

§1221. Savings provision

1. Second-trust instrument in part not in compliance. If exercise of the decanting power would be effective under this Act except for the 2nd-trust instrument's partial noncompliance with this Act, the exercise of the decanting power is effective and the following applies with respect to the principal of the 2nd trust attributable to the exercise of the decanting power:

A. A provision in the 2nd-trust instrument that is not permitted under this Act is void to the extent necessary to comply with this Act; and [PL 2021, c. 235, §1 (NEW).]

B. A provision required by this Act to be in the 2nd-trust instrument that is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with this Act. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

2. Fiduciary action. If a trustee or other fiduciary of a 2nd trust determines that subsection 1 applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

[PL 2021, c. 235, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 235, §1 (NEW).

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