

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

700.2902 Right to disclaim; partial disclaimers; limitation on right to disclaim.

Sec. 2902. (1) A person, or a fiduciary representing a person to whom a disclaimable interest devolves, may disclaim a disclaimable interest in whole or in part. A trustee, with respect to the trust as a whole or with respect to a separate trust that is or will be established under the governing instrument, may disclaim a disclaimable interest, in whole or in part, but only to the extent that the governing instrument expressly gives the trustee the right to disclaim.

(2) A disclaimer may be of a specific asset, an interest in a specific asset, a pecuniary amount, a fractional or percentage share, or a limited interest or estate. A provision in a power of attorney granting the agent the authority to do whatever the principal could do, or words of similar effect, includes the authority to disclaim, unless the authority to disclaim is specifically excluded or limited. Unless the governing instrument is a trust instrument that does not authorize the trustee to disclaim or a power of attorney that denies the agent the authority to disclaim, the right to disclaim exists notwithstanding the existence of either of the following:

(a) A spendthrift provision or similar restriction that limits the interest of the disclaimant.

(b) A restriction or limitation on the right to disclaim contained in the governing instrument.

(3) A fiduciary may disclaim a fiduciary power. The right to disclaim a fiduciary power exists notwithstanding a restriction or limitation on the right to disclaim contained in the governing instrument.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2004, Act 314, Eff. Sept. 1, 2004.

Popular name: EPIC