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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO DOMESTIC RELATIONS - DIVORCE AND SEPARATION

Introduced By: Representative John G. Edwards

Date Introduced: February 26, 2015

Referred To: House Judiciary

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-5-16.1 of the General Laws in Chapter 15-5 entitled "Divorce
2 and Separation" is hereby amended to read as follows:

3 **15-5-16.1. Assignment of property.** -- (a) In addition to or in lieu of an order to pay
4 spousal support made pursuant to a complaint for divorce, the court may assign to either the
5 husband or wife a portion of the estate of the other. In determining the nature and value of the
6 property, if any, to be assigned, the court after hearing the witnesses, if any, of each party shall
7 consider the following:

- 8 (1) The length of the marriage;
- 9 (2) The conduct of the parties during the marriage;
- 10 (3) The contribution of each of the parties during the marriage in the acquisition,
11 preservation, or appreciation in value of their respective estates;
- 12 (4) The contribution and services of either party as a homemaker;
- 13 (5) The health and age of the parties;
- 14 (6) The amount and sources of income of each of the parties;
- 15 (7) The occupation and employability of each of the parties;
- 16 (8) The opportunity of each party for future acquisition of capital assets and income;
- 17 (9) The contribution by one party to the education, training, licensure, business, or
18 increased earning power of the other;
- 19 (10) The need of the custodial parent to occupy or own the marital residence and to use

1 or own its household effects taking into account the best interests of the children of the marriage;

2 (11) Either party's wasteful dissipation of assets or any transfer or encumbrance of assets
3 made in contemplation of divorce without fair consideration; and

4 (12) Any factor which the court shall expressly find to be just and proper.

5 (b) The court may not assign property or an interest in property held in the name of one
6 of the parties if the property was held by the party prior to the marriage, but may assign income
7 which has been derived from the property during the term of the marriage, and the court may
8 assign the appreciation of value from the date of the marriage of property or an interest in
9 property which was held in the name of one party prior to the marriage which increased in value
10 as a result of the efforts of either spouse during the marriage. The court also shall not assign
11 property or an interest in property which has been transferred to one of the parties by inheritance
12 before, during, or after the term of the marriage. The court shall not assign property or an interest
13 in property which has been transferred to one of the parties by gift from a third party before,
14 during, or after the term of the marriage.

15 (c) The assignment of property, if any, to be made shall precede the award of alimony,
16 since the needs of each party will be affected by the assignment of property, and once made in a
17 final decree shall be final, subject only to any right of appeal which the parties may have. Any
18 assignment made by the family court shall be regarded as a judgment for debt so that suit may be
19 brought or execution may issue on the debt for the property due and undelivered, or the amount
20 due and unpaid to be shown by affidavits of the person entitled to the property and the attorney of
21 record of the person, the executions to run against the goods and chattels of the husband and wife,
22 as the case may be; and the court may make all necessary orders and decrees concerning the suits
23 or executions.

24 (d) The court shall also have concurrent jurisdiction with the superior court to review
25 property settlement agreements. Upon a prima facie showing by one of the parties in their
26 petition, that substantial changes in law regarding pensions only, have resulted in an unfair or
27 inequitable assignment of said pension to either of the parties at the time of the approval of the
28 property settlement agreement by the court. After a hearing thereon, the court may modify or
29 make any changes to said pension assignment which are fair and equitable to either or both
30 parties. A petition to review shall be filed within a reasonable time after the moving party has
31 knowledge of a substantial change in law which has unfairly or inequitably affected the value of
32 the pension. This provision shall apply only, to federal, state, and local pensions.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO DOMESTIC RELATIONS - DIVORCE AND SEPARATION

- 1 This act allows the family court to review property settlement agreements as they apply
- 2 to pensions and assignments thereof, once there has been a prima facie showing that a substantial
- 3 change in law has made the said assignment unfair or inequitable to the moving party.
- 4 This act would take effect upon passage.

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