional subdivision to read as follows:

35 (5) When a spouse acquires property before the marriage and the  
36 property increases in value during the marriage as a result of time, effort,

1 or skill of a spouse, there shall be a presumption that the appreciated value  
2 of the property that results from the time, effort, or skill of the spouse is  
3 marital property.

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5 SECTION 3. Arkansas Code § 9-12-315(b)(5), concerning the division of  
6 property, is amended to read as follows:

7 (5)(A) The increase in value of property acquired prior to  
8 marriage or by gift or by reason of the death of another, including, but not  
9 limited to, life insurance proceeds, payments made under a deferred  
10 compensation plan, or an individual retirement account, and property acquired  
11 by right of survivorship, by a trust distribution, by bequest or inheritance,  
12 or by a payable on death or a transfer on death arrangement, or in exchange  
13 therefor;

14 (B) However, when the increase in the value of the  
15 property in subdivision (b)(5)(A) of this section resulted from the time,  
16 effort, or skill of a spouse, there shall be a presumption that the  
17 appreciated value of the property that results from the time, effort, or  
18 skill of the spouse is marital property.

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21 Referral requested by: Representative Kim Hammer

22 Prepared by: SRC  
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