

CHAPTER 114

PROBATE, TRUSTS, AND FIDUCIARIES

SENATE BILL 12-131

BY SENATOR(S) Guzman, Steadman, Aguilar, Bacon, Boyd, Carroll, Foster, Giron, Jahn, Newell, Roberts, Tochtrop, Williams S.;
also REPRESENTATIVE(S) Pabon, Ferrandino, Fields, Fischer, Kerr J., Labuda, Pace, Schafer S., Vigil, Williams A., Wilson.

AN ACT

CONCERNING THE RESPONSIBILITIES OF A FIDUCIARY WITH REGARD TO THE ESTATE OF A PERSON WHO MAY HAVE EXECUTED A DESIGNATED BENEFICIARY AGREEMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 15-12-703, **add** (5) as follows:

15-12-703. General duties - relation and liability to persons interested in estate - duty to search for a designated beneficiary agreement - standing to sue.

(5) A PERSONAL REPRESENTATIVE SHALL NOT BE SURCHARGED FOR DISTRIBUTIONS MADE THAT DO NOT TAKE INTO CONSIDERATION A DESIGNATED BENEFICIARY AGREEMENT IF:

(a) THE PERSONAL REPRESENTATIVE HAS REVIEWED THE RECORDS OF THE COUNTY CLERK AND RECORDER'S OFFICE IN EVERY COUNTY IN COLORADO IN WHICH THE PERSONAL REPRESENTATIVE HAS ACTUAL KNOWLEDGE THAT THE DECEDENT WAS DOMICILED AT ANY TIME DURING THE THREE YEARS PRIOR TO THE DECEDENT'S DEATH FOR A VALID, UNREVOKED DESIGNATED BENEFICIARY AGREEMENT IN WHICH THE DECEDENT GRANTED THE RIGHT OF INTESTATE SUCCESSION; AND

(b) THE PERSONAL REPRESENTATIVE HAS NOT RECEIVED ACTUAL NOTICE NOR HAS ACTUAL KNOWLEDGE OF THE EXISTENCE OF A VALID, UNREVOKED DESIGNATED BENEFICIARY AGREEMENT IN WHICH THE DECEDENT GRANTED THE RIGHT OF INTESTATE SUCCESSION.

SECTION 2. In Colorado Revised Statutes, 15-12-808, **add** (6) as follows:

15-12-808. Individual liability of personal representative. (6) IF A PERSONAL REPRESENTATIVE HAS REVIEWED THE RECORDS OF THE COUNTY CLERK AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RECORDER IN EVERY COUNTY IN COLORADO IN WHICH THE PERSONAL REPRESENTATIVE HAS ACTUAL KNOWLEDGE THAT THE DECEDENT WAS DOMICILED AT ANY TIME DURING THE THREE YEARS PRIOR TO THE DECEDENT'S DEATH AND THE PERSONAL REPRESENTATIVE DOES NOT HAVE ACTUAL NOTICE OR ACTUAL KNOWLEDGE OF THE EXISTENCE OF A VALID, UNREVOKED DESIGNATED BENEFICIARY AGREEMENT IN WHICH THE DECEDENT GRANTED THE RIGHT OF INTESTATE SUCCESSION, THE PERSONAL REPRESENTATIVE SHALL NOT BE INDIVIDUALLY LIABLE FOR DISTRIBUTIONS MADE TO DEVISEES OR HEIRS AT LAW THAT DO NOT TAKE INTO CONSIDERATION THE DESIGNATED BENEFICIARY AGREEMENT.

SECTION 3. In Colorado Revised Statutes, 15-16-306, **add** (8) as follows:

15-16-306. Personal liability of trustee to third parties. (8) If a TRUSTEE HAS REVIEWED THE RECORDS OF THE COUNTY CLERK AND RECORDER IN EVERY COUNTY IN COLORADO IN WHICH THE TRUSTEE HAS ACTUAL KNOWLEDGE THAT THE DECEDENT WAS DOMICILED AT ANY TIME DURING THE THREE YEARS PRIOR TO THE DECEDENT'S DEATH AND THE TRUSTEE DOES NOT HAVE ACTUAL NOTICE OR ACTUAL KNOWLEDGE OF THE EXISTENCE OF A VALID, UNREVOKED DESIGNATED BENEFICIARY AGREEMENT IN WHICH THE DECEDENT GRANTED THE RIGHT OF INTESTATE SUCCESSION, THE TRUSTEE SHALL NOT BE INDIVIDUALLY LIABLE FOR DISTRIBUTIONS MADE TO DEVISEES OR HEIRS AT LAW THAT DO NOT TAKE INTO CONSIDERATION THE DESIGNATED BENEFICIARY AGREEMENT.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2012