

CHAPTER 340
FORMERLY
SENATE BILL NO. 248

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO DECEDENT'S ESTATES AND FIDUCIARY RELATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 33, Title 12 of the Delaware Code by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 3338 Nonjudicial ~~settlements~~ settlement agreements.

(c) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust ~~and includes terms and conditions that could be properly approved by the Court of Chancery under this title or other applicable law; provided, however, that this subsection (c) shall not apply in cases where the trustor is a party to the nonjudicial settlement agreement.~~

§ 3342 Modification of Trust by Consent While Trustor is Living.

(a) Notwithstanding any provision of law or a trust's governing instrument limiting or prohibiting amendment of the trust, an irrevocable trust may be modified to include any provision that could have been included in the governing instrument of a trust created upon the date of the modification upon written consent or written non-objection of the trustor, all then serving fiduciaries and all beneficiaries even if the modification violates a material purpose of the trust.

(b) No fiduciary shall have a duty to consent to any proposed modification nor, absent wilful misconduct, any liability to any person having an interest in the trust for failure to consent to any proposed modification.

(c) Any interested person, including the trustor, may bring a proceeding in the Court of Chancery to interpret, apply, enforce, or determine the validity of a modification adopted under this section, including but not limited to determining whether the representation as provided in § 3547 of this title was adequate; provided, however, that any such person may waive the right to contest the modification.

(d) This section shall be available to any trust that is administered under the laws of this State.

Section 2. This Act shall be effective upon enactment and shall apply to trusts whenever created.

Approved July 29, 2016