

Sec. 2. Section 237.13, subsection 4, paragraph g, Code 1999, is amended by striking the paragraph.

Sec. 3. Section 237.13, subsection 4, paragraph h, Code 1999, is amended by striking the paragraph.

Sec. 4. Section 237.13, subsection 6, Code 1999, is amended to read as follows:

6. The fund is not liable for the first ~~seventy-five~~ one hundred dollars of any claim based on a single occurrence for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a ~~calendar~~ fiscal year related to a single home.

Sec. 5. TRANSITION TO FISCAL YEAR. The limit on foster home liability established in section 237.13, subsection 6, in effect for the calendar year beginning January 1, 1999, shall apply through June 30, 1999. This section of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 1999

CHAPTER 56

ESTATES AND TRUSTS — MISCELLANEOUS ISSUES

H.F. 662

AN ACT relating to estate issues by modifying the warranty by a trustee, jurisdiction of the probate court, fees payable on certain trusts, notice provisions relating to claims against estates, and disclaimers made by beneficiaries.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 614.14, subsection 4, paragraph b, Code 1999, is amended to read as follows:

b. That, to the knowledge of the trustee, the person creating the trust was under no disability or infirmity at the time the trust was created.

Sec. 2. Section 633.10, subsection 4, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A trust that is administered solely or jointly by an individual trustee or trustees is not subject to the jurisdiction of the court unless jurisdiction is invoked by a trustee or beneficiary, or if otherwise provided by the governing instrument. Upon application of all trustees administering a trust which is subject to the court's jurisdiction, and following notice to beneficiaries as provided in section 633.40, subsection 4, the court shall release the trust from further jurisdiction unless one or more beneficiaries object, on the condition that jurisdiction may thereafter be invoked by a trustee or beneficiary. The provisions of this paragraph shall be effective for applications filed on or after July 1, 1997.

Sec. 3. Section 633.31, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The fee set forth in subsection 2, paragraph "k", shall not be charged on any property transferred to a testamentary trust from an estate that has been administered in this state and for which court costs have been assessed and paid.

Sec. 4. NEW SECTION. 633.357 CUSTODIAL INDIVIDUAL RETIREMENT ACCOUNTS.

1. As used in this section, unless the context otherwise requires:

a. "Custodial independent retirement account" means an individual retirement account in accordance with section 408(a) of the Internal Revenue Code or a Roth individual retirement account in accordance with section 408A of the Internal Revenue Code, the assets of which are not held in trust.

b. "Designator" means a person entitled to designate the beneficiary or beneficiaries of a custodial independent retirement account.

2. The assets of a custodial independent retirement account shall pass on or after the death of the designator of the custodial independent retirement account to the beneficiary or beneficiaries specified in the custodial independent retirement account agreement signed by the designator or designated by the designator in writing pursuant to the custodial independent retirement account agreement. Assets that pass to a beneficiary pursuant to this section shall not be considered part of the designator's probate estate except to the extent that the designator's estate is a beneficiary. The designation of a beneficiary shall not be considered testamentary and does not have to be witnessed.

3. This section applies to a custodial independent retirement account established and a beneficiary designation made prior to, on, or after the effective date of this Act. This section shall be considered to be declarative of the law as the law existed immediately prior to the effective date of this Act.

4. This section shall not be construed to imply that assets or benefits that are payable upon the death of a person to a beneficiary or beneficiaries designated in or pursuant to a written arrangement not described in this section, other than a will, are part of the person's probate estate or that the arrangement is testamentary.

Sec. 5. Section 633.440, Code 1999, is amended to read as follows:

633.440 CONTENTS OF NOTICE OF DISALLOWANCE.

Such a notice of disallowance shall advise the claimant that the claim has been disallowed and will be forever barred unless the claimant shall within twenty days after the date of mailing the notice, file a request for hearing on the claim with the clerk, and mail a copy of such request for hearing to the personal representative and the attorney of record, if any, by certified mail.

Sec. 6. Section 633.704, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. **PASSAGE OF DISCLAIMED INTEREST OR PROPERTY.** Unless the transferor has otherwise provided, the property, interest, or right disclaimed, and any future interest which is to take effect in possession or enjoyment at or after the termination of the interest or right disclaimed, descends or shall be distributed as if the disclaimant has died prior to the date of the transfer, or if the disclaimant is one designated to take pursuant to a power of appointment exercised by testamentary instrument, then as if the disclaimant has predeceased the donee of the power unless the donee of the power has otherwise provided. In every case, the disclaimer relates back for all purposes to the date of the transfer. ~~In the case of a disclaiming beneficiary under a will, other than a spouse, the property, interest, or right disclaimed passes to the heirs of the disclaimant unless from the terms of the transferor's will the intent is clear and explicit to the contrary, in which event the property, interest, or right disclaimed passes pursuant to the will.~~ In the case of a disclaimer under a will by a spouse the property, interest, or right disclaimed lapses unless from the terms of the transferor's will the intent is clear and explicit to the contrary.

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