

ACT 49

H.B. NO. 3314

A Bill for an Act Relating to Testamentary Additions to Trusts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 560:2-511, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-511 Testamentary additions to trusts. [A devise or bequest, 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 or by the testator and some other person or by some other person (including a funded or unfunded life insurance trust, although the trustor 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 or concurrently with 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 corpus of the trust). The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or after the death of the testator. 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 the death of the testator (regardless of whether made before or after the execution of the testator’s will), and, if the testator’s will

so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator causes the devise to lapse.] (a) A will may validly devise or bequeath property to the trustee of a trust established or to be established (i) during the testator's lifetime 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 trustor has reserved any or all rights of ownership of the insurance contracts, or (ii) at the testator's death by the testator's devise to the trustee, 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 after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise or bequest is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(b) Unless the testator's will provides otherwise, property devised or bequeathed to a trust described in subsection (a) is not held under a testamentary trust of the testator but it becomes a part of the trust to which it is devised or bequeathed, and must be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

(c) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise or bequest to lapse."

SECTION 2. Effect on existing wills. This Act applies to a will of a testator who dies after the effective date of this Act.

SECTION 3. Uniformity of application and construction. This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

SECTION 4. Short title. This Act may be cited as the Uniform Testamentary Additions to Trusts Act (1992).

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 27, 1992.)