

STATE OF NEW YORK

6138

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. BONACIC -- 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 limitations on powers and immunities of executors and testamentary trustees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 11-1.7 of the estates, powers and trusts law, as
2 amended by chapter 686 of the laws of 1967, is amended to read as
3 follows:

4 § 11-1.7 Limitations on powers and immunities of executors and testamen-
5 tary trustees

6 (a) The attempted grant to an executor [~~or~~], testamentary trustee, or
7 inter vivos trustee, or [~~the~~] his or her successor [~~of either~~], of any
8 of the following enumerated powers or immunities is contrary to public
9 policy:

10 (1) The exoneration of such fiduciary from liability for failure to
11 exercise reasonable care, diligence and prudence.

12 (2) The power to make a binding and conclusive fixation of the value
13 of any asset for purposes of distribution, allocation or otherwise.

14 (b) The attempted grant in any will or trust of any power or immunity
15 in contravention of the terms of this section shall be void but shall
16 not be deemed to render such will or trust invalid as a whole, and the
17 remaining terms of the [~~will~~] instrument shall, so far as possible,
18 remain effective.

19 (c) Any person interested in an estate or [~~testamentary~~] trust may
20 contest the validity of any purported grant of any power [~~of~~] or immuni-
21 ty within the purview of this section without diminishing or affecting
22 adversely his or her interest in the estate or trust[~~7~~] any provision in
23 any will or trust to the contrary notwithstanding.

24 § 2. This act shall take effect immediately and shall apply to all
25 wills and trusts executed on or after its effective date.

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

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