

§1213. Protection of charitable interest

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event or after the passage of a specified time period and that is unconditional or will be held solely for charitable purposes. [PL 2021, c. 235, §1 (NEW).]

B. "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

2. Determinable charitable interest; Attorney General may represent and bind. If a first trust contains a determinable charitable interest, for purposes of this section, the Attorney General has the rights of a qualified beneficiary and may represent and bind the determinable charitable interest.

[PL 2021, c. 235, §1 (NEW).]

3. Limitation on 2nd trusts. If a first trust contains a determinable charitable interest, the 2nd trust or trusts may not:

A. Diminish the determinable charitable interest; [PL 2021, c. 235, §1 (NEW).]

B. Diminish the interest of an identified charitable organization that holds the determinable charitable interest; [PL 2021, c. 235, §1 (NEW).]

C. Alter any charitable purpose stated in the first-trust instrument; or [PL 2021, c. 235, §1 (NEW).]

D. Alter any condition or restriction related to the determinable charitable interest. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

4. Treatment of 2 or more 2nd trusts. If there are 2 or more 2nd trusts, the 2nd trusts must be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the determinable charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection 3.

[PL 2021, c. 235, §1 (NEW).]

5. State law applicable; exceptions. If a first trust contains a determinable charitable interest, a 2nd trust or trusts that include a determinable charitable interest pursuant to subsection 3 must be administered under the law of this State unless:

A. The Attorney General, after receiving notice under section 1207, does not object in a signed record delivered to the authorized fiduciary within the notice period; [PL 2021, c. 235, §1 (NEW).]

B. The Attorney General consents in a signed record to the 2nd trust or trusts being administered under the law of another jurisdiction; or [PL 2021, c. 235, §1 (NEW).]

C. The court approves the exercise of the decanting power. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

6. Attorney General's powers and duties not limited. This Act does not limit the powers and duties of the Attorney General under a law of this State other than this Act.

[PL 2021, c. 235, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 235, §1 (NEW).

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