

OREGON STATE BAR
Legislative Proposal
Part I – Legislative Summary

RE: HB 2357 Technical revisions to the Disclaimer Statute, ORS Ch. 105.

Submitted by: Estate Planning & Administration Section

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1. Does this amend current law or program? Yes

This proposal would make a technical correction to ORS Ch. 105.

2. PROBLEM PRESENTED (including level of severity):

It is unclear, under ORS 105.633, part of Oregon’s version of the Uniform Disclaimer of Property Interests Act, who is entitled to property when person disclaims property he or she would otherwise receive under the law of intestate succession.

ORS 105.633 also contains numbering errors that should be corrected.

3. SOLUTION:

The bill amends ORS 105.633 to clarify who inherits if a person disclaims the right to inherit property passing by intestate succession. As a result of the amendment, the property will pass as if the “disclaimant” (the person disclaiming) died immediately before the death of the “transferor” (previous owner). If the resulting recipient would have been the disclaimant’s estate, the property passes to the disclaimant’s surviving descendants or, if there are no such descendants, to the surviving intestate heirs of the transferor. However, if the transferor’s surviving spouse is living but is remarried, the property will bypass the spouse.

These alternative provisions are based on what we believe individual property owners in the transferor’s shoes would likely choose if they were to consider the possibility. The bill adopts language from a 2006 amendment to Section 6 of the Uniform Disclaimer of Property Interests Act. This language was not available for consideration, as part of the uniform act, when Oregon adopted its current disclaimer statute in 2001. *Compare* 8A U.L.A. 170-174 (2003) *and* 8a U.L.A. 67-73 (Supp. 2007).

4. PUBLIC POLICY IMPLICATION of this proposed legislative change:

The bill provides more certainty for persons who wish to disclaim property.

5. Could the problem be addressed through a **NON-LEGISLATIVE SOLUTION**, such as administrative rule or education? No.

6. **COULD ANOTHER SECTION OR GROUP MORE APPROPRIATELY INTRODUCE THE BILL?** No.

7. **IDENTIFY THE GROUP OR CONSTITUENCIES THAT WOULD BE MOST IMPACTED** or interested in this change. Who would support it and who would oppose it?

Persons who inherit intestate property of others and who may wish to disclaim that property. We believe that there will be no opposition to this technical correction.

8. **Has this been introduced in a prior session?** No.