

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

700.2905 Delivery; disclaimer under power of appointment; disclaimer of joint property or fiduciary power.

Sec. 2905.

(1) A disclaimed interest that is subject to, or arises under, an exercise, release, or lapse of a power of appointment, must comply with the following:

(a) A disclaimer by an appointee must be delivered to the donee, to the personal representative of the donee's estate, or to the fiduciary under the instrument that created the power of appointment. The disclaimer by the appointee must be delivered after the exercise of the power of appointment by the donee and before any event described in section 2910.

(b) A disclaimer by a taker in default must be delivered to the donee, to the fiduciary under the instrument that created the power of appointment, or to 1 of the persons entitled to the property in the event of a disclaimer. The disclaimer by a taker in default may be delivered before or after the lapse or release of the power of appointment, and must be delivered before any event described in section 2910.

(2) If the disclaimed interest arises out of joint property, the disclaimer must be delivered after creation of the joint ownership and before any event described in section 2910, to the person who created the joint property, to a remaining owner who has not disclaimed, or to the person or fiduciary entitled to the disclaimed interest in the event of a disclaimer. The barring of the right to disclaim a present interest under section 2910 does not bar the right to disclaim the future interest.

(3) A fiduciary power may be disclaimed at any time, before or after exercise of the power. The disclaimer must be delivered to the person who established the instrument that gave rise to the power or to 1 of the following:

(a) If the fiduciary is a personal representative, to all the devisees under the will who are then living and whose whereabouts are known or reasonably ascertainable.

(b) If the fiduciary is a trustee, to another incumbent trustee who has not disclaimed the power or to all the beneficiaries of the trust who are then living and whose whereabouts are known or reasonably ascertainable.

(c) If the fiduciary is a guardian or conservator, to the interested persons.

(d) If the fiduciary is an agent, to the principal or, if the principal is legally incapacitated, to the principal's presumptive heirs at law.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC