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FISCAL IMPACT REPORT

SPONSOR: Parks DATE TYPED: 01/23/01 HB 112
 SHORT TITLE: Uniform Disclaimer of Property Interests Act SB _____
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		NFI		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in The General Appropriation Act _____

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)

No Response Received
 Attorney General (AG)
 Tax and Revenue (TR)

SUMMARY

Synopsis of Bill

The Uniform Disclaimer of Property Interests Act creates a new law which prescribes all the rules for refusing a proffered interest in or power over property and the effect of that refusal on the power or interest while leaving the effect of the refusal itself to other law.

The bill sets forth definitions used in the Act in Section 2. The Act provides detailed rules for the disclaimer of interest in jointly held property in Section 7. Section 8 addresses the disclaimer by trustee of property that would otherwise become part of the trust. The disclaimer of powers of appointment and other powers not held in a fiduciary capacity is treated in Section 9 and disclaimers by appointees, objects, and takers in default of exercise of a power of appointment is the subject of Section 10. Section 11 provides rules for the disclaimer of powers held in a fiduciary capacity.

The rules set forth in Section 12 are designed so that anyone who has the duty to distribute the disclaimed interest will be notified of the disclaimer. In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust, the Act provides for an additional method, delivery or filing. When no personal representative is serving, the disclaimer must be filed with a court having jurisdiction to appoint the personal

representative, or if no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary. Section 13(e) explicitly states that a disclaimer may be barred or limited by law other than the Act.

The Act provides for recording of a disclaimer if an instrument transferring an interest in or power is required or permitted by law to be filed. Failure to file, record or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Significant Issues

The Act allows beneficiaries of intestate, testamentary and non-testamentary (non-probate) interests to execute a disclaimer of those interests. The Act makes it clearer that trustees and other fiduciaries may use disclaimers, that powers of appointment may be disclaimed, and that unfair distributions of interests are avoided when disclaimers are used.

FISCAL IMPLICATIONS

See Administrative Implications.

ADMINISTRATIVE IMPLICATIONS

Any fiscal impact on the judiciary would be proportional to the law's use. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

FAR/njw