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AB-309 Testamentary additions to trusts. (2017-2018)

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Assembly Bill No. 309

CHAPTER 33

An act to amend Section 6300 of the Probate Code, relating to trusts.

[Approved by Governor June 28, 2017. Filed with Secretary of State June 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 309, Maienschein. Testamentary additions to trusts.

Existing law provides for the disposition of a testator's property by will. Existing law establishes the Uniform Testamentary Additions to Trusts Act, under which a valid devise of property may be made by will to the trustee or trustees of a trust established or to be established by the testator or by the testator and some other person or by some other person, commonly referred to as a pour-over will. Existing law authorizes that devise if the trust is identified in the testator's will and its terms are set forth in a written instrument other than a will executed before or concurrently with the execution of the testator's will.

This bill would also allow that written instrument to be executed within 60 days after the execution of the testator's will. The bill would make technical, nonsubstantive changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6300 of the Probate Code is amended to read:

6300. (a) A devise, the validity of which is determinable by the law of this state, may be made by a will to the trustee of a trust established or to be established by the testator, by the testator and some other person, or by some other person (including a funded or unfunded life insurance trust, although the settlor has reserved any or all rights of ownership of the insurance contracts) if the trust is identified in the testator's will and its terms are set forth in a written instrument (other than a will) executed before, concurrently with, or within 60 days after the execution of the testator's will or in the valid last will of a person who has predeceased the testator (regardless of the existence, size, or character of the trust property). The devise is not invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator.

(b) Unless the testator's will provides otherwise, the property so devised (1) is not deemed to be held under a testamentary trust of the testator but becomes a part of the trust to which it is given and (2) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before or after the death of the testator (regardless of whether made before or after the execution of the testator's will).

(c) Unless otherwise provided in the will, a revocation or termination of the trust before the death of the testator causes the devise to lapse.