

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 434

(Senator Frosh)

Judicial Proceedings

Judiciary

Estates and Trusts - Disclaimers

This bill specifies that creditors of a disclaimant of an interest in or power over property have no interest in the property disclaimed. The bill also broadens the application of a provision establishing that a failure to file, record, or register a disclaimer has no effect on its validity.

Fiscal Summary

State Effect: None. The bill would not directly affect State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may disclaim (*i.e.*, refuse to accept) in whole or in part any interest in or power over property, including a power of appointment, regardless of whether the creator of the interest or power imposed a restriction upon the transfer of, or a restriction or limitation on the right to disclaim, the interest or power.

A disclaimed interest passes according to the terms of the instrument creating the interest if it provides for the disposition of the interest if it is disclaimed, or for disclaimed interests in general. If the instrument does not provide for the disposition of a disclaimed

interest, the interest passes, if the disclaimant is an individual, as if the individual had died immediately before the time of distribution of the interest, or if the disclaimant is not an individual, as if the disclaimant did not exist.

A disclaimer of an interest in or power over property is not a transfer, assignment, or release.

A disclaimer may be filed, recorded, or registered if the instrument transferring an interest in or power over property subject to the disclaimer is required or permitted by law to be filed, recorded, or registered. Failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and the persons to whom the interest or power passes to because of the disclaimer.

Background: The Maryland Uniform Disclaimer of Property Interests Act was enacted by Chapter 465 of 2004. The Act replaced the existing Maryland Uniform Disclaimer of Property Interests Act originally enacted in 1978.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Register of Wills, Department of Human Resources,
Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2007
ncs/jr

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