

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in elective share of
3 surviving spouse, further providing for determination of
4 effect of election and enforcement.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 2211(b) of Title 20 of the Pennsylvania
8 Consolidated Statutes is amended by adding a paragraph to read:
9 § 2211. Determination of effect of election; enforcement.

10 * * *

11 (b) Effect of election.--In exercising its powers under
12 subsection (a), the court shall honor any provision in the
13 decedent's will or other conveyance concerning interests of
14 those other than his spouse in the event of an election. Subject
15 to any such provision, the court shall be guided by the
16 following rules but shall have the power to supplement or to
17 depart from them if, in its opinion, a different determination
18 of the rights of the spouse and others would more nearly carry

1 out what would have been the particular decedent's intention had
2 he known of the election:

3 * * *

4 (5) Share to surviving spouse.--Notwithstanding any
5 other provision of this chapter to the contrary, the
6 following shall apply if a surviving spouse elects to take an
7 elective share and it is subsequently determined that the
8 value of the elective share is not equal to or greater than
9 the value of the share of the estate that the surviving
10 spouse would receive in the absence of the election:

11 (i) The surviving spouse shall automatically receive
12 the value of that larger share of the estate.

13 (ii) The court shall, to the extent practicable,
14 require:

15 (A) any payments or distributions of property
16 subject to the election to be returned or otherwise
17 accounted for in the redistribution of the assets of
18 the estate; and

19 (B) contributions from beneficiaries as a result
20 of the increased share of the estate to be paid or
21 distributed to the surviving spouse.

22 (iii) This paragraph shall not apply if the
23 surviving spouse knowingly opts to retain the elective
24 share even though the value of the elective share is less
25 than the value of the share of the estate that the
26 surviving spouse would receive in the absence of the
27 election.

28 * * *

29 Section 2. This act shall apply to the estates of decedents
30 who die on or after the effective date of this section.

1 Section 3. This act shall take effect in 60 days.