

SENATE BILL REPORT

SB 6138

As Passed Senate, February 8, 2000

Title: An act relating to disclaimers of interests.

Brief Description: Modifying disclaimer of interests under the probate and trust laws.

Sponsors: Senators Johnson, Heavey and Gardner.

Brief History:

Committee Activity: Judiciary: 1/12/2000, 1/19/2000 [DP].
Passed Senate, 2/8/2000, 46-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Karen Lundahl (786-7421)

Background: Under current Washington law, a person who would otherwise be entitled to receive an interest in real or personal property through intestate succession, under a will or trust, community property agreement, employee benefit plan, insurance or annuity contract or other bequest or operation of law can refuse or renounce such interest by a simple writing specifying the interest being disclaimed and the extent to which it is renounced. Once this has been done, the interest passes to the next person in the line of succession as if the first beneficiary had died immediately before the transfer of the interest. This allows the passing of property from one beneficiary to the next without adverse tax consequences to the original beneficiary.

A beneficiary cannot disclaim an interest if he or she has accepted any benefit from the interest. A problem may arise because most Washington couples own property as community property. A surviving spouse could inadvertently waive the right to disclaim an interest in the deceased spouse's portion of a joint bank account by withdrawing any funds from the account.

Summary of Bill: A provision is added to the Probate Code to provide that a beneficiary's receipt of a benefit from property in which the beneficiary already owned an interest through joint tenancy or community property is presumed to be the use of the beneficiary's own portion of the property until that interest is exhausted. A survivor who withdraws funds from an account held jointly with a decedent can disclaim any interest in the decedent's portion of the funds as long as he or she did not access more than his or her share of the account.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This prevents adverse federal estate tax consequences caused by inadvertent waiver of important right to disclaim interest in joint property.

Testimony Against: None.

Testified: Alan Montgomery, Washington State Bar Association (pro).