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2015-2016 Regular Sessions

I N   S E N A T E

June 2, 2015

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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:

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

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

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

20     (B) "DIGITAL ASSET" MEANS DATA, TEXT, EMAILS, DOCUMENTS, AUDIO, VIDEO,  
21 IMAGES, SOUNDS, SOCIAL-MEDIA CONTENT, SOCIAL-NETWORKING CONTENT, CODES,  
22 HEALTH CARE RECORDS, HEALTH INSURANCE RECORDS, COMPUTER-SOURCE CODES,  
23 COMPUTER PROGRAMS, SOFTWARE, SOFTWARE LICENSES, DATABASES, INCLUDING THE  
24 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.

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

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

10 (D) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY, HAVING ELECTRICAL,  
11 DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR CAPA-  
12 BILITIES.

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