STATE OF NEW YORK

795

2019-2020 Regular Sessions

IN ASSEMBLY

January 11, 2019

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Judiciary

AN ACT to amend the surrogate's court procedure act, in relation to the granting of letters of administration and letters of administration with will annexed

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

Section 1. Subdivisions 6 and 7 of section 1001 of the surrogate's court procedure act, subdivision 6 as amended by chapter 514 of the laws of 1993 and subdivision 7 as amended by chapter 115 of the laws of 1981, are amended to read as follows:

6. Letters of administration may be granted to an eligible distributee or to an eligible person who is not a distributee upon the acknowledged and filed consents of all eligible distributees, or if there are no eligible distributees, then on the consents of all distributees, except that the guardian of the property of an infant distributee, the committee of the property of an incompetent distributee or the conservator of property of a conservatee appointed within the State of New York may so consent on behalf of his ward. **For purposes of this subdivision, a distributee is eligible if letters of administration could be issued to him or her alone or acting together with the person or persons so nominated.**

7. Letters of administration may be granted to a trust company or other corporation authorized to act as fiduciary upon the acknowledged and filed consents of all **eligible** distributees [~~**inclusive of those who may be non-domiciliary aliens, provided that all such persons are otherwise eligible**~~], **or if there are no eligible distributees, then on consents of all distributees,** except that the guardian of the property of an infant distributee, the committee of the property of an incompetent distributee or the conservator of property of a conservatee appointed within the state of New York may so consent on behalf of his

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

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ward. **For purposes of this subdivision, a distributee is eligible if letters of administration could be issued to him or her alone or acting together with the trust company or other corporation so nominated.**

§ 2. Subdivisions 6 and 7 of section 1418 of the surrogate's court procedure act, subdivision 6 as amended by chapter 115 of the laws of 1981 and subdivision 7 as amended by chapter 536 of the laws of 1985, are amended to read as follows:

6. Administration may be granted to an eligible person or persons not entitled as beneficiaries upon the acknowledged and filed consent of all of the **eligible** beneficiaries, [~~**provided all the beneficiaries are themselves eligible. The**~~] **or if there are no eligible beneficiaries, then on the consent of all of the beneficiaries, except that the** guardian of the property of an infant beneficiary, the committee of the property of an incompetent beneficiary or the conservator of the property of a conservatee beneficiary **appointed within the state of New York,** may so consent **on behalf of his or her ward. For purposes of this subdivision, a beneficiary is eligible if letters of administration with will annexed could be issued to him or her alone or acting together with the person or persons or so nominated**.

7. Administration may be granted to a trust company or other corporation authorized to act as fiduciary upon the acknowledged and filed consents of all the **eligible** beneficiaries [~~**inclusive of those who may be non-domiciliary aliens, provided that all such beneficiaries are otherwise eligible. The**~~]**, or if there are no eligible beneficiaries, then on the consent of all beneficiaries, except that the** guardian of the property of an infant beneficiary, the committee of the property of an incompetent beneficiary, or the conservator of the property of a conservatee beneficiary appointed within the state **of New York**, may so consent **on behalf of his or her ward. For purposes of this subdivision, a beneficiary is eligible if letters of administration with will annexed could be issued to him or her alone or acting together with the trust company or other corporation so nominated**.

§ 3. This act shall take effect immediately and shall apply to all proceedings occurring on or after such effective date.