524.2-209 SOURCES FROM WHICH ELECTIVE SHARE PAYABLE.

(a) **Elective-share amount only.** In a proceeding for an elective share, the following are applied first to satisfy the elective-share amount and to reduce or eliminate any contributions due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others:

(1) amounts included in the augmented estate under section 524.2-204 which pass or have passed to the surviving spouse by testate or intestate succession and amounts included in the augmented estate under section 524.2-206;

(2) amounts included in the augmented estate which would have passed to the spouse but were disclaimed; and

(3) amounts included in the augmented estate under section 524.2-207 up to the applicable percentage thereof. For the purposes of this paragraph, the "applicable percentage" is twice the elective-share percentage set forth in the schedule in section 524.2-202, paragraph (a), appropriate to the length of time the spouse and the decedent were married to each other.

(b) **Unsatisfied balance of elective-share amount; supplemental elective-share amount.** If, after the application of paragraph (a), the elective-share amount is not fully satisfied or the surviving spouse is entitled to a supplemental elective-share amount, amounts included in the decedent's probate estate and in the decedent's nonprobate transfers to others, other than amounts included under section 524.2-205, paragraph (3), clause (i) or (iii), are applied first to satisfy the unsatisfied balance of the elective-share amount or the supplemental elective-share amount. The decedent's probate estate and that portion of the decedent's nonprobate transfers to others are so applied that liability for the unsatisfied balance of the elective-share amount or for the supplemental elective-share amount is equitably apportioned among the recipients of the decedent's nonprobate transfers to others in proportion to the value of their interests therein.

(c) **Unsatisfied balance of elective-share and supplemental elective-share amounts.** If, after the application of paragraphs (a) and (b), the elective-share or supplemental elective-share amount is not fully satisfied, the remaining portion of the decedent's nonprobate transfers to others is so applied that liability for the unsatisfied balance of the elective-share or supplemental elective-share amount is equitably apportioned among the recipients of the remaining portion of the decedent's nonprobate transfers to others in proportion to the value of their interests therein.

History: 1994 c 472 s 23