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TEXAS COMMUNITY PROPERTY

Texas is a community property state. That means that for a married couple, anything acquired during the marriage belongs to both spouses equally—property, salary, cars, returns on investments, pets, furniture, everything.

It also means that any debts incurred during the marriage belong to both spouses equally.

There are exceptions, however!

If you owned something prior to marriage, it remains your separate property.

If you inherit something during marriage, it is your separate property.

If someone gives you a gift during marriage, it is your separate property.

If you owned property prior to marriage from which you receive royalties, such as an oil lease, the income from those royalties remains your separate property.

If you sell your separate property during marriage, the income from the sale is your separate property.

You CANNOT have community property unless you are LEGALLY MARRIED.

When a marriage ends, the court will divide your community property as the judge determines is “just and right.” You may get a 50-50 split, but you could just as easily get an uneven division.

The court CANNOT take your separate property and give it to your ex-spouse. However, if your ex-spouse contributed financially to your separate property (by helping to pay down the mortgage, for example), the court can require you to reimburse him/her.

When a marriage ends, the law presumes that everything you own is community property. If you have separate property, you must be able to PROVE that it is separate property. If your spouse will agree that it is your separate property, the courts will generally go along with that. Otherwise, you must be able to trace the property back to when you first acquired it and show that it was acquired either prior to marriage, or during marriage through the use of separate funds or by gift or inheritance.

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