



UNDERWRITING BULLETIN

To: Florida Agents and WFG employees

From: Underwriting Department

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Name: Intestate Share of Surviving Spouse

Beginning October 1, 2011, Ch. 2011-183 amends Sec. 732.102(2), F.S. to increase a surviving spouse's share of an intestate estate from 50% of the estate to 100% under certain circumstances.

A. Under present law if the decedent is survived by lineal descendants, who are all lineal descendants of the surviving spouse, then the surviving spouse receives the first \$60,000 in property of the estate, plus one-half of the remaining balance of the estate subject to distribution. **Effective October 1, 2011, this surviving spouse receives 100% of the estate.**

Example: A wife dies survived by her husband and three children who were the children of their marriage. Neither the wife nor the husband had other children. Under the new law the husband would inherit 100% of the estate rather than the first \$60,000 and one-half of the remaining estate.

B. The new law also creates Sec. 732.102(4), F.S. This change provides that if the surviving spouse has descendants that are also descendants of the decedent, but the surviving spouse also has a descendant not related to the decedent, then the surviving spouse's intestate share is one-half of the estate. The lineal descendants of the decedent would inherit the remaining one-half of the estate.

Example: A wife dies survived by her husband and three children who were the children of their marriage. The husband also has children from another relationship. The husband would inherit one-half of the estate. The lineal descendants of the wife would inherit the remaining one-half of the estate.

The other two provisions of the Probate Code pertaining to the intestate share of the surviving spouse remain unchanged. These two provisions remain:

C. If there are no surviving lineal descendants of the decedent, then the surviving spouse receives the entire intestate estate.

D. If the decedent is also survived by lineal descendants that are not descendants of the surviving spouse then the surviving spouse receives one-half of the estate.

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