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:

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

§ 11-1.7 Limitations on powers and immunities of executors and testamentary trustees

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

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

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

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

(c) Any person interested in an estate or [~~testamentary~~] trust may contest the validity of any purported grant of any power [~~of~~] or immunity within the purview of this section without diminishing or affecting adversely his or her interest in the estate or trust[~~,~~] any provision in any will or trust to the contrary notwithstanding.

§ 2. This act shall take effect immediately and shall apply to all 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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