

502.79 RELEASE OF POWERS OF PROPERTY HELD IN TRUST.

Subdivision 1. **Releasable powers.** A power of appointment over property held in trust, whether or not coupled with an interest, and whether or not existing on the effective date of Laws 1949, Chapter 607, and whether the power is held by the donee in an individual or in a fiduciary capacity, may be released, wholly or partially, by the donee thereof, unless otherwise expressly provided in the instrument creating the power; provided, however, that a power of appointment held by a person by reason of being a trustee of an express trust shall not be releasable hereunder unless (1) the release is approved by a court of competent jurisdiction on the ground that it is for the best interests of the trust estate and of the beneficiaries thereof as a whole, or (2) the trustee or trustees having the power could exercise it only in their own favor at the time the power was released. As used in this section, the term "power of appointment" shall include all powers in respect of any kind of property, real or personal, held in trust which are in substance and effect powers of appointment, all powers to alter, amend, revoke or terminate an express trust, and all powers by the exercise of which the possession or enjoyment of property held in trust may be changed, regardless of the language used in creating them.

Subd. 2. **Delivery of release.** A power releasable according to subdivision 1 may hereafter be released, wholly or partially, only by the delivery to the trustee of a written release executed by the donee of the power.

Subd. 3. **Extent of release.** A release executed by the donee of a power releasable according to subdivision 1 and delivered in accordance with subdivision 2, whether heretofore or hereafter executed, shall be, and if heretofore executed and delivered shall be deemed to have been effective to release the power to the extent provided in such release.

Subd. 4. **Release by one of several persons.** If a power of appointment releasable according to subdivision 1 is or may be exercisable by two or more persons in conjunction with one another or successively, a release or disclaimer of the power, in whole or in part, executed and delivered in accordance with subdivision 2 by any one of the donees of the power shall, subject to the provisions of subdivision 2, be effective to release or disclaim, to the extent therein provided, all right of such persons to exercise, or to participate in the exercise of, the power, but, unless the instrument creating the power otherwise provides, shall not prevent or limit the exercise or participation in the exercise thereof by the other donee or donees thereof.

Subd. 5. **Release defined.** The word "release" as used in subdivisions 2 to 5 shall include (a) an instrument wherein the person who executes it in substance states that that person wholly releases, or agrees in no respect to exercise or participate in the exercise of, a power of appointment; and (b) an instrument wherein the person who executes it in substance states that that person releases all right to exercise, or participate in the exercise of, a power of appointment otherwise than within the limits therein defined, or agrees not to exercise, or participate in the exercise of, a power of appointment otherwise than within the limits there defined.

Subd. 6. **Effect of section.** This section shall not impair the validity of any releases heretofore made, and shall not create any implication that powers other than those specified herein are not releasable.

History: 1949 c 607 s 1-6; 1986 c 444