

No. 170, S.]

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CHAPTER 85

AN ACT to repeal and recreate 231.205 of the statutes, relating to trusts.

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

231.205 of the statutes is repealed and recreated to read:

231.205 LIFE USE BY SETTLOR OF TRUSTS; ELIGIBILITY FOR BEQUESTS AND DEVISES; POWERS. (1) Any instrument declaring or creating a trust, when otherwise valid, shall not be held an invalid trust, or an attempted testamentary disposition, because it contains any of the following powers, whether exercisable by the settlor or another or both:

(a) To revoke, alter, amend or modify any or all provisions of the trust.

(b) To exercise any power or option over any property transferred to or held in the trust.

(c) To add to or withdraw from the trust all or any part thereof at one time or at different times.

(d) To direct during the lifetime of the settlor or another, the persons and organizations to whom or on behalf of whom the income shall be paid or principal distributed.

(2) A trust otherwise valid, created by a written instrument, whether or not it contains any or all of the powers specified in sub. (1), shall have existence independent of any will and be eligible to receive property bequeathed, devised or appointed by the settlor and others, whatever the size or character of its corpus or the terms of the instrument, unless the instrument specifically states otherwise. No reference to any such trust in any will shall cause the trust assets to be included in the property administered as part of the testator's estate.

(3) Any or all of the powers listed in sub. (1) may be exercised without affecting the validity of the trust, its nontestamentary character and its independent existence and eligibility for the receipt of property bequeathed, devised and appointed to it, except that the exercise of a power, under sub. (1) (a) to amend, alter or modify the provisions of the instrument shall be effective to change such provisions as to property devised, bequeathed or appointed by will to the trust only if the settlor's will is executed or republished after the exercise of such power.

(4) Nothing in this section shall be construed as altering or changing in any way the existing law or rules of law relating to the rights of widows, the taxation of transfers of property in trust, or trusts and wills other than those specified in this section.

(5) This section shall be applicable to trusts created and wills executed both before and after its passage by persons who are living at or after the effective date hereof.

Approved May 6, 1955.
