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

4852

2013-2014 Regular Sessions

I N S E N A T E

April 26, 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 laws, 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:

Section 1. Paragraph (a) of section 3-3.3 of the estates, powers and trusts law, as amended by chapter 595 of the laws of 1992, is amended to read as follows:

(a) Unless the will whenever executed provides otherwise:

(1) Instruments executed prior to September first, nineteen hundred ninety-two. Whenever a testamentary disposition INCLUDING A DISPOSITION OF A FUTURE ESTATE OTHER THAN A FUTURE ESTATE SUBJECT TO A CONDITION PRECEDENT OF SURVIVING THE TESTATOR is made to [the] A BENEFICIARY WHO IS ONE OF THE TESTATOR'S issue or [to] a brother or sister [of the testator], and such beneficiary dies during the lifetime of the testator leaving issue surviving such testator, such disposition does not lapse but vests in such surviving issue, [per stirpes] BY REPRESENTATION.

(2) Instruments executed on or after September first, nineteen hundred ninety-two. Whenever a testamentary disposition INCLUDING A DISPOSITION OF A FUTURE ESTATE OTHER THAN A FUTURE ESTATE SUBJECT TO A CONDITION PRECEDENT OF SURVIVING THE TESTATOR is made to [the] A BENEFICIARY WHO IS ONE OF THE TESTATOR'S issue or [to] a brother or sister [of the testator], and such beneficiary dies during the lifetime of the testator leaving issue surviving such testator, such disposition does not lapse but vests in such surviving issue, by representation.

(3) The provisions of subparagraphs (1) and (2) OF THIS PARAGRAPH apply to a disposition made [to issue, brothers or sisters as a class] IN THE FORM OF A CLASS GIFT OTHER THAN A DISPOSITION TO

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

LBD09935-02-3

"ISSUE,""DESCENDENTS," OR A CLASS DESCRIBED BY LANGUAGE OF SIMILAR IMPORT, as if the disposition were made to the beneficiaries by their individual names, except that no benefit shall be conferred hereunder upon the surviving issue of an ancestor who died before the execution of the will in which the disposition to the class was made.

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.