

CHAPTER 316

AN ACT concerning powers of appointment and amending N.J.S.3B:3-45.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.3B:3-45 is amended to read as follows:

Exercise of power of appointment.

3B:3-45. Exercise of power of appointment.

a. Unless the terms of a will, trust, or other governing instrument expressly provide otherwise, whenever such will, trust, or other governing instrument grants a power of appointment to another person, who as the power holder is authorized to further dispose of the property amongst appointees selected by the power holder, that power holder, other than a power holder acting in the capacity of a trustee or other fiduciary, shall be deemed authorized to exercise the power of appointment to create less than absolute interests for the benefit of one or more permissible appointees of the power, including interests in trust and the creation of new powers of appointment, whether general or limited, exercisable by the one or more appointees. A direction in the will, trust, or governing instrument that property subject to a power of appointment be distributed “to” an appointee, or to an appointee “outright,” “in fee simple,” “absolutely,” “forever,” or any other term, phrase, or statement of similar import, shall not be deemed to evidence the intent of the testator, settlor, or creator of the governing instrument to prohibit the exercise of a power of appointment to create less than absolute interests, including interests in trust.

b. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

2. This act shall take effect immediately, and apply to any instrument executed before, on, or after the effective date.

Approved January 16, 2018.