

No. 91, A.]

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## CHAPTER 73

AN ACT to renumber and amend 206.52; to amend 253.03 (1) and 323.01 (intro. par.); and to create 206.52 (2) of the statutes, relating to creation of testamentary trusts in life insurance proceeds, under jurisdiction of county courts.

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

SECTION 1. 206.52 of the statutes is renumbered 206.52 (1) and (3) and amended to read:

206.52(1) Life insurance may be made payable to a trustee to be named as beneficiary in the policy and the proceeds of such insurance shall be paid to such trustee and be held and disposed of by the trustee as provided in a trust agreement or declaration of trust made by the insured during his lifetime \* \* \* . *It shall not be necessary to the validity of any such trust agreement or declaration of trust that it have a trust corpus other than the right of the trustee to receive such insurance proceeds as beneficiary and any such trustee may receive assets, other than insurance proceeds, by testamentary disposition and administer them according to the terms of the trust agreement or declaration of trust as they exist at the death of the testator.*

(3) The fact that the insured may reserve or have the right to borrow on the policy or to surrender the same shall not affect the validity of any such trust further than the amounts so borrowed or withdrawn are involved, and the remainder of the moneys due on such policy at the death of the insured shall go to the trustee to be handled and administered in accordance with the trust provisions.

SECTION 2. 206.52 (2) of the statutes is created to read:

206.52 (2) 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 in the same manner as though they had been payable to the estate of the insured, 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. 253.03 (1) of the statutes is amended to read:

253.03 (1) The jurisdiction of the county court shall extend to the probate of wills and granting letters testamentary and of administration on the estates of all persons deceased who were at the time of their decease inhabitants of or residents in the same county and of all who shall die without the state having any estate within such county to be administered, and to any other cases authorized by laws; to the appointment of guardians to minors and others in the cases prescribed by law; to all matters relating to the settlement of the estates of such deceased persons and of such minors and others under guardianship; to all cases of constructions of wills admitted to probate in such court; and to all cases of trusts and trust powers created by will admitted to probate in such court, *including administration under ch. 323 of trusts created in accordance with s. 206.52 (2)*; and to hearing objections to the granting of licenses to marry, to ordering the refusal of such licenses, and to the granting of stays upon the issuances thereof, and such court shall have and exercise such other jurisdiction and powers as are or may be conferred by law.

SECTION 4. 323.01 (intro. par.) of the statutes is amended to read:

323.01 (intro. par.) Every trustee to whom any estate, real or personal, shall be devised or bequeathed in trust for, or in whom as trustee any trust shall be created in any manner in favor or for the benefit of any minor or other person by the will of any deceased person, *including any trust created under s. 206.52 (2)*, or who may be appointed by any county court to carry out the provisions of any will which creates a trust without naming a trustee, shall give bond to the county judge having jurisdiction of the probate of the will in such sum and with such sureties as the court may order, conditioned as follows:

Approved May 6, 1955.