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

5080

2013-2014 Regular Sessions

I N S E N A T E

May 8, 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 estates, powers and trusts law, in relation to incorporation by reference, as a testamentary trust

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

Section 1. Paragraph (e) of section 3-3.7 of the estates, powers and trusts law, such section as renumbered by chapter 472 of the laws of 1967, is amended to read as follows:

(e) A revocation or termination of the trust before the death of the testator shall cause the disposition or appointment to fail, unless the testator has made an alternative disposition; PROVIDED, HOWEVER, THAT THE TESTATOR MAY, BY EXPRESS DIRECTION, PROVIDE THAT, SHOULD THE TRUST TERMINATE OR BE REVOKED OTHER THAN BY THE TESTATOR OR TESTATRIX UNDER SUBDIVISION (B) OF SECTION 7-1.17 OF THIS CHAPTER OR BY PROVISION OF THE TESTATOR OR TESTATRIX'S WILL UNDER SECTION 7-1.16 OF THIS CHAPTER, THE DISPOSITION OR APPOINTMENT OF ALL OR PART OF HIS OR HER ESTATE TO SUCH TERMINATED OR REVOKED TRUST SHALL BE DEEMED TO CREATE A TESTAMENTARY TRUST UNDER AND IN ACCORDANCE WITH THE TERMS OF SUCH TERMINATED OR REVOKED TRUST AT THE TIME OF THE EXECUTION OF THE WILL OR, IF THE TESTATOR SO DIRECTS, INCLUDING AMENDMENTS MADE THERETO PRIOR TO SUCH TERMINATION OR REVOCATION, AND SUCH TESTAMENTARY TRUST AND THE DISPOSITIONS OF INCOME AND PRINCIPAL THEREUNDER SHALL BE VALID EVEN THOUGH THE TERMS OF SUCH TERMINATED OR REVOKED TRUST ARE NOT RECITED IN THE WILL.

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

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

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