

No. 98

AN ACT

SB 611

Amending the act of April 24, 1947 (P.L.89), entitled "An act relating to the form, execution, revocation, operation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to elections to take under or against wills and the procedure in reference thereto," further providing for modification of wills by circumstances and further clarifying provisions relating to devises and bequests to trusts.

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

Section 1. Clause (1) of section 7, act of April 24, 1947 (P.L.89), known as the "Wills Act of 1947," is amended to read:

Section 7. Modification by Circumstances.—Wills shall be modified upon the occurrence of any of the following circumstances, among others:

(1) Death Within Thirty Days; Religious and Charitable Gifts. Any bequest or devise for religious or charitable purposes included in a will or codicil executed within thirty days of the death of the testator shall be invalid **[unless all who would benefit by its invalidity agree that it]** *to the extent that someone who would benefit by its invalidity objects: Provided, That the Commonwealth shall not have the right so to object. No such objection shall be valid unless it is in writing signed by the objector and unless a copy thereof shall be filed with the clerk of the court having jurisdiction within six months of the probate of the will. Each person so objecting shall receive the share he would have received if the entire bequest or devise had been invalid and the balance, if any, of the bequest or devise shall be valid.* The thirty-day period shall be so computed as to include the day on which the will or codicil is written and to exclude the day of death. Unless the testator directs otherwise, if such a will or codicil **[shall] could** revoke or supersede a prior will or codicil executed at least thirty days before the testator's death, and not theretofore revoked or superseded and the original of which can be produced in legible condition, and if each instrument shall contain an identical gift for substantially the same religious or charitable purpose, the gift in the later will or codicil shall **[be valid] not be subject to objection;** or if each instrument shall give for substantially the same religious or charitable purpose a cash legacy or a share of the residuary estate or a share of the same asset, payable immediately or subject to identical prior estates and conditions, the later gift shall **[be valid] not be subject to objection** to the extent to which it shall not exceed the prior gift. *If a bequest or devise is revoked within thirty days of death and the revocation has the effect of increasing the religious or charitable bequest or devise, such increase shall not be considered a new or additional*

bequest or devise for religious or charitable purposes within the meaning of this act.

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Section 2. Section 14.1 of the act, added July 11, 1957 (PL.793), is amended to read:

Section 14.1. Devise or Bequest to Trust.—A devise or bequest in a will may be made to the trustee of a trust (including an unfunded life insurance trust, although the settlor has reserved any or all rights of ownership in the insurance contracts) established, in writing, by the testator or any other person before, [or] concurrently with *or after* the execution of [such] *the* will. [, or to such a trust to be established, in writing, at a future date: **Provided, That any such future trust instrument or amendment thereto shall be signed by the settlor.**] Such devise or bequest shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after execution of the will. Unless the will provides otherwise, the property so devised or bequeathed shall not be deemed held under a testamentary trust of the testator but shall become and be a part of the principal of the trust to which it is given to be administered and disposed of in accordance with the provisions of the instrument establishing [such] *that* trust and any amendment thereof. An entire revocation of the trust prior to the testator's death shall invalidate the devise or bequest unless the will directs otherwise.

Section 3. This act shall take effect immediately.

APPROVED—The 22nd day of April, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 98.



Secretary of the Commonwealth.