S T A T E O F N E W Y O R K

4272

2013-2014 Regular Sessions

I N S E N A T E

March 18, 2013

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 surrogate's court procedure act, in relation to the settlement of account by a resigning fiduciary

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

Section 1. Section 715 of the surrogate's court procedure act is amended to read as follows:

S 715. Application by fiduciary for permission to resign

A fiduciary may present to the court at any time a petition praying that he OR SHE be permitted to resign, that his OR HER letters be revoked and that he OR SHE be permitted to [file and proceed to the judicial settlement of] SETTLE his OR HER account JUDICIALLY OR INFORMALLY as such fiduciary [within a time to be fixed by the court], and that notice of the application be given to the persons and in the manner directed by the court. The petition [must] SHALL show the facts upon which the application is founded.

S 2. Section 716 of the surrogate's court procedure act, as amended by chapter 503 of the laws of 1980, is amended to read as follows:

S 716. Proceedings thereupon

If it shall be determined that the petition should be granted, an intermediate order may be entered forthwith or at any time during the pendency of the proceeding, permitting the petitioner to resign, revoking his OR HER letters, or removing him OR HER, appointing a successor, and directing the resigning fiduciary to turn over all assets in his OR HER hands to his OR HER successor and [file] SETTLE his OR HER account [and a petition for the judicial settlement thereof and proceed to have it judicially settled] JUDICIALLY OR INFORMALLY. The proceedings thereupon, whether or not the letters of the petitioner be revoked or he OR SHE be removed, must be the same as upon a petition for the judicial

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

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settlement of the petitioner's account, except that the successor fiduciary, if one shall have been appointed, shall be a necessary party to it. Upon the resigning fiduciary fully accounting and paying over all money which is found to be due from him OR HER and delivering over all books, papers and other property in his OR HER hands to his OR HER successor, or in such manner as the court directs, a decree may be made discharging him OR HER accordingly.

S 3. This act shall take effect immediately and shall apply to estates of decedents dying on or after such date.