

633E.5 Power to disclaim — general requirements — when irrevocable.

1. A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, whenever and however acquired. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

2. Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute of this state or by the instrument creating the fiduciary relationship, or a disclaimer by a fiduciary would be a breach of trust, a fiduciary may disclaim, in whole or in 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 the creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

3. To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in section 633E.12. In this subsection, "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.

4. 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.

5. A disclaimer becomes irrevocable when it is delivered or filed pursuant to section 633E.12 or when it becomes effective as provided in sections 633E.6 through 633E.11, whichever occurs later.

6. A disclaimer made under this chapter is not a transfer, assignment, or release.

2004 Acts, ch 1015, §12

C2005, §633.905

2005 Acts, ch 3, §106; 2005 Acts, ch 38, §52, 53, 55

CS2005, §633E.5

Referred to in §249A.3, 633.647