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

5775

2015-2016 Regular Sessions

I N  S E N A T E

June 2, 2015

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 fiduciaries' powers

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

Section 1. Paragraph (b) of section 11-1.1 of the estates, powers and trusts law is amended by adding a new subparagraph 23 to read as follows:

(23) TO EXERCISES CONTROL OVER ANY AND ALL RIGHTS TO DIGITAL ASSETS, DIGITAL ACCOUNTS OR DIGITAL DEVICES WHICH ARE PROPERTY OF THE ESTATE OR TRUST, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LOCAL, STATE OR FEDERAL LAW, INCLUDING COPYRIGHT LAW, OR REGULATIONS NOTWITHSTANDING THE PROVISIONS OF ANY END USER AGREEMENT. FOR THE PURPOSES OF THIS SECTION:

(A) "DIGITAL ACCOUNT" MEANS AN ELECTRONIC SYSTEM FOR THE PURPOSES OF CREATING, GENERATING, SENDING, SHARING, COMMUNICATING, RECEIVING, STORING, DISPLAYING OR PROCESSING INFORMATION THAT PROVIDES ACCESS TO A DIGITAL ASSET WHICH CURRENTLY EXISTS OR MAY SUBSEQUENTLY EXIST AS TECHNOLOGY DEVELOPS, INCLUDING BUT NOT LIMITED TO, EMAIL ACCOUNTS, SOCIAL NETWORK ACCOUNTS, SOCIAL MEDIA ACCOUNTS, FILE-SHARING ACCOUNTS, HEALTH INSURANCE ACCOUNTS, HEALTH CARE ACCOUNTS, FINANCIAL MANAGEMENT ACCOUNTS, DOMAIN REGISTRATION ACCOUNTS, DOMAIN NAME SERVICE ACCOUNTS, WEB HOSTING ACCOUNTS, TAX-PREPARATION SERVICES ACCOUNTS, ONLINE STORE ACCOUNTS AND AFFILIATE PROGRAMS THERETO AND ANY OTHER ONLINE ACCOUNTS THAT CURRENTLY EXIST FOR SUCH COMPARABLE PURPOSES.

(B) "DIGITAL ASSET" MEANS DATA, TEXT, EMAILS, DOCUMENTS, AUDIO, VIDEO, IMAGES, SOUNDS, SOCIAL-MEDIA CONTENT, SOCIAL-NETWORKING CONTENT, CODES, HEALTH CARE RECORDS, HEALTH INSURANCE RECORDS, COMPUTER-SOURCE CODES, COMPUTER PROGRAMS, SOFTWARE, SOFTWARE LICENSES, DATABASES, INCLUDING THE USERNAMES AND PASSWORDS CREATED TO ACCESS SUCH ASSETS. "DIGITAL ASSET"

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

LBD10844-01-5

DOES NOT INCLUDE AN UNDERLYING ASSET OR LIABILITY THAT IS GOVERNED UNDER OTHER PROVISIONS OF THIS CHAPTER.

(C) "DIGITAL DEVICE" MEANS AN ELECTRONIC DEVICE THAT CAN CREATE, GENERATE, SEND, SHARE, COMMUNICATE, RECEIVE, STORE, DISPLAY, OR PROCESS INFORMATION, AND SUCH ELECTRONIC DEVICES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, DESKTOPS, LAPTOPS, TABLETS, PERIPHERALS, SERVERS, MOBILE TELEPHONES, SMARTPHONES AND ANY SIMILAR STORAGE DEVICE OR COMPARABLE ITEM THAT CURRENTLY EXISTS OR MAY SUBSEQUENTLY EXIST AS TECHNOLOGY DEVELOPS.

(D) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY, HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR CAPABILITIES.

S 2. This act shall take effect immediately and shall apply to all estates, administrations, wills and trusts in existence before, on or after its effective date.