

sonal [estate which he shall devise, bequeath or appoint to a minor] *property passing to a minor upon his death, when such property*

(1) *Is devised, bequeathed or appointed to the minor in that person's will.*

(2) *Is the proceeds of an insurance or annuity contract on the testator's life, unless the owner of the contract has made an inter vivos designation of a guardian therefor.*

(3) *Arises from an inter vivos transfer, the major portion of which constituted a gift from the testator, unless the testator has made an inter vivos designation of a guardian therefor.*

(4) *Is a cause of action arising by reason of the testator's death.*

(5) *Is a pension or death benefit from an employer of the testator or a society or organization of which the testator was a member.*

(6) *Is a tentative trust of which the testator was the settlor.*

Section 4. This act shall take effect on April one, one-thousand nine hundred fifty-six, and shall apply only to the wills of all persons dying on or after that day. As to the wills of persons dying before that day the existing law shall remain in full force and effect.

Effective date.

APPROVED—The 17th day of February, A. D. 1956.

GEORGE M. LEADER

No. 347

AN ACT

Amending the act of April twenty-four, one thousand nine hundred forty-seven (Pamphlet Laws 100), entitled "An act relating to the incidents of legal and equitable interests in real and personal property, including the validity thereof, the powers, rights, and duties of persons with respect thereto, and the disposition of interests which fail, and containing provisions concerning termination of trusts, releases and disclaimers of powers and interests, perpetuities, accumulations, charitable estates, rights of a surviving spouse in property as to which the decedent has retained certain powers, spendthrift trusts, limited estates in property, rules of interpretation, estates pur autre vie, estates in fee tail, and the Rule in Shelley's Case," revising and changing

provisions relating to power of court to terminate trusts heretofore created; release or disclaimer by beneficiary of spendthrift trust; income accumulation; conveyances to defeat marital rights and elections against such conveyances, the conveyor's will and the procedure therefor.

Estates Act
of 1947.

Section 2, and
subsection (a),
section 3, act of
April 24, 1947.
P. L. 100,
amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section two and subsection (a) of section three, act of April twenty-four, one thousand nine hundred forty-seven (Pamphlet Laws 100), known as the "Estates Act of 1947," are amended to read:

Section 2. Termination of Trusts.—

(a) Failure of Original Purpose. The court having jurisdiction of a trust, *heretofore or hereafter created*, regardless of any spendthrift or similar provision therein, in its discretion may terminate such trust in whole or in part, or make an allowance from principal to a conveyor, his spouse, issue, parents, or any of them, who is an income beneficiary, provided the court after hearing is satisfied that the original purpose of the conveyor cannot be carried out or is impractical of fulfillment and that the termination, partial termination, or allowance more nearly approximates the intention of the conveyor, and notice is given to all parties in interest or to their duly appointed fiduciaries. But, distributions of principal under this section, whether by termination, partial termination, or allowance, shall not exceed an aggregate value of twenty-five thousand dollars from all trusts created by the same conveyor.

(b) Distribution of Terminated Trust. Whenever the court shall decree termination or partial termination of a trust under the provisions of this section, it shall thereupon order such distribution of the principal and undistributed income as it deems proper and as nearly as possible in conformity with the conveyor's intention.

(c) Other Powers. Nothing in this section shall limit any power of the court to terminate or reform a trust under existing law.

Section 3. Release or Disclaimer of Powers or Interests.—

(a) Powers and Interests Releasable. Any power of appointment, or power of consumption, whether general or special, other than a power in trust which is imperative, and any interest in, to, or over real or personal property held or owned outright, or in trust, or in any other manner which is reserved or given to any person by deed, will or otherwise, and irrespective of any limitation of such power or interest by virtue of any restriction in the nature of a so-called spendthrift trust provision, or similar provision, may be released or dis-

claimed, either with or without consideration, by written instrument signed by the person possessing the power or the interest and delivered as hereinafter provided, but nothing in this section shall authorize an income beneficiary of a spendthrift trust to release or disclaim his right to such income, *unless as a result of the release or disclaimer the released or disclaimed income will pass to one or more of the beneficiary's descendants.*

* * * * *

Section 2. Section six, section seven and section eight of the act are repealed.

Section 3. The act is amended by adding, after section five, two new sections to read:

Section 6. Income Accumulations; When Valid.—

(a) *General. No direction or authorization to accumulate income shall be void, except as herein provided.*

(b) *Void Accumulations; Exceptions. Upon the expiration of the period allowed by the common law rule against perpetuities as measured by actual rather than possible events, any direction or authorization to accumulate income shall be void.*

This subsection shall not apply to:

(1) *Directions or authorizations to accumulate income in a trust for any charitable purpose or purposes;*

(2) *Directions or authorizations to accumulate income in a bona fide trust inter vivos primarily for the benefit of business employes, their families or appointees, under a stock bonus pension, disability or death benefit, profit-sharing or other employe benefit plan;*

(c) *Time for Beginning Period. The period allowed by the common law rule against perpetuities under subsection (b) of this section shall be measured from the expiration of any time during which one person while living has the unrestricted power to transfer to himself the entire legal and beneficial interest in the property.*

Section 7. Income Accumulations Disposition When Invalidity Occurs.—Income subject to a void direction or authorization to accumulate shall be distributed to the person or proportionately to the persons in whom the right to such income has vested by the terms of the instrument or by operation of law.

Section 4. Sections eleven and twenty-one of the act are amended to read:

Section 11. [Powers of Appointment; Rights of Surviving Spouse] *Conveyances to Defeat Marital Rights.—*

(a) *In General. A conveyance of assets by a person who retains a power of appointment by will, or a power of revocation or consumption over the principal thereof, shall at the election of his surviving spouse, be treated*

Sections 6, 7 and 8, act of April 24, 1947, P. L. 100, repealed.

Act of April 24, 1947, P. L. 100, amended by adding two new sections 6 and 7.

Sections 11 and 21, act of April 24, 1947, P. L. 100, amended.

as a testamentary disposition so far as the surviving spouse is concerned to the extent to which the power has been reserved, but the right of the surviving spouse shall be subject to the rights of any income beneficiary whose interest in income becomes vested in enjoyment prior to the death of the conveyor. *The provisions of this subsection shall not apply to any contract of life insurance purchased by a decedent, whether payable in trust or otherwise.*

(b) Determination of Share. The spouse may elect to take against any such conveyance and shall be entitled to one-third thereof if the conveyor is survived by more than one child, or by one or more children and the issue of a deceased child or children, or by the issue of more than one deceased child, and in all other circumstances one-half thereof.

(c) Election Against Other Conveyances. A spouse electing under this section also must elect to take against the will, if he is a beneficiary thereunder, and against all other conveyances within the scope of subsection (a) of which he is a beneficiary.

(d) Procedure. The election to treat a conveyance as testamentary shall be made in the same manner as an election to take against the will. If there is a will, such election shall be made within the same time limitations as an election to take against the will. If there is no will, such election shall be made within one year of the conveyor's death, and the orphans' court, on application of the surviving spouse made within such period, may extend the time for making the election. It can be made only if there has been no forfeiture of the right to make an election. The court having jurisdiction of the deceased conveyor's estate shall determine the rights of the surviving spouse in the property included in the conveyance.

Section 21. **Effective Date.**—This act shall take effect on the first day of January, one thousand nine hundred forty-eight, and, except as set forth in [section 3] sections two, three and nine hereof, shall apply only to conveyances effective on or after that day. As to conveyances effective before that day, the existing laws shall remain in full force and effect.

Effective date.

Section 5. This act shall take effect April one, one thousand nine hundred fifty-six, and, except as set forth in sections two, three and nine of the act amended hereby, shall apply only to conveyances effective on or after that day. As to conveyances effective before that day, the existing law shall remain in full force and effect.

APPROVED—The 17th day of February, A. D. 1956.

GEORGE M. LEADER