

Maine Revised Statutes
Title 18-A: PROBATE CODE

Article :

§2-801. RENUNCIATION OF PROPERTY INTERESTS

(a). A person, or a person with legal authority to represent an incapacitated or protected person or the estate of a deceased person, to whom an interest in or with respect to property or an interest therein or a power of appointment over such property devolves by whatever means may renounce it in whole or in part by delivering a written renunciation under this section. The right to renounce exists notwithstanding any limitation on the interest of the person renouncing in the nature of a spendthrift provision of similar restriction.

[1979, c. 540, §1 (NEW) .]

(b). A renunciation under this section must be an irrevocable and unqualified refusal by a person to accept an interest in property, and must comply with the following requirements:

(1). If the property, interest or power has devolved to the person renouncing under a testamentary instrument or by the laws of intestacy, the renunciation must be received by the personal representative, or other fiduciary, of the decedent or deceased donee of a power of appointment, or by the holder of the legal title to the property to which the interest relates, (i) in the case of a present interest, not later than 9 months after the death of the deceased owner or deceased donee of the power, or (ii) in the case of a future interest, not later than 9 months after the event determining that the taker of the property, interest or power has become finally ascertained and his interest is indefeasibly vested. A copy of the renunciation may be filed in the Registry of Probate of the court in which proceedings for the administration of the deceased owner or deceased donee of the power have been commenced, or if no administration has been commenced, in the court where such proceedings could be commenced.

[1979, c. 540, §1 (NEW) .]

(2). If the property, interest or power has devolved to the person renouncing under a nontestamentary instrument or contract, the renunciation must be received by the transferor, his legal representative, or the holder of the legal title to the property to which the interest relates (i) in the case of a present interest, not later than 9 months after the effective date of the nontestamentary instrument or contract, or (ii) in the case of a future interest, not later than 9 months after the event determining that the taker of the property, interest or power has become finally ascertained and his interest is indefeasibly vested. If the person entitled to renounce does not have actual knowledge of the existence of his interest, the time limits for receipt of the renunciation shall be extended to not later than 9 months after he has knowledge of the existence of his interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to himself or another the entire legal and equitable ownership of the interest. [1979, c. 540, §1 (NEW) .]

[1979, c. 540, §1 (NEW) .]

(c). A surviving joint tenant may renounce as a separate interest any property or interest therein devolving to him by right of survivorship. A surviving joint tenant may renounce the entire interest in any property or interest therein that is the subject of a joint tenancy devolving to him, if the joint tenancy was created by act of a deceased joint tenant and the survivor did not join in creating the joint tenancy.

[1979, c. 540, §1 (NEW) .]

(d). If real property or an interest therein or a power thereover is renounced, a copy of the renunciation may be recorded in the Registry of Deeds of the county in which the property is located, and the recording or lack of recording shall have the same effect for purposes of the recording act as the recording or lack of recording of other instruments under Title 33, section 201.

[1979, c. 540, §1 (NEW) .]

(e). A renunciation under this section shall describe the property, interest or power renounced, declare the renunciation and extent thereof, be signed by the person renouncing, and if within the provisions of subsection (b), paragraph (2), declare the date the person renouncing first had actual knowledge of the existence of his interest whenever that date is material under subsection (b), paragraph (2).

[1979, c. 540, §1 (NEW) .]

(f). The devolution of any property or interest renounced under this section is governed by the following provisions of this subsection:

(1). If the property or interest devolved to the person renouncing under a testamentary instrument or under the laws of intestacy and the deceased owner or donee of a power of appointment has not provided for another disposition, it devolves as if the person renouncing had predeceased the decedent or, if the person renouncing was designated to take under a power of appointment exercised by a testamentary instrument, it devolves as if the person renouncing had predeceased the donee of the power. Any future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced, takes effect as if the person renouncing had died before the event determining that the taker of the property or interest had become finally ascertained and his interest is indefeasibly vested. A renunciation relates back for all purposes to the date of death of the decedent, or of the donee of the power, or the determinative event, as the case may be. [1979, c. 540, §1 (NEW) .]

(2). If the property or interest devolved to the person renouncing under a nontestamentary instrument or contract and the instrument or contract does not provide for another disposition, it devolves as if the person renouncing had died before the effective date of the instrument or contract. Any future interest that takes effect in possession or enjoyment at or after the termination of the renounced estate or interest, takes effect as if the person renouncing had died before the event determining the taker of the property or interest had become finally ascertained and his interest indefeasibly vested. A renunciation relates back for all purposes to the effective date of the instrument or the date of the determinative event, as the case may be. [1979, c. 540, §1 (NEW) .]

(3). The renunciation or the written waiver of the right to disclaim is binding upon the person renouncing or waiving and upon all persons claiming through or under him. [1979, c. 540, §1 (NEW) .]

[1979, c. 540, §1 (NEW) .]

(g). The right to renounce property or an interest therein or a power of appointment is barred by (1) an assignment, conveyance, encumbrance, pledge or transfer of the property or interest, or a contract therefor, (2) a written waiver of the right to renounce, (3) an acceptance of the property or interest or a benefit thereunder, or (4) a sale of the property or interest under judicial sale made before the renunciation is effected.

[1979, c. 540, §1 (NEW) .]

(h). This section does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein or a power of appointment under any other statute.

[1979, c. 540, §1 (NEW) .]

(i). An interest in property that exists on the effective date of this section as to which the time for renouncing has not expired under this section, may be renounced by compliance with this section.

[1979, c. 540, §1 (NEW) .]

(j). Any renunciation which is effective as a "qualified disclaimer" under section 2518(b) of the Internal Revenue Code is effective as a renunciation under this section, notwithstanding any provisions of this section to the contrary.

[1979, c. 540, §1 (NEW) .]

SECTION HISTORY

1979, c. 540, §1 (NEW).

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