

FINAL BILL REPORT

HB 1063

C 7 L 91
Synopsis As Enacted

Brief Description: Revising provisions on disposition of disclaimed interest.

By Representatives Ludwig, Padden, R. Meyers and Orr.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: For various reasons, including unwanted tax consequences, a person may choose not to accept a gift. Since 1973, Washington has had a disclaimer of interest statute that provides a formal method for the rejection of an interest. The disclaimer of interest statute applies to transfers of interest both during the lifetime of the transferring party and upon the death of the transferring party.

A person ("testator") may direct in his or her will that property is to go to one of his or her relatives without indicating in the will what is to happen to the property if the relative is no longer alive when the testator dies. An "anti-lapse" statute provides that in the case of such a will, if the relative in fact dies before the testator, the property is to go to the relative's lineal descendants. This anti-lapse rule means, for instance, that a grandchild whose parent has died will receive property that the grandparent had willed to the parent.

The disclaimer of interest statute, however, contains a provision that makes the anti-lapse statute inapplicable in the case of disclaimed interests. This negation of the anti-lapse rule means that a grandchild whose parent has disclaimed an interest will not receive property that the grandparent's will had intended to give to the parent.

Summary: The anti-lapse statute is made applicable to property subject to a disclaimer of interest unless the will itself directs otherwise. If a testator's relative disclaims an interest under a will, the relative is considered to have died for purposes of the anti-lapse statute. The children of the disclaiming relative will receive the property in such a case.

A correction is made to a statutory cross-reference.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 28, 1991