



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1010 (as passed by the Senate)
 Sponsor: Senator Mike Rogers
 Committee: Judiciary

Date Completed: 8-19-96

RATIONALE

The ability to give up, or "disclaim", an interest in property can be extremely helpful in estate and tax planning matters. Previously, Public Act 9 of 1971 (in addition to Section 2518 of the Internal Revenue Code) governed the disclaimer of property interests in Michigan. That Act, however, was considered overly restrictive in regard to the types of disclaimers that could take place, and the time within which a disclaimer had to be made. To create maximum estate and tax planning flexibility, Public Act 131 of 1996 replaced the 1971 law with the new Disclaimer of Property Interests Act. That Act defines various terms used in the law, including the word "trust". Due to an apparent drafting error, the definition of "trust" mistakenly contains the phrase "fiduciary relationship", instead of "trust", in two places. It has been suggested that this definition should be corrected.

CONTENT

The bill would amend the Disclaimer of Property Interests Act to make a change in the Act's definition of "trust".

The Act defines "trust" as a fiduciary relationship that meets certain criteria. The definition specifies that "fiduciary relationship" includes an express trust, private or charitable, with additions to the trust, whether created by will or otherwise, 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. The definition also provides that "fiduciary relationship" does not include a constructive trust or a resulting trust. The bill would replace "fiduciary relationship" with "trust" in these provisions.

The bill contains an effective date of June 1, 1996.

MCL 554.872

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill simply would correct a drafting error within the Disclaimer of Property Interests Act, which took effect on June 1, 1996.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Bain

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.