

**328.48 ATTACHMENT OF LIEN.**

The lien of the original registration fee ~~shall attach~~ attaches at the time ~~the same~~ it is first payable as provided by law and the lien of all renewals of registration ~~shall attach on July 1, the first day of each registration year thereafter.~~

Sec. 11. Section 328.50, Code 1987, is amended to read as follows:

**328.50 PENALTY ON DELINQUENT REGISTRATION.**

~~On August 1 of each year the first day of the second month following the end of an aircraft registration period, a penalty of five percent of the annual registration fee shall be added to all fees a fee not paid by that date, and five percent of the annual registration fee shall be added to such fees the fee on the first day of each following month thereafter, that the same fee remains unpaid until paid, provided that said; however, the penalty in no case shall not be less than one dollar.~~

**Sec. 12. NEW SECTION. 328.56A STAGGERED REGISTRATION – IMPLEMENTATION.**

To implement the change from fiscal year registration to the registration system provided for in this chapter, aircraft registered after July 1, 1988, shall be registered as follows:

1. Aircraft shall be registered for the registration year as defined in this chapter. If the registration period is for a period of less than twelve months, the registration fee shall be prorated for the remaining unexpired months, except as provided in subsection 2.

2. The owner of an aircraft for which the registration year begins on August 1 may elect to register the aircraft for a period of one month or thirteen months. The owner of an aircraft for which the registration year begins on September 1 may elect to register the aircraft for a period of two months or fourteen months. The owner of an aircraft for which the registration year begins on October 1 may elect to register the aircraft for a period of three months or fifteen months.

Sec. 13. Section 328.23, Code 1987, is repealed.

Approved April 12, 1988

---

**CHAPTER 1064****INHERITANCE LAWS***H.F. 2123*

**AN ACT** relating to the inheritance laws by providing for the power of a surviving spouse's conservator to elect to take or refuse to take under a will or to elect to occupy the homestead, eliminating the time requirement when the share of a surviving spouse may be set off by referees when the spouse elects to take against the will, and providing for a share of an estate of a child born or adopted after execution of a testator's last will.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 633.236, Code 1987, is amended to read as follows:

**633.236 RIGHT OF SURVIVING SPOUSE TO ELECT TO TAKE AGAINST WILL.**

When a married person dies testate as to any part of the person's estate, the surviving spouse shall have the right to elect to take against the will under the provisions of sections 633.237 to 633.246. If the surviving spouse has a conservator, the court may authorize or direct the conservator to elect to take under or against the will as the court deems appropriate under the circumstances.

Sec. 2. Section 633.237, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If a voluntary election to take or refuse to take under a will has not been filed by a surviving spouse or the spouse's conservator, if any, within two months of the date of the second publication of notice of admission of the will to probate, and the surviving spouse is not the executor of the will, the executor shall cause to be served a written notice upon the surviving spouse and the spouse's conservator, if any, in the manner directed by the court, advising the surviving spouse and the spouse's conservator that the will of the decedent has been admitted to probate, stating the name of the court where the will was admitted and the date when the will was admitted to probate, and notifying the spouse and the spouse's conservator that unless within four months after service of the notice, the spouse or the spouse's conservator files an election in writing with the clerk of that court refusing to take under the will, the spouse shall take under the will. If the surviving spouse or the spouse's conservator files an election to take under the will at any time the requirements of this section for serving notice are waived. If within the period of four months an affidavit is filed setting forth that the surviving spouse is incapable to make the election and does not have a conservator, the court shall determine whether there shall be an election to take under or against the will in accordance with section 633.238 as the court deems appropriate under the circumstances. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

Sec. 3. Section 633.240, Code 1987, is amended to read as follows:

**633.240 ELECTION TO OCCUPY HOMESTEAD.**

In intestate estates, or where the surviving spouse elects to take against the will, the surviving spouse or the spouse's conservator, if any, may, in lieu of the spouse's share in the real property possessed by the decedent at any time during their marriage which has not been sold on execution or other judicial sale, and to which the surviving spouse has made no relinquishment of right, elect to occupy the homestead. Such election shall be made and entered of record as provided in section 633.245. In making such election, the surviving spouse shall have all the rights as to personal property provided in subsections 2 and 3 of section 633.238. In case of failure to make such election, the right to occupy the homestead shall be waived.

Sec. 4. Section 633.244, Code 1987, is amended to read as follows:

**633.244 INCOMPETENT SPOUSE – ELECTION BY COURT.**

In case an affidavit is filed that the surviving spouse is incapable of making an election to take against the will, or to elect to occupy the homestead, and does not have a conservator, the court shall fix a time and place of hearing on the matter, and cause a notice thereof to be served upon said the surviving spouse in such manner and for such time as the court may direct. At the hearing, a guardian ad litem shall be appointed to represent such the spouse, and the court shall enter such orders as it may deem to be for the best interests of such person deems appropriate under the circumstances.

Sec. 5. Section 633.247, Code 1987, is amended to read as follows:

**633.247 SETTING OFF SHARE OF SURVIVING SPOUSE WHEN ELECTING TO TAKE AGAINST THE WILL – TIME LIMIT.**

The share of the surviving spouse under section 633.236 may be set off by the mutual consent of all parties in interest, or by referees appointed by the court. An application to have it set off by referees shall be made in writing within four months after the second publication of notice of the probate of the will, or within one month after the election to take against the will is filed with the clerk, whichever is the longer. The application must describe the land in which the share is claimed, and pray for the appointment of referees to set it off.

Sec. 6. Section 633.267, Code 1987, is amended to read as follows:

**633.267 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF WILL.**

When a testator fails to provide in the testator's will for any of the testator's children born to or adopted by the testator after the making of the testator's last will, such child, whether born before or after the testator's death, shall receive a share in the estate of the testator equal in value to that which the child would have received under section 633.211, 633.212, or 633.219, whichever section or sections are applicable, if the testator had died intestate, unless it appears from the will that such omission was intentional.

Sec. 7. Section 633.647, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. To make an election for the ward who is a surviving spouse as provided in sections 633.236 and 633.240.

Approved April 12, 1988

---

**\*CHAPTER 1065**

**ENFORCEMENT OF ORDERS IN MARRIAGE DISSOLUTIONS**

*H.F. 209*

**AN ACT** relating to the enforcement of protective orders and orders to vacate the homestead in dissolution cases, and providing for the application of penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

\*Section 1. Section 236.8, Code 1987, is amended to read as follows:

**236.8 CONTEMPT.**

The court may hold a party in contempt for a violation of an order issued pursuant to this chapter, ~~or~~ for violation of a court-approved consent agreement, or for violation of a temporary or permanent protective order or order to vacate the homestead issued pursuant to chapter 598. If held in contempt, the defendant shall serve a jail sentence which may be on weekends.

\*Sec. 2. Section 236.11, Code 1987, is amended to read as follows:

**236.11 DUTY OF PEACE OFFICER.**

A peace officer shall use every reasonable means to enforce ~~any~~ a civil or criminal order or approved consent agreement issued pursuant to this chapter ~~or a temporary or permanent protective order or order to vacate the homestead issued pursuant to chapter 598.~~ If a peace officer has probable cause to believe that a person has violated ~~any~~ a civil or criminal order or approved consent agreement issued pursuant to this chapter or chapter 598, the peace officer shall take the person into custody and take the person before the court which issued the order or approved the agreement, at which time the court shall determine whether the person has committed contempt pursuant to section 236.8. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided that the peace officer acts in good faith, on probable cause, and ~~such the officer's acts~~ do not constitute a willful and wanton disregard for the rights or safety of another.

Approved April 12, 1988