

# HOUSE BILL REPORT

## HB 1063

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*As Passed Legislature*

**Title:** An act relating to disposition of disclaimed interest.

**Brief Description:** Revising provisions on disposition of disclaimed interest.

**Sponsor(s):** By Representatives Ludwig, Padden, R. Meyers and Orr).

**Brief History:**

Reported by House Committee on:  
Judiciary, January 23, 1991, DP;  
Passed House February 20, 1991, 98-0;  
Passed Legislature, 98-0.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass.* Signed by 19 members:  
Representatives Appelwick, Chair; Ludwig, Vice Chair;  
Padden, Ranking Minority Member; Paris, Assistant Ranking  
Minority Member; Belcher; Broback; Forner; Hargrove; Inslee;  
Locke; R. Meyers; Mielke; H. Myers; Riley; Scott;  
D. Sommers; Tate; Vance; and Wineberry.

**Staff:** Bill Perry (786-7123).

**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 grandchildren

whose parent has died will receive property that their grandparent's will had intended to give to their parent.

The disclaimer of interest statute contains a provision that makes the anti-lapse statute inapplicable in the case of disclaimed interests. That is, if the relative in the example above, disclaims interest in property intended for him or her in the testator's will, the relative is not to be considered dead for purposes of the anti-lapse statute. This negation of the anti-lapse rule means, for instance, that grandchildren whose parent has disclaimed an interest will not receive property that their grandparent's will had intended to give to their parent.

**Summary of Bill:** The anti-lapse statute is made applicable to disclaimers 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.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill conforms more closely to what most people would probably have chosen when writing their wills, and allows their probable intent to be carried out.

**Testimony Against:** None.

**Witnesses:** Mike Carrico, Washington State Bar Association (in favor of bill).