STATE OF NEW YORK

2213

2021-2022 Regular Sessions

IN SENATE

January 20, 2021

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the surrogate's court procedure act, in relation to prohibiting the use of a waiver of probate form

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

Section 1. The surrogate's court procedure act is amended by adding a new section 1409-a to read as follows:

§ 1409-a. Waiver of probate form prohibited

1. For purposes of this section, the following terms shall have the following meanings: (a) "Waiver of probate" shall mean a sworn document executed by any deceased person's heirs and/or beneficiaries of a last will and testament and presented to a transfer agent to bring a claim of entitlement in an account or accounts of such deceased person bypassing formal estate proceedings as required by law.

(b) "Transfer agent" shall mean a trust company, bank, credit union, or brokerage firm who maintains records of investors and works to execute the transfer of holdings within an account, either at the request of such investors or at the direction of a court order or proceeding.

(c) "Account" shall have the same meaning as set forth in subdivision one of section two of the state finance law.

2. The use of a waiver of probate shall be deemed prohibited in the state. No transfer agent shall accept an executed waiver of probate from a deceased person's heirs or beneficiaries of such deceased person's last will and testament as proof of entitlement to a certain asset or assets in order to facilitate the transfer of such asset or assets bypassing formal estate proceedings as required by law.

3. No transfer agent shall accept a waiver of probate, even if such waiver of probate is affixed with a valid medallion signature guarantee from any financial institution authorized to provide such guarantee. No

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

LBD05527-01-1

waiver of probate shall be deemed as supporting evidence of a person's claim of entitlement to an asset or assets or to verify a person's identity and/or relationship to a deceased owner of an asset or assets.

4. This section shall apply to all persons who shall at the time of death be a resident of the state.

§ 2. This act shall take effect immediately.