

633E.12 Delivery or filing.

1. For the purposes of this section, “*beneficiary designation*” means an instrument, other than an instrument creating a trust, naming the beneficiary of any of the following:

- a. An annuity or insurance policy.
- b. An account with a designation for payment on death.
- c. A security registered in beneficiary form.
- d. A pension, profit-sharing, retirement, or other employment-related benefit plan.
- e. Any other nonprobate transfer at death.

2. Subject to subsections 3 through 12, delivery of a disclaimer may be effected by personal delivery, first class mail, or any other method likely to result in its receipt.

3. 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, the following shall apply:

- a. A disclaimer must be delivered to the personal representative of the decedent’s estate.
- b. If no personal representative is then serving, a disclaimer must be filed with a court having jurisdiction to appoint the personal representative.

4. In the case of an interest in a testamentary trust, one of the following shall apply:

- a. A disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the personal representative of the decedent’s estate.
- b. If no personal representative is then serving, a disclaimer shall be filed with a court having jurisdiction to enforce the trust.

5. In the case of an interest in an inter vivos trust, one of the following shall apply:

- a. A disclaimer must be delivered to the trustee then serving.
- b. If no trustee is then serving, a disclaimer must be filed with a court having jurisdiction to enforce the trust.
- c. If a disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the settlor of a revocable trust or the transferor of the interest.

6. In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

7. In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

8. In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

9. 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, one of the following shall apply:

- a. The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power.
- b. If no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

10. In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, one of the following shall apply:

- a. The disclaimer must be delivered to the holder, the personal representative of the holder’s estate, or to the fiduciary under the instrument that created the power.
- b. If no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

11. In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection 3, 4, or 5, as if the power disclaimed were an interest in property.

12. 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.

13. In addition to the foregoing, all of the following shall apply:

- a. A copy of any instrument of disclaimer affecting real estate shall be filed in the office of the county recorder of the county where the real estate is located. Failure to file, record,

or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

b. A copy of an instrument of disclaimer, regardless of its subject, may be filed with the clerk of court of the county in which proceedings for administration have been commenced, if applicable.

2004 Acts, ch 1015, §19

C2005, §633.912

2005 Acts, ch 38, §53

CS2005, §633E.12

Referred to in §421.27, 633E.5