

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.2901 Short title of part; definitions.

Sec. 2901.

(1) This part shall be known and may be cited as the "disclaimer of property interests law".

(2) As used in this part:

(a) "Agent" means an agent or attorney in fact acting under a written power of attorney and within the scope of his, her, or its authority.

(b) "Disclaimable interest" includes, but is not limited to, property, the right to receive or control property, and a power of appointment. Disclaimable interest does not include an interest retained by or conferred upon the disclaimant by the disclaimant at the creation of the interest. For purposes of this definition, the survivorship interest in joint property is not considered to be an interest retained or conferred upon the disclaimant even if the disclaimant created the joint property.

(c) "Effective date of a governing instrument other than a will or trust created by will" means the date on which a property right vests or a contract right arises, even though either right is subject to divestment.

(d) "Fiduciary" includes, but is not limited to, an agent, a conservator, a guardian if no conservator has been appointed, a guardian ad litem, a personal representative, a trustee, a probate court acting through a protective order under this act, and a temporary, successor, or foreign fiduciary.

(e) "Fiduciary power" means a management power relating to the administration or management of assets similar to those powers granted to a personal representative in section 3715 and a trustee in sections 7816 and 7817, and granted by law to a fiduciary or conferred upon a fiduciary in a governing instrument.

(f) "Governing instrument" means a deed, assignment, bill of sale, will, trust, beneficiary designation, contract, instrument creating or exercising a power of appointment or a power of attorney, or another instrument under which property devolves, a property right is created, or a contract right is created. Governing instrument includes the provable terms of an oral contract or arrangement under which property devolves or a property right is created.

(g) "Joint property" means property that is owned by 2 or more persons with rights of survivorship, and includes a tenancy by the entireties in real property, a tenancy in personal property as provided in section 1 of 1927 PA 212, MCL 557.151, a joint tenancy, a joint tenancy with rights of survivorship, and a joint life estate with contingent remainder in fee. For purposes of this part, joint property is considered to consist of a present interest and a future interest. The future interest is the right of survivorship.

(h) "Person" includes an entity and an individual, but does not include a fiduciary, an estate, or a trust.

(i) "Property" means anything that may be the subject of ownership. Property includes both real and personal property and an interest in property, including a present interest; a future interest; a legal interest; an equitable interest; an interest acquired by testate succession, by intestate or other statutory succession, by succession to a disclaimed interest, or by lapse or release of a power of appointment; or an interest that may be otherwise acquired under a governing instrument.

(j) "Trust" means a fiduciary relationship with respect to property that subjects the person who holds title to the property to equitable duties to deal with the property for the benefit of another person, which fiduciary relationship arises as a result of a manifestation of an intention to create it. Trust includes an express trust, private or charitable, with additions to the trust, whether created by will or other than by will, and includes a trust created by statute, judgment, or decree under which the trust is to be administered in the manner of an express trust. Trust does not include a constructive trust or a resulting trust.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010

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