

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.  
Act 346 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

HOUSE BILL 1399

5 By: Representative Harrelson  
6 By: Senator D. Johnson  
7

## For An Act To Be Entitled

10 AN ACT TO AMEND THE ARKANSAS VERSION OF THE  
11 UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT; AND  
12 FOR OTHER PURPOSES.  
13

### Subtitle

14 TO AMEND THE ARKANSAS VERSION OF THE  
15 UNIFORM DISCLAIMER OF PROPERTY INTERESTS  
16 ACT.  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 28-2-201 is amended to read as follows:  
23 28-2-201. Short title.

24 This subchapter may be cited as the "~~Arkansas~~ Uniform Disclaimer of  
25 Property Interests Act (1999)."

26  
27 SECTION 2. Arkansas Code § 28-2-206 is amended to read as follows:  
28 28-2-206. Disclaimer of interest in property.

29 (a) In this section:

30 (1) ~~"Time of distribution" means the time when a disclaimed~~  
31 ~~interest would have taken effect in possession or enjoyment.~~

32 ~~(2)~~ "Future interest" means an interest that takes effect in  
33 possession or enjoyment, if at all, later than the time of its creation.

34 (2) "Time of distribution" means the time when a disclaimed  
35 interest would have taken effect in possession or enjoyment.



1 (b) Except for a disclaimer governed by § 28-2-207 or § 28-2-208, the  
2 following rules apply to a disclaimer of an interest in property:

3 (1) The disclaimer takes effect as of the time the instrument  
4 creating the interest becomes irrevocable, or, if the interest arose under  
5 the law of intestate succession, as of the time of the intestate’s death.

6 (2) The disclaimed interest passes according to any provision in  
7 the instrument creating the interest providing for the disposition of the  
8 interest, should it be disclaimed, or of disclaimed interests in general.

9 (3) If the instrument does not contain a provision described in  
10 subdivision (b)(2), the following rules apply:

11 ~~(A) If the disclaimant is an individual, the disclaimed~~  
12 ~~interest passes as if the disclaimant had died immediately before the time of~~  
13 ~~distribution. However, if, by law or under the instrument, the descendants of~~  
14 ~~the disclaimant would share in the disclaimed interest by any method of~~  
15 ~~representation had the disclaimant died before the time of distribution, the~~  
16 ~~disclaimed interest passes only to the descendants of the disclaimant who~~  
17 ~~survive the time of distribution.~~

18 ~~(B) If the disclaimant is not an individual, the~~  
19 ~~disclaimed interest passes as if the disclaimant did not exist.~~

20 (A) If the disclaimant is not an individual, the  
21 disclaimed interest passes as if the disclaimant did not exist.

22 (B) If the disclaimant is an individual, except as  
23 otherwise provided in subparagraphs (C) and (D), the disclaimed interest  
24 passes as if the disclaimant had died immediately before the time of  
25 distribution.

26 (C) If by law or under the instrument, the descendants of  
27 the disclaimant would share in the disclaimed interest by any method of  
28 representation had the disclaimant died before the time of distribution, the  
29 disclaimed interest passes only to the descendants of the disclaimant who  
30 survive the time of distribution.

31 (D) If the disclaimed interest would pass to the  
32 disclaimant’s estate had the disclaimant died before the time of  
33 distribution, the disclaimed interest instead passes by representation to the  
34 descendants of the disclaimant who survive the time of distribution. If no  
35 descendant of the disclaimant survives the time of distribution, the  
36 disclaimed interest passes to those persons, including the state but

1 excluding the disclaimant, and in such shares as would succeed to the  
2 transferor's intestate estate under the intestate succession law of the  
3 transferor's domicile had the transferor died at the time of distribution.  
4 However, if the transferor's surviving spouse is living but is remarried at  
5 the time of distribution, the transferor is deemed to have died unmarried at  
6 the time of distribution.

7 (4) Upon the disclaimer of a preceding interest, a future  
8 interest held by a person other than the disclaimant takes effect as if the  
9 disclaimant had died or ceased to exist immediately before the time of  
10 distribution, but a future interest held by the disclaimant is not  
11 accelerated in possession or enjoyment.

12  
13 **APPROVED: 3/10/2009**  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36