

Senate Study Bill 3021 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

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 a~~ 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 the entire property
22 without the consent of any other holder, a surviving holder
23 may disclaim, in whole or in part, a fractional share of that
24 portion of the property attributable to the deceased holder's
25 contributions determined by dividing the number one by the
26 number of joint holders alive immediately after the death of
27 the holder to whose death the disclaimer relates.

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

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

3 NEW SUBSECTION. 4. A noncitizen spouse who is a surviving
4 joint tenant of real property interests created after July 13,
5 2008, can disclaim the spouse's interest to the full extent
6 permitted under section 633E.4.

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

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

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

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

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

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

23 EXPLANATION

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

34 The bill amends Code section 633E.7 relating to disclaimers
35 of rights of survivorship in jointly held property to provide

1 that upon the death of a holder of jointly held property,
2 either of the following may occur:

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

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

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

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

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