

SENATE BILL REPORT

HB 1063

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 13, 1991

Brief Description: Revising provisions on disposition of disclaimed interest.

SPONSORS: Representatives Ludwig, Padden, R. Meyers and Orr.

HOUSE JUDICIARY COMMITTEE

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Dick Armstrong (786-7460)

Hearing Dates: March 13, 1991

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 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 a grandchild whose parent has disclaimed an interest will not receive property that their grandparent's will had intended to give to their parent.

SUMMARY:

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.

Appropriation: none

Revenue: none

Fiscal Note: none requested

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

TESTIFIED: Mike Carrico, Washington State Bar Association (pro)