



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1010 (as enrolled)
 Sponsor: Senator Mike Rogers
 Senate Committee: Judiciary
 House Committee: Judiciary and Civil Rights

PUBLIC ACT 403 of 1996

Date Completed: 10-24-96

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 contained the phrase "fiduciary relationship", instead of "trust", in two places. It was suggested that this definition should be corrected.

CONTENT

The bill amended 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 had specified that "fiduciary relationship" included an express trust, private or charitable, with additions to the trust, whether created by will or otherwise, and included a trust created by statute, judgment, or decree under which the trust was to be administered in the manner of an express trust. The definition also had provided that "fiduciary relationship" did not include a constructive trust or a resulting trust. The bill retained these provisions, but replaced "fiduciary relationship" with "trust".

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 corrected 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 will have no fiscal impact on State or local government.

Fiscal Analyst: M. Ortiz

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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.