

(P. L. 638), known as the "Register of Wills Act of 1951," is amended to read:

Section 303. Limit of Time for Probate.—

\* \* \*

(b) Conclusiveness of Original Probate. The probate of a will shall be conclusive as to all property, real or personal, devised or bequeathed by it, unless an appeal shall be taken from the probate as provided in section 208, or the probate record shall have been amended as authorized by section 308.

\* \* \*

Section 2. The act is amended by adding after section 307, a new section to read:

Section 308. Later Will or Codicil.—If a later will or codicil is submitted to the register for probate within three months of the testator's death but after the register shall have probated an earlier instrument, the register, after such notice as he deems advisable, but with at least ten days' notice to the petitioner who presented the probated instrument if he has not requested probate of the later will or codicil, shall have power to open the probate record, receive proof of the later instrument or instruments and amend his probate record.

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of October, A. D. 1967.

RAYMOND P. SHAFER

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No. 186

AN ACT

SB 819

Amending the act of May 26, 1949 (P. L. 1828), entitled "An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries," further providing for retention of investments and providing for the removal of restrictions when the original purpose of the testator or settlor cannot be carried out.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 14 and 18, act of May 26, 1949 (P. L. 1828), known as the "Fiduciaries Investment Act of 1949," are amended to read:

Section 14. Retention of [Unauthorized] Investments.—A fiduciary, if he exercises the same due care and prudence as he would in the case of an authorized investment, may retain without liability for resulting loss:

(a) any asset received in kind, even though it is not an authorized investment [ , provided he exercises due care and prudence in the disposition or retention of any such nonlegal investment.] and

(b) any asset purchased in reliance upon a construction, by the court, of the instrument or a provision contained therein even though the court in a subsequent proceeding adopts a contrary construction thereof.

Section 18. Directions of Testator or Settlor.—(a) General Rule.

The testator or settlor in the instrument establishing at trust may prescribe the powers, duties and liabilities of the fiduciary regarding the investment or noninvestment of principal and income and the acquisition, by purchase or otherwise, retention, and disposition, by sale or otherwise, of any property which, at any time or by reason of any circumstance, shall come into his control; and whenever any such provision shall conflict with this act, such provision shall control notwithstanding this act, unless the court having jurisdiction over the trust shall otherwise decree pursuant to the following paragraph (b). In the absence, however, of an express restriction to the contrary in the trust instrument, the fiduciary may invest in any investment authorized by this act.

(b) Exception; Failure of Purpose. Where the instrument establishing a trust contains a restriction on the fiduciary's power of investment, the court having jurisdiction, in its discretion, may release the fiduciary from the investment restriction to the extent and subject to such conditions, if any, as the court may deem appropriate, if after hearing it is satisfied that the original purpose of the testator or the settlor cannot be carried out, or is impractical of fulfillment, and that the authorized release will more nearly approximate the intention of the testator or settlor.

Section 2. This act shall take effect immediately.

APPROVED—The 9th day of October, A. D. 1967.

RAYMOND P. SHAFER