

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5197**

Chapter 43, Laws of 1999

56th Legislature  
1999 Regular Session

DISCLAIMER OF INTERESTS

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 9, 1999  
YEAS 47 NAYS 0

BRAD OWEN  
**President of the Senate**

Passed by the House April 7, 1999  
YEAS 90 NAYS 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

FRANK CHOPP  
**Speaker of the  
House of Representatives**

Approved April 20, 1999

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5197** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
**Secretary**

FILED

April 20, 1999 - 3:08 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5197**

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Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Johnson and Kline)

Read first time 02/25/1999.

1            AN ACT Relating to disclaimer of interests; amending RCW 11.86.041;  
2 and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 11.86.041 and 1997 c 252 s 73 are each amended to read  
5 as follows:

6            (1) Unless the instrument creating an interest directs to the  
7 contrary, the interest disclaimed shall pass as if the beneficiary had  
8 died immediately prior to the date of the transfer of the interest.  
9 The disclaimer shall relate back to this date for all purposes.

10           (2) ~~((Unless the beneficiary is the surviving spouse of a deceased  
11 creator of the interest, the beneficiary shall also be deemed to have  
12 disclaimed all interests in the property, including all beneficial  
13 interests in any trust into which the disclaimed property may pass.  
14 This subsection applies unless the disclaimer specifically refers to  
15 this subsection and states to the contrary.))~~ Unless the beneficiary  
16 provides otherwise in the disclaimer, in addition to the interests  
17 disclaimed, the beneficiary shall also be deemed to have disclaimed the  
18 minimum of all interests in the disclaimed property necessary to make

1 the disclaimer a qualified disclaimer for purposes of section 2518 of  
2 the Internal Revenue Code.

3 (3) Any future interest taking effect in possession or enjoyment  
4 after termination of the interest disclaimed takes effect as if the  
5 beneficiary had died prior to the date of the beneficiary's final  
6 ascertainment as a beneficiary and the indefeasible vesting of the  
7 interest.

8 (4) The disclaimer is binding upon the beneficiary and all persons  
9 claiming through or under the beneficiary.

10 (5) Unless the instrument creating the interest directs to the  
11 contrary, a beneficiary whose interest in a devise or bequest under a  
12 will has been disclaimed shall be deemed to have died for purposes of  
13 RCW 11.12.110.

14 ~~(6) ((In the case of a disclaimer that results in property passing~~  
15 ~~to a trust over which the disclaimant has any power to direct the~~  
16 ~~beneficial enjoyment of the disclaimed property, the disclaimant shall~~  
17 ~~also be deemed to have disclaimed any power to direct the beneficial~~  
18 ~~enjoyment of the disclaimed property, unless the power is limited by an~~  
19 ~~ascertainable standard for the health, education, support, or~~  
20 ~~maintenance of any person as described in section 2041 or 2514 of the~~  
21 ~~Internal Revenue Code and the applicable regulations adopted under~~  
22 ~~those sections. This subsection applies unless the disclaimer~~  
23 ~~specifically refers to this subsection and states to the contrary.~~  
24 ~~This subsection shall not be deemed to otherwise prevent such a~~  
25 ~~disclaimant from acting as trustee or executor over disclaimed~~  
26 ~~property.))~~ In the case of a disclaimer of property over which the  
27 disclaimant has any power to direct the beneficial enjoyment of the  
28 disclaimed property, the disclaimant shall also be deemed to have  
29 disclaimed any power to direct the beneficial enjoyment of the  
30 disclaimed property, unless the power is limited by an ascertainable  
31 standard relating to the health, education, support, or maintenance of  
32 any person as described in section 2041 or 2514 of the Internal Revenue  
33 Code and applicable regulations adopted under those sections. This  
34 subsection applies unless the disclaimer specifically provides  
35 otherwise. This subsection shall not be deemed to otherwise prevent  
36 such a disclaimant from acting as trustee or personal representative  
37 over disclaimed property.

1        NEW SECTION.    **Sec. 2.**    This act applies retroactively to all  
2 disclaimers made after December 31, 1997.

      Passed the Senate March 9, 1999.

      Passed the House April 7, 1999.

      Approved by the Governor April 20, 1999.

      Filed in Office of Secretary of State April 20, 1999.