

PROPERTY CODE

TITLE 13. DISCLAIMER OF PROPERTY INTERESTS

CHAPTER 240. TEXAS UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 240.001. SHORT TITLE. This chapter may be cited as the Texas Uniform Disclaimer of Property Interests Act. Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.002. DEFINITIONS. In this chapter:

(1) "Charity" means a charitable entity or a charitable trust, as those terms are defined by Section 123.001.

(1-a) "Current beneficiary" and "presumptive remainder beneficiary" have the meanings assigned by Section 112.071.

(2) "Disclaim" means to refuse to accept an interest in or power over property, including an interest or power the person is entitled to:

(A) by inheritance;

(B) under a will;

(C) by an agreement between spouses for community property with a right of survivorship;

(D) by a joint tenancy with a right of survivorship;

(E) by a survivorship agreement, account, or interest in which the interest of the decedent passes to a surviving beneficiary;

(F) by an insurance, annuity, endowment, employment, deferred compensation, or other contract or arrangement;

(G) under a pension, profit sharing, thrift, stock bonus, life insurance, survivor income, incentive, or other plan or program providing retirement, welfare, or fringe benefits with respect to an employee or a self-employed individual; or

(H) by an instrument creating a trust.

(3) "Disclaimant" means:

(A) the person to whom a disclaimed interest or power would have passed had the disclaimer not been made;

(B) the estate to which a disclaimed interest or power would have passed had the disclaimer not been made by the personal representative of the estate; or

(C) the trust into which a disclaimed interest or power would have passed had the disclaimer not been made by the trustee of the trust.

(4) "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made.

(5) "Disclaimed power" means the power that would have been possessed by the disclaimant had the disclaimer not been made.

(6) "Disclaimer" means the refusal to accept an interest in or power over property.

(7) "Estate" has the meaning assigned by Section [22.012](#), Estates Code.

(8) "Fiduciary" means a personal representative, a trustee, an attorney in fact or agent acting under a power of attorney, or any other person authorized to act as a fiduciary with respect to the property of another person.

(9) "Guardian" has the meaning assigned by Section [1002.012](#), Estates Code.

(10) Notwithstanding Section [311.005](#), Government Code, "person" means an individual, corporation, including a public corporation, business trust, partnership, limited liability company, association, joint venture, governmental entity, including a political subdivision, agency, or instrumentality, or any other legal entity.

(11) "Personal representative" has the meanings assigned by Sections [22.031](#) and [1002.028](#), Estates Code.

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state.

(13) "Survivorship property" means property held in the name of two or more persons under an arrangement in which, on the death of one of the persons, the property passes to and is vested in the other person or persons. The term includes:

(A) property held by an agreement described in Section [111.001](#), Estates Code;

(B) property held by a community property survivorship agreement defined in Section [112.001](#), Estates Code; and

(C) property in a joint account held by an agreement described in Section [113.151](#), Estates Code.

(14) "Trust" has the meaning assigned by Section [111.003](#).

(15) "Ward" has the meaning assigned by Section [22.033](#), Estates Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. [617](#)), Sec. 15, eff. September 1, 2017.

Sec. 240.003. APPLICABILITY OF CHAPTER. This chapter applies to disclaimers of any interest in or power over property, whenever created.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.004. CHAPTER SUPPLEMENTED BY OTHER LAW.
(a) Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

(b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a statute other than this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.005. UNIFORMITY OF APPLICATION AND

CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law, with respect to the subject matter of this chapter, among states that enact a law based on the uniform act on which this chapter is based.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.006. POWER TO DISCLAIM BY PERSON OTHER THAN FIDUCIARY. (a) A person other than a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment.

(b) A person other than a fiduciary may disclaim an interest or power under this section even if the creator of the interest or power imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.007. POWER TO DISCLAIM POWER HELD IN FIDUCIARY CAPACITY BY PERSON DESIGNATED TO SERVE AS OR SERVING AS FIDUCIARY.

(a) Subject to Subsection (b) and except to the extent the person's right to disclaim is expressly restricted or limited by a law of this state or by the instrument creating the fiduciary relationship, a person designated to serve or serving as a fiduciary may disclaim, in whole or in part, any power over property, including a power of appointment and the power to disclaim, held in a fiduciary capacity.

(b) If a power being disclaimed under Subsection (a) by a person designated to serve or serving as a trustee affects the distributive rights of any beneficiary of the trust:

(1) the person may disclaim only on or after accepting the trust;

(2) the disclaimer must be compatible with the trustee's fiduciary obligations; and

(3) if the disclaimer is made on accepting the trust, the trustee is considered to have never possessed the power

disclaimed.

(c) A person designated to serve or serving as a fiduciary may disclaim a power under this section even if the creator of the power imposed a spendthrift provision or similar restriction on transfer.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.008. POWER TO DISCLAIM BY FIDUCIARY ACTING IN FIDUCIARY CAPACITY. (a) Subject to this section and except to the extent the fiduciary's right to disclaim is expressly restricted or limited by a law of this state or by the instrument creating the fiduciary relationship, a fiduciary acting in a fiduciary capacity may disclaim, in whole or in part, any interest in or power over property, including a power of appointment and the power to disclaim, that would have passed to the ward, estate, trust, or principal with respect to which the fiduciary was acting had the disclaimer not been made even if:

(1) the creator of the interest or power imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim; or

(2) an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(b) Except as provided by Subsection (c), (d), or (f), a disclaimer by a fiduciary acting in a fiduciary capacity does not require court approval to be effective unless the instrument that created the fiduciary relationship requires court approval.

(c) The following disclaimers by a fiduciary acting in a fiduciary capacity are not effective unless approved by a court of competent jurisdiction:

(1) a disclaimer by a personal representative who is not an independent administrator or independent executor;

(2) a disclaimer by the trustee of a management trust created under Chapter [1301](#), Estates Code;

(3) a disclaimer by the trustee of a trust created under Section [142.005](#); or

(4) a disclaimer that would result in an interest in or power over property passing to the person making the disclaimer.

(d) A trustee acting in a fiduciary capacity may not disclaim an interest in property that would cause the interest in property not to become trust property unless:

(1) a court of competent jurisdiction approves the disclaimer; or

(2) the trustee provides written notice of the disclaimer in accordance with Section [240.0081](#).

(e) In the absence of a court-appointed guardian, without court approval, a natural guardian as described by Section [1104.051](#), Estates Code, may disclaim on behalf of a minor child of the natural guardian, in whole or in part, any interest in or power over property, including a power of appointment, that the minor child is to receive solely as a result of another disclaimer, but only if the disclaimed interest or power does not pass to or for the benefit of the natural guardian as a result of the disclaimer.

(f) Unless a court of competent jurisdiction approves the disclaimer, a disclaimer by a fiduciary acting in a fiduciary capacity must be compatible with the fiduciary's fiduciary obligations. A disclaimer by a fiduciary acting in a fiduciary capacity is not a per se breach of the fiduciary's fiduciary obligations.

(g) Possible remedies for a breach of fiduciary obligations do not include declaring an otherwise effective disclaimer void or granting other legal or equitable relief that would make the disclaimer ineffective.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.0081. NOTICE REQUIRED BY TRUSTEE DISCLAIMING CERTAIN INTERESTS IN PROPERTY; EFFECT OF NOTICE. (a) A trustee acting in a fiduciary capacity may disclaim an interest in property that would cause the interest in property not to become trust property without court approval if the trustee provides written notice of the disclaimer to all of the current beneficiaries and presumptive remainder beneficiaries of the trust.

(b) For the purpose of determining who is a current beneficiary or presumptive remainder beneficiary entitled to the notice under Subsection (a), a beneficiary is determined as of the date the notice is sent.

(c) Except as provided by Subsection (e-1), in addition to the notice required under Subsection (a), the trustee shall give written notice of the trustee's disclaimer to the attorney general if:

(1) a charity is entitled to notice;

(2) a charity entitled to notice is no longer in existence;

(3) the trustee has the authority to distribute trust assets to one or more charities that are not named in the trust instrument; or

(4) the trustee has the authority to make distributions for a charitable purpose described in the trust instrument, but no charity is named as a beneficiary for that purpose.

(d) If the beneficiary has a court-appointed guardian or conservator, the notice required to be given by this section must be given to that guardian or conservator. If the beneficiary is a minor for whom no guardian or conservator has been appointed, the notice required to be given by this section must be given to a parent of the minor.

(e) The trustee is not required to provide the notice to a beneficiary who:

(1) is known to the trustee and cannot be located by the trustee after reasonable diligence;

(2) is not known to the trustee;

(3) waives the requirement of the notice under this section; or

(4) is a descendant of a beneficiary to whom the trustee has given notice if the beneficiary and the beneficiary's ancestor have similar interests in the trust and no apparent conflict of interest exists between them.

(e-1) The trustee is not required to give notice to the attorney general under Subsection (c) if the attorney general

waives that requirement in writing.

(e-2) For purposes of Subsection (e)(3), a beneficiary is considered to have waived the requirement that notice be given under this section if a person to whom notice is required to be given with respect to that beneficiary under Subsection (d) waives the requirement that notice be given under this section.

(f) The notice required under Subsection (a) must:

(1) include a statement that:

(A) the trustee intends to disclaim an interest in property;

(B) if the trustee makes the disclaimer, the property will not become trust property and will not be available to distribute to the beneficiary from the trust;

(C) the beneficiary has the right to object to the disclaimer; and

(D) the beneficiary may petition a court to approve, modify, or deny the disclaimer;

(2) describe the interest in property the trustee intends to disclaim;

(3) specify the earliest date the trustee intends to make the disclaimer;

(4) include the name and mailing address of the trustee;

(5) be given not later than the 30th day before the date the disclaimer is made; and

(6) be sent by personal delivery, first-class mail, facsimile, e-mail, or any other method likely to result in the notice's receipt.

(g) A beneficiary is not considered to have accepted the disclaimed interest solely because the beneficiary acts or does not act on receipt of a notice provided under this section.

(h) If the trustee makes the disclaimer for which notice is provided under this section, the beneficiary does not lose the beneficiary's right, if any, to sue the trustee for breach of the trustee's fiduciary obligations in connection with making the disclaimer. Section [240.008\(g\)](#) applies to remedies sought in connection with the alleged breach.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. 617), Sec. 16, eff. September 1, 2017.

Sec. 240.009. POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE. (a) To be effective, a disclaimer must:

- (1) be in writing;
- (2) declare the disclaimer;
- (3) describe the interest or power disclaimed;
- (4) be signed by the person making the disclaimer; and
- (5) be delivered or filed in the manner provided by Subchapter C.

(b) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(c) A disclaimer is irrevocable on the later of the date the disclaimer:

- (1) is delivered or filed under Subchapter C; or
- (2) takes effect as provided in Sections 240.051-240.056.

(d) A disclaimer made under this chapter is not a transfer, assignment, or release.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

SUBCHAPTER B. TYPE AND EFFECT OF DISCLAIMER

Sec. 240.0501. DEFINITION. In this subchapter, "future interest" means an interest that:

- (1) takes effect in possession or enjoyment, if at all, later than the time at which the instrument creating the interest becomes irrevocable; and

- (2) passes to the holder of the interest at the time of the event that causes the taker of the interest to be finally ascertained and the interest to be indefeasibly vested.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.051. DISCLAIMER OF INTEREST IN PROPERTY. (a) This section and Sections 240.0511 and 240.0512 apply to a disclaimer of an interest in property other than a disclaimer subject to Section 240.052 or 240.053.

(b) If an interest in property passes because of the death of a decedent:

(1) a disclaimer of the interest:

(A) takes effect as of the time of the decedent's death; and

(B) relates back for all purposes to the time of the decedent's death; and

(2) the disclaimed interest is not subject to the claims of any creditor of the disclaimant.

(c) If an interest in property passes because of an event not related to the death of a decedent:

(1) a disclaimer of the interest:

(A) takes effect:

(i) as of the time the instrument creating the interest became irrevocable; or

(ii) in the case of an irrevocable transfer made without an instrument, at the time of the irrevocable transfer; and

(B) relates back for all purposes to the time the instrument became irrevocable or the time of the irrevocable transfer, as applicable; and

(2) the disclaimed interest is not subject to the claims of any creditor of the disclaimant.

(d) A disclaimed interest passes according to any provision in the instrument creating the interest that provides for:

(1) the disposition of the interest if the interest were to be disclaimed; or

(2) the disposition of disclaimed interests in general.

(e) If the instrument creating the disclaimed interest does

not contain a provision described by Subsection (d) and:

(1) if the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist; or

(2) if the disclaimant is an individual:

(A) except as provided by Section [240.0511](#), if the interest is passing because of the death of a decedent, the disclaimed interest passes as if the disclaimant had died immediately before the time as of which the disclaimer takes effect under Subsection (b); or

(B) except as provided by Section [240.0512](#), if the interest is passing because of an event not related to the death of a decedent, the disclaimed interest passes as if the disclaimant had died immediately before the time as of which the disclaimer takes effect under Subsection (c).

(f) A disclaimed interest that passes by intestacy passes as if the disclaimant died immediately before the decedent.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.0511. DISPOSITION OF INTEREST PASSING BECAUSE OF DECEDENT'S DEATH AND DISCLAIMED BY INDIVIDUAL. (a) Subject to Subsection (b):

(1) if by law or under the instrument creating the disclaimed interest the descendants of a disclaimant of an interest passing because of the death of a decedent would share in the disclaimed interest by any method of representation under Section [240.051](#)(e)(2)(A), the disclaimed interest passes only to the descendants of the disclaimant who survive the decedent; or

(2) if the disclaimed interest would have passed to the disclaimant's estate under Section [240.051](#)(e)(2)(A), the disclaimed interest instead passes by representation to the descendants of the disclaimant who survive the decedent.

(b) If no descendant of the disclaimant survives the decedent, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the

transferor died immediately before the decedent, except that if the transferor's surviving spouse is living but remarried before the decedent's death, the transferor is considered to have died unmarried immediately before the decedent's death.

(c) On the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died immediately before the decedent, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.0512. DISPOSITION OF INTEREST PASSING BECAUSE OF EVENT OTHER THAN DECEDENT'S DEATH AND DISCLAIMED BY INDIVIDUAL.

(a) Subject to Subsection (b):

(1) if by law or under the instrument creating the disclaimed interest the descendants of a disclaimant of an interest passing because of an event not related to the death of a decedent would share in the disclaimed interest by any method of representation under Section 240.051(e)(2)(B), the disclaimed interest passes only to the descendants of the disclaimant living at the time of the event that causes the interest to pass; or

(2) if the disclaimed interest would have passed to the disclaimant's estate under Section 240.051(e)(2)(B), the disclaimed interest instead passes by representation to the descendants of the disclaimant living at the time of the event that causes the interest to pass.

(b) If no descendant of the disclaimant is living at the time of the event described by Subsection (a)(1), the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died immediately before the event described by Subsection (a)(1), except that if the transferor's surviving spouse is living but remarried before the event, the transferor is considered to have died unmarried immediately before the event.

(c) On the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died immediately before the time the disclaimer takes effect under Section 240.051(c)(1)(A), but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.052. DISCLAIMER OF RIGHTS IN SURVIVORSHIP PROPERTY. (a) On the death of a holder of survivorship property, a surviving holder may disclaim, in whole or in part, an interest in the property of the deceased holder that would have otherwise passed to the surviving holder by reason of the deceased holder's death.

(b) If an interest in survivorship property is disclaimed by a surviving holder of the property:

(1) the disclaimer:

(A) takes effect as of the time of the deceased holder's death; and

(B) relates back for all purposes to the time of the deceased holder's death; and

(2) the disclaimed interest is not subject to the claims of any creditor of the disclaimant.

(c) An interest in survivorship property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.053. DISCLAIMER OF INTEREST BY TRUSTEE. (a) If a trustee disclaims an interest in property that otherwise would have become trust property:

(1) the interest does not become trust property;

(2) the disclaimer:

(A) takes effect as of the time the trust became irrevocable; and

(B) relates back for all purposes to the time the trust became irrevocable; and

(3) the disclaimed interest is not subject to the claims of any creditor of the trustee, the trust, or any trust beneficiary.

(b) If the instrument creating the disclaimed interest contains a provision that provides for the disposition of the interest if the interest were to be disclaimed, the disclaimed interest passes according to that provision.

(c) If the instrument creating the disclaimed interest does not contain a provision described by Subsection (b), the disclaimed interest passes as if:

(1) all of the current beneficiaries, presumptive remainder beneficiaries, and contingent beneficiaries of the trust affected by the disclaimer who are individuals died before the trust became irrevocable; and

(2) all beneficiaries of the trust affected by the disclaimer who are not individuals ceased to exist without successor organizations and without substitution of beneficiaries under the cy pres doctrine before the trust became irrevocable.

(d) Subsection (c) applies only for purposes of determining the disposition of an interest in property disclaimed by a trustee that otherwise would have become trust property and applies only with respect to the trust affected by the disclaimer. Subsection (c) does not apply with respect to other trusts governed by the instrument and does not apply for other purposes under the instrument or under the laws of intestacy.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.054. DISCLAIMER OF POWER OF APPOINTMENT OR OTHER POWER NOT HELD IN FIDUCIARY CAPACITY. (a) If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, this section applies.

(b) If the holder:

(1) has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes

irrevocable; or

(2) has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

(c) The instrument creating the power is construed as if the power had expired when the disclaimer became effective.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.055. DISCLAIMER BY APPOINTEE OF, OR OBJECT OR TAKER IN DEFAULT OF EXERCISE OF, POWER OF APPOINTMENT. (a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.056. DISCLAIMER OF POWER HELD IN FIDUCIARY CAPACITY. (a) If a person designated to serve or serving as a fiduciary disclaims a power held or to be held in a fiduciary capacity that has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a person designated to serve or serving as a fiduciary disclaims a power held or to be held in a fiduciary capacity that has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer subject to this section is effective as to another person designated to serve or serving as a fiduciary if:

(1) the disclaimer provides that it is effective as to another person designated to serve or serving as a fiduciary; and

(2) the person disclaiming has the authority to bind

the estate, trust, or other person for whom the person is acting.
Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15,
eff. September 1, 2015.

Sec. 240.057. TAX QUALIFIED DISCLAIMER. (a) In this section, "Internal Revenue Code" has the meaning assigned by Section 111.004.

(b) Notwithstanding any other provision of this chapter, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated under the Internal Revenue Code as never having been transferred to the disclaimant, the disclaimer or transfer is effective as a disclaimer under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15,
eff. September 1, 2015.

Sec. 240.058. PARTIAL DISCLAIMER BY SPOUSE. A disclaimer by a decedent's surviving spouse of an interest in property transferred as the result of the death of the decedent is not a disclaimer by the surviving spouse of any other transfer from the decedent to or for the benefit of the surviving spouse, regardless of whether the interest that would have passed under the disclaimed transfer passes because of the disclaimer to or for the benefit of the surviving spouse by the other transfer.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15,
eff. September 1, 2015.

SUBCHAPTER C. DELIVERY OR FILING

Sec. 240.101. DELIVERY OR FILING GENERALLY. (a) Subject to applicable requirements of this subchapter, a disclaimant may deliver a disclaimer by personal delivery, first-class mail, facsimile, e-mail, or any other method likely to result in the disclaimer's receipt.

(b) If a disclaimer is mailed to the intended recipient by certified mail, return receipt requested, at an address the disclaimant in good faith believes is likely to result in the disclaimer's receipt, delivery is considered to have occurred on

the date of mailing regardless of receipt.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.102. DISCLAIMER OF INTEREST CREATED UNDER INTESTATE SUCCESSION OR WILL. In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) a disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) if no personal representative is then serving, a disclaimer must be filed in the official public records of any county in which the decedent:

(A) was domiciled on the date of the decedent's death; or

(B) owned real property.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.103. DISCLAIMER OF INTEREST IN TESTAMENTARY TRUST. In the case of an interest in a testamentary trust:

(1) a disclaimer must be delivered to the trustee then serving;

(2) if no trustee is then serving, a disclaimer must be delivered to the personal representative of the decedent's estate; or

(3) if no trustee or personal representative is then serving, a disclaimer must be filed in the official public records of any county in which the decedent:

(A) was domiciled on the date of the decedent's death; or

(B) owned real property.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.104. DISCLAIMER OF INTEREST IN INTER VIVOS TRUST. In the case of an interest in an inter vivos trust:

(1) a disclaimer must be delivered to the trustee then serving, or, if no trustee is then serving, a disclaimer must be filed:

(A) with a court having jurisdiction to enforce the trust; or

(B) in the official public records of the county in which:

(i) the situs of administration of the trust is maintained; or

(ii) the settlor is domiciled or was domiciled on the date of the settlor's death; and

(2) if a disclaimer is made before the time the instrument creating the trust becomes irrevocable, a disclaimer must be delivered to the settlor of a revocable trust or the transferor of the interest.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.

Sec. 240.105. DISCLAIMER OF INTEREST CREATED BY BENEFICIARY DESIGNATION. (a) In this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

(1) an annuity or insurance policy;

(2) an account with a designation for payment on death;

(3) a security registered in beneficiary form;

(4) a pension, profit-sharing, retirement, or other employment-related benefit plan; or

(5) any other nonprobate transfer at death.

(b) In the case of an interest created by a beneficiary designation that is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(c) In the case of an interest created by a beneficiary designation that is disclaimed after the designation becomes irrevocable:

(1) a disclaimer of an interest in personal property

must be delivered to the person obligated to distribute the interest; and

(2) a disclaimer of an interest in real property must be recorded in the official public records of the county where the real property that is the subject of the disclaimer is located.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.106. DISCLAIMER BY SURVIVING HOLDER OF SURVIVORSHIP PROPERTY. In the case of a disclaimer by a surviving holder of survivorship property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.107. DISCLAIMER BY OBJECT OR TAKER IN DEFAULT OF EXERCISE OF POWER OF APPOINTMENT. In the case of a disclaimer by an object or taker in default of an exercise of a power of appointment at any time after the power was created:

(1) the disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(2) if no fiduciary is then serving, the disclaimer must be filed:

(A) with a court having authority to appoint the fiduciary; or

(B) in the official public records of the county in which the creator of the power is domiciled or was domiciled on the date of the creator's death.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.108. DISCLAIMER BY CERTAIN APPOINTEES. In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(1) the disclaimer must be delivered to the holder, the personal representative of the holder's estate, or the

fiduciary under the instrument that created the power; or

(2) if no fiduciary is then serving, the disclaimer must be filed:

(A) with a court having authority to appoint the fiduciary; or

(B) in the official public records of the county in which the creator of the power is domiciled or was domiciled on the date of the creator's death.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.109. DISCLAIMER BY CERTAIN FIDUCIARIES. In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided by Section 240.102, 240.103, or 240.104 as if the power disclaimed were an interest in property.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.110. DISCLAIMER OF POWER BY AGENT. In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

Sec. 240.111. RECORDING OF DISCLAIMER. If an instrument transferring an interest in or power over property subject to a disclaimer is required or authorized by law to be filed, recorded, or registered, the disclaimer may be filed, recorded, or registered as that instrument. Except as otherwise provided by Section 240.105(c)(2), failure to file, record, or register the disclaimer does not affect the disclaimer's validity between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 15, eff. September 1, 2015.

SUBCHAPTER D. DISCLAIMER BARRED OR LIMITED

Sec. 240.151. WHEN DISCLAIMER BARRED OR LIMITED. (a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) the disclaimant accepts the interest sought to be disclaimed by:

(A) taking possession of the interest; or

(B) exercising dominion and control over the interest;

(2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(3) the interest sought to be disclaimed is sold under a judicial sale.

(c) The acceptance of an interest in property by a person in the person's fiduciary capacity is not an acceptance of the interest in the person's individual capacity and does not bar the person from disclaiming the interest in the person's individual capacity.

(d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by the previous exercise of the power.

(e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by the previous exercise of the power unless the power is exercisable in favor of the disclaimant.

(f) A disclaimer of:

(1) a power over property that is barred by this section is ineffective; and

(2) an interest in property that is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under Subchapter B had the disclaimer not been barred.

(g) A disclaimer by a child support obligor is barred as to

disclaimed property that could be applied to satisfy the disclaimant's child support obligations if those obligations have been:

(1) administratively determined by the Title IV-D agency as defined by Section [101.033](#), Family Code, in a Title IV-D case as defined by Section [101.034](#), Family Code; or

(2) confirmed and reduced to judgment as provided by Section [157.263](#), Family Code.

(h) If Subsection (g) applies, the child support obligee to whom child support arrearages are owed may enforce the child support obligation against the disclaimant as to disclaimed property by a lien or by any other remedy provided by law.

Added by Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. [2428](#)), Sec. 15, eff. September 1, 2015.