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CHAPTER 269

AN ACT to repeal 206.52 (1) and (3); to renumber and amend 206.52 (2); to amend 272.18 (31); and to create 231.205 (1) (ca) and (7) and 231.49 (2) and (3) of the statutes, relating to testamentary trusts.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 206.52 (1) and (3) of the statutes are repealed.

SECTION 2. 206.52 (2) of the statutes is renumbered 231.49 (1) and amended to read:

231.49 TRUSTEES APPOINTED. (1) A policy of life insurance may designate as beneficiary a trustee or trustees named or to be named by will, if the designation is made in accordance with the provisions of the policy and the requirements of the insurance company. The trustee or trustees may be appointed immediately after the proving of the will, and upon appointment and qualification the proceeds of such insurance shall be paid to the trustee or trustees to be held and disposed of under the terms of the will as they exist at the death of the testator and in accordance with ch. 323; but if no qualified trustee makes claim to the proceeds from the insurance company within one year after the death of the insured, or if

satisfactory evidence is furnished the insurance company within such one year period showing that no trustee can qualify to receive the proceeds, payment shall be made by the insurance company to the executors, administrators or assigns of the insured, unless otherwise provided by agreement with the insurance company during the lifetime of the insured. The proceeds of the insurance as collected by the trustee or trustees shall not be subject to debts of the insured and inheritance tax to any greater extent than if such proceeds were payable to any other named beneficiary other than the estate of the insured. For purposes of trust administration such proceeds shall be subject to the court jurisdiction over the trust * * * but shall not otherwise be considered as payable to the estate of the insured. Such proceeds shall be listed for tax purposes only, as required under s. 312.01, in the general inventory of the estate. Such insurance proceeds so held in trust may be commingled with any other assets which may properly come into such trust as provided in the will. Enactment of this section shall not invalidate previous life insurance policy beneficiary designations naming trustees of trusts established by will.

SECTION 3. 231.205 (1) (ca) and (7) of the statutes are created to read:

231.205 (1) (ca) To have the right to borrow on or to surrender insurance policies payable to the trust.

(7) A trust otherwise valid, whether or not it contains any or all of the powers specified in sub. (1), shall be eligible to receive life insurance proceeds payable to it as beneficiary and all such proceeds shall be administered in accordance with the terms of the trust as they exist at the death of the insured. The right to receive such proceeds as beneficiary shall constitute a corpus sufficient to the validity of any such trust.

SECTION 4. 231.49 (2) and (3) of the statutes are created to read:

231.49 (2) Benefits under an employe benefit plan conforming to the requirements of s. 272.18 (31) or under an annuity contract purchased for an employe by an employer which is a religious, scientific, educational, benevolent or other corporation or association not organized or conducted for pecuniary profit may be made payable to a trustee or trustees named or to be named in a will and such benefits shall be treated in the same manner as insurance proceeds are treated under sub. (1) except that if no qualifying trustee asserts a claim to any such benefits within one year after the employe's death or if satisfactory proof is furnished the disbursing authority under the plan or the contract within such period showing that no trustee can qualify to receive the benefits, the benefits shall be paid in accordance with any alternative disposition provided for under the plan or the contract.

(3) Interests other than those described in sub. (1) and (2) may be made payable to or transferred to a trustee or trustees named or to be named in a will in the same manner and to the same extent they could be made payable to or transferred to any other person.

SECTION 5. 272.18 (31) of the statutes is amended to read:

272.18 (31) (a) The term * * * "*plan*" as used in this subsection * * * means any * * * retirement * * *, pension * * *, disability * * *, death benefit * * *, stock bonus or profit-sharing plan *created by an employer* for the exclusive benefit of some or all of his employes, or their dependents or beneficiaries, to which contributions are made by such employer, or employes, or both, for the purpose of distributing in accordance with such plan to such employes, or their dependents or beneficiaries, the earnings or the principal, or both * * *, *of a trust created as part of the plan, or annuity, insurance or other benefits under such a plan whether or not purchased by a trust; if it is impossible under * * * a trust * * * created*

as part of a plan at any time prior to the satisfaction of all liabilities with respect to employes and their dependents and beneficiaries under the trust, for any part of the corpus or income to be at any time used for or diverted to purposes other than for the exclusive benefit of such employes, or their dependents or beneficiaries. The term "employer" as used in this subsection shall be deemed to include a group of employers creating a combined plan * * * for the benefit of their employes or the beneficiaries of such employes.

(b) The income arising from any personal property held in any employes' trust *created as part of a plan* may be permitted to accumulate in accordance with the terms of said trust and the plan of which said trust forms a part for such time as may be necessary to accomplish the purposes for which such trust has been created. Any such employes' trust shall not be deemed to be invalid as violating the rule against perpetuities or any law or rule against perpetuities or the suspension of the power of alienation of title to property, but such a trust may continue for such time as may be necessary to accomplish the purposes for which it has been created.

(c) The interest of any person in any employes' * * * *benefit plan* as defined in this subsection and any pension or other benefit derived therefrom shall not be subject to any garnishment, attachment, execution, sequestration, levy or any other legal or equitable process and no assignment of any such interest, pension or other benefit shall be valid or recognized.

SECTION 6. The reference to section "206.52 (2)" in sections 253.10 (1) and 323.01 (intro. par.) of the statutes are changed to "231.49 (1)". The revisor of statutes shall show the change in printing the statutes.

Approved August 17, 1963.
