

# HOUSE BILL ANALYSIS

## HB 1138

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**Title:** An act relating to disclaimer of interests.

**Brief Description:** Making technical corrections to the disclaimer statute.

**Sponsors:** Representatives Sheahan and Constantine.

### Brief Summary of Bill

- Makes technical corrections to the disclaimer of interest statute.

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### HOUSE COMMITTEE ON JUDICIARY

**Staff:** Jim Morishima (786-7191).

#### Background:

A person may refuse to accept an interest created by gift, will, trust, or other similar mechanism. One reason a person may refuse to take such an interest is to avoid certain tax consequences. The disclaimer of interest statute allows people to refuse to take interests by means of a written instrument called a disclaimer.

When a person disclaims an interest, he or she is deemed to have disclaimed all interest in the property. This includes all beneficial interest in any trust into which the disclaimed property may pass.

Also, when the disclaimed property passes into a trust and the person has any power over the trust to direct the beneficial enjoyment of the disclaimed property, the general rule is that the person is deemed to have disclaimed that power.

Both of the aforementioned provisions apply unless the disclaimer makes specific reference to the appropriate provision of the disclaimer of interest statute and states otherwise.

#### Summary of Bill:

When a person disclaims an interest, he or she is deemed to have disclaimed the minimum interest necessary to qualify for an exemption from estate and gift taxation under the Internal Revenue Code. The provision of the disclaimer of interest statute

relating to a person disclaiming all interest in the property including any beneficial interest in a trust is removed.

When a person has the power to direct the beneficial enjoyment of disclaimed property, the general rule is that the person is deemed to have disclaimed that power. The requirement that the power come from a trust is removed.

Both of the aforementioned provisions apply unless the disclaimer states otherwise; the disclaimer no longer must reference the appropriate provision of the disclaimer of interest statute.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect July 1, 1999.