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AB-1960 Estates and trusts: kindred: definition. (2017-2018)

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Assembly Bill No. 1960

CHAPTER 71

An act to amend Section 21110 of the Probate Code, relating to estates and trusts.

[Approved by Governor July 09, 2018. Filed with Secretary of State July 09, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, Obernolte. Estates and trusts: kindred: definition.

Existing law uses the term "kindred" in various provisions of the Probate Code, including a provision that specifies that if a transferee is dead when a testamentary instrument is executed, or fails or is treated as failing to survive the transferor or until a future time required by the instrument, the issue of the deceased transferee take in the transferee's place, as specified, and defines transferee to mean a person who is kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor.

This bill would define the term "kindred" for purposes of that provision to specifically exclude a spouse of the transferor.

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

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

SECTION 1. Section 21110 of the Probate Code is amended to read:

21110. (a) Subject to subdivision (b), if a transferee is dead when the instrument is executed, or fails or is treated as failing to survive the transferor or until a future time required by the instrument, the issue of the deceased transferee take in the transferee's place in the manner provided in Section 240. A transferee under a class gift shall be a transferee for the purpose of this subdivision unless the transferee's death occurred before the execution of the instrument and that fact was known to the transferor when the instrument was executed.

(b) The issue of a deceased transferee do not take in the transferee's place if the instrument expresses a contrary intention or a substitute disposition. A requirement that the initial transferee survive the transferor or survive for a specified period of time after the death of the transferor constitutes a contrary intention. A requirement that the initial transferee survive until a future time that is related to the probate of the transferor's will or administration of the estate of the transferor constitutes a contrary intention.

(c) As used in this section, "transferee" means a person who is kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor, but does not mean a spouse of the transferor.