

IC 32-17.5-3

Chapter 3. Power to Disclaim; Irrevocability of Disclaimer

IC 32-17.5-3-1

Disclaiming power or interest in property

Sec. 1. A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if the creator of the interest or power imposed:

- (1) a spendthrift provision or similar restriction on transfer; or
- (2) a restriction or limitation on the right to disclaim.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-3-2

Fiduciary's right to disclaim

Sec. 2. Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if:

- (1) the creator of the power or interest 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.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-3-3

Disclaimer requirements

Sec. 3. (a) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(b) A disclaimer must:

- (1) be in a writing or other record;
- (2) state that it is a 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 in IC 32-17.5-7.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-3-4

Partial disclaimer

Sec. 4. A partial disclaimer may be expressed as:

- (1) a fraction;
- (2) a percentage;
- (3) a monetary amount;
- (4) a term of years;
- (5) a limitation of a power; or

(6) any other interest or estate in the property.
As added by P.L.5-2003, SEC.1.

IC 32-17.5-3-5

When irrevocable

Sec. 5. A disclaimer becomes irrevocable upon the occurrence of the later of the following to occur:

(1) The disclaimer is delivered or filed as set forth in IC 32-17.5-7.

(2) The disclaimer becomes effective as set forth in IC 32-17.5-4 through IC 32-17.5-6.

As added by P.L.5-2003, SEC.1.

IC 32-17.5-3-6

Disclaimer not a transaction, assignment, or release

Sec. 6. A disclaimer made under this article is not a transfer, an assignment, or a release.

As added by P.L.5-2003, SEC.1.