

MEMO

To: The Committee of the Whole
From: Hiroshi Sakai, Drafting Committee Chair and Prof. William P. LaPiana, Reporter
Subject: First Reading of the Uniform Disclaimer of Property Interests Act
Date: July 1, 1998

In accordance with the suggestion of the Executive Committee, only certain sections of the Act will be read line-by-line. It is also suggested that the definitions be read in conjunction with the substantive provisions in which they appear. The following list indicates which sections (in some cases, subsections) will be read line-by-line and what policy issues they reflect.

Section 2. Disclaimer; General Provisions

- (a) line-by-line with definition of “person,” 1(9) and “disclaimer,” 1(4)
- (b) line-by-line
- (c) line-by-line
Policy issue: the recognition of the creator of the trust’s power to limit disclaimer of a power by a fiduciary.
- (d) line-by-line
Policy issue: the limitation on disclaimers by conservators or guardians by requiring court approval.
- (e) line-by-line
- (f) line-by-line
- (g) line-by-line
Policy issue: the possibility of delivery by electronic means.

Section 3. Disclaimer of an Interest Arising Under Intestacy or Created by Will

- (1) line-by-line
Policy issue: the retention of the “relation back” rule in different language.
- (2) line-by-line with definition of “present interest,” 1(10) and “descendants,” 1(3)
- (3) line-by-line with definition of “future interest,” 1(7) and “date of distribution,” 1(2)
Policy issue (common to (2) and (3): the creation of an explicit provision directing the passing of the disclaimed interest rather than providing for distribution of the disclaimed interest as if the disclaimant had predeceased the decedent.
- (4) line-by-line
- (5) line-by-line
- (6) line-by-line

Section 4. Disclaimer of Interest Arising Under Instrument Other than Will

- opening language, line-by-line with definition of “beneficiary designation,” 1(1)

(1) line-by-line with definition of “effective date,” 1(10)
(2)-(7) Summarized only, parallel to Section 3

Section 5. Disclaimer of Survivorship Rights in Jointly Held Property
line-by-line with definition of “jointly held property.” 1(8)

Section 6. Disclaimer of Powers Not Held in a Fiduciary Capacity.
Summarized only

Section 7. Disclaimer by Appointee, Object, or Taker in Default of Power of Appointment.
Summarized only

Section 8. Disclaimer of Powers Held in a Fiduciary Capacity, with definition of “fiduciary,” 1(6)
line-by-line

Policy issues: the recognition of the disclaimer of a power by a fiduciary and the decision that disclaimers by multiple fiduciaries are to be governed by the general law applicable to multiple fiduciaries.

Section 9. Disclaimer of Interest by Trustee, with definition of “trust,” 1(11)
line-by-line

Policy issue: the recognition of the disclaimer of an interest by a trustee.

Section 10. When Disclaimer Barred or Limited.
line-by-line

Policy issues: the elimination of a time limit on disclaimers and the recognition of limitations provided by other law.

Section 11. Recording of Disclaimer
summarized only

Sections 12-14 headings only (standard provisions)