

**Senate File 2222 - Introduced**

SENATE FILE 2222  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3021)

**A BILL FOR**

1 An Act relating to Iowa's uniform disclaimer of property  
2 interest Act.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633E.4, Code 2009, is amended to read as  
2 follows:

3 **633E.4 Tax qualified disclaimer.**

4 ~~Notwithstanding~~ Except as provided in sections 633E.13  
5 and 633E.15, notwithstanding any other provision of this  
6 chapter, any disclaimer or transfer that meets the requirements  
7 of section 2518 of the Internal Revenue Code, as now or  
8 hereafter amended, or any successor statute thereto, and the  
9 regulations promulgated thereunder, for the purpose of being a  
10 tax qualified disclaimer with the effect that the disclaimed  
11 or transferred interest is treated as never having been  
12 transferred to the disclaimant is effective as a disclaimer  
13 under this chapter. For purposes of this section, "Internal  
14 Revenue Code" means the same as defined in section 422.3.

15 Sec. 2. Section 633E.7, subsection 1, Code 2009, is amended  
16 by striking the subsection and inserting in lieu thereof the  
17 following:

18 1. Upon the death of a holder of jointly held property,  
19 either of the following may occur:

20 a. If, during the deceased holder's lifetime, the deceased  
21 holder could have unilaterally regained a portion of the  
22 property attributable to the deceased holder's contribution  
23 without the consent of any other holder, a surviving holder  
24 may disclaim, in whole or in part, a fractional share of that  
25 portion of the property attributable to the deceased holder's  
26 contributions determined by dividing the number one by the  
27 number of joint holders alive immediately after the death of  
28 the holder to whose death the disclaimer relates.

29 b. For all other jointly held property, a surviving holder  
30 may disclaim, in whole or in part, a fraction of the whole of  
31 the property the numerator of which is one and the denominator  
32 of which is the product of the number of joint holders alive  
33 immediately before the death of the holder to whose death the  
34 disclaimer relates multiplied by the number of joint holders  
35 alive immediately after the death of the holder to whose death

1 the disclaimer relates.

2 Sec. 3. Section 633E.7, Code 2009, is amended by adding the  
3 following new subsection:

4 NEW SUBSECTION. 4. A noncitizen spouse who is a surviving  
5 joint tenant of real property interests created after July 13,  
6 1988, can disclaim the spouse's interest to the full extent  
7 permitted under section 633E.4.

8 Sec. 4. Section 633E.13, subsection 5, Code 2009, is amended  
9 to read as follows:

10 5. A disclaimer is barred or limited if so provided by law  
11 other than this chapter, except as provided in subsection 7.

12 Sec. 5. Section 633E.13, Code 2009, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 7. A disclaimer may be made at any time  
15 unless otherwise barred and any other law that would bar a  
16 disclaimer due to the passage of time shall not apply under  
17 this chapter.

18 Sec. 6. Section 633E.14, subsection 2, Code 2009, is amended  
19 to read as follows:

20 2. This chapter does not limit any right of a person to  
21 ~~waive, release, disclaim, or renounce~~ disclaim an interest in  
22 or power over property under a ~~law~~ statute other than this  
23 chapter.

24 EXPLANATION

25 This bill amends Code section 633E.4, relating to a tax  
26 qualified disclaimer or transfer of a property interest, to  
27 allow two exceptions (Code sections 633E.13 and 633E.15) to  
28 the requirement that a disclaimer or transfer of a property  
29 interest that is valid under section 2518 of the Internal  
30 Revenue Code is valid for all purposes under Code chapter  
31 633E. Code section 633E.13 identifies circumstances under  
32 which disclaimers are barred or limited and Code section  
33 633E.15 prohibits a disclaimer from being used to avoid medical  
34 assistance obligations pursuant to Code chapter 249A.

35 The bill amends Code section 633E.7 relating to disclaimers

1 of rights of survivorship in jointly held property to provide  
2 that upon the death of a holder of jointly held property,  
3 either of the following may occur:

4 1. If, during the deceased holder's lifetime, the deceased  
5 holder could have unilaterally regained a portion of the  
6 property without the consent of any other holder, a surviving  
7 holder may disclaim, in whole or in part, a fractional share  
8 of that portion of the property attributable to the deceased  
9 holder's contributions determined by dividing the number one by  
10 the number of joint holders alive immediately after the death  
11 of the holder to whose death the disclaimer relates.

12 2. For all other jointly held property, a surviving holder  
13 may disclaim, in whole or in part, a fraction of the whole of  
14 the property the numerator of which is one and the denominator  
15 of which is the product of the number of joint holders alive  
16 immediately before the death of the holder to whose death the  
17 disclaimer relates multiplied by the number of joint holders  
18 alive immediately after the death of the holder to whose death  
19 the disclaimer relates.

20 In addition, Code section 633E.7 is amended to allow a  
21 noncitizen, surviving spouse to make a tax-qualified disclaimer  
22 of property interests under section 2518 of the Internal  
23 Revenue Code.

24 The bill amends Code section 633E.13 to provide that there  
25 is no time limit in regard to a disclaimer of an interest in  
26 property.

27 The bill amends Code section 633E.14 to prohibit common  
28 law disclaimers as an alternative to disclaimers of property  
29 interests under Code chapter 633E.