

633E.6 Effect of disclaimer of interest in property.

1. As used in this section:

a. “*Future interest*” means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

b. “*Time of distribution*” means the time when a disclaimed interest would have taken effect in possession or enjoyment.

2. Except for a disclaimer governed by section 633E.7 or 633E.8, the following rules apply to a disclaimer of an interest in property:

a. The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate’s death.

b. The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

c. If the instrument does not contain a provision described in paragraph “b”, the following rules shall apply:

(1) If the disclaimant is an individual, the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(2) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

d. Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant of the preceding interest is not accelerated in possession or enjoyment.

e. For purposes of this section, if an individual disclaims a future interest not held in trust, the disclaimed future interest passes as if that interest had been held in trust.

2004 Acts, ch 1015, §13

C2005, §633.906

2005 Acts, ch 38, §53, 55

CS2005, §633E.6

Referred to in §633E.5