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I N S E N A T E

May 22, 2012

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law, in relation to the disposition to issue or brothers or sisters of testator not to lapse and the application to class dispositions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of section 3-3.3 of the estates, powers and
2 trusts law, as amended by chapter 595 of the laws of 1992, is amended to
3 read as follows:
4 (a) Unless the will whenever executed provides otherwise:
5 (1) Instruments executed prior to September first, nineteen hundred
6 ninety-two. Whenever a testamentary disposition INCLUDING A DISPOSITION
7 OF A FUTURE ESTATE OTHER THAN A FUTURE ESTATE SUBJECT TO A CONDITION
8 PRECEDENT OF SURVIVING THE TESTATOR is made to [the issue or to a brother
9 or sister of the testator] A BENEFICIARY WHO IS ONE OF THE TESTATOR'S
10 ISSUE OR A BROTHER OR SISTER, and such beneficiary dies during the life-
11 time of the testator leaving issue surviving such testator, such dispo-
12 sition does not lapse but vests in such surviving issue, [per stirpes]
13 BY REPRESENTATION.
14 (2) Instruments executed on or after September first, nineteen hundred
15 ninety-two. Whenever a testamentary disposition INCLUDING A DISPOSITION
16 OF A FUTURE ESTATE OTHER THAN A FUTURE ESTATE SUBJECT TO A CONDITION
17 PRECEDENT OF SURVIVING THE TESTATOR is made to [the] A BENEFICIARY WHO
18 IS ONE OF THE TESTATOR'S issue or [to] a brother or sister [of the
19 testator], and such beneficiary dies during the lifetime of the testator
20 leaving issue surviving such testator, such disposition does not lapse
21 but vests in such surviving issue, by representation.
22 (3) The provisions of subparagraphs (1) and (2) apply to a disposition
23 made [to issue, brothers or sisters as a class] IN THE FORM OF A CLASS
24 GIFT OTHER THAN A DISPOSITION TO "ISSUE," "DESCENDANTS," "HEIRS OF THE
25 BODY," "HEIRS," "NEXT-OF-KIN," "RELATIVES," OR "FAMILY," OR A CLASS
26 DESCRIBED BY LANGUAGE OF SIMILAR IMPORT, as if the disposition were made

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 to the beneficiaries by their individual names, except that no benefit
2 shall be conferred hereunder upon the surviving issue of an ancestor who
3 died before the execution of the will in which the disposition to the
4 class was made.

5 S 2. This act shall take effect immediately; provided, however, that
6 it shall apply only to the estates of decedents who shall have died on
7 or after such effective date.