

"[CHAPTER 525]
UNIFORM STATUTORY RULE AGAINST PERPETUITIES

Section

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" **[§525-1] Statutory rule against perpetuities.** (a) A nonvested property interest is invalid unless:

- (1) When the interest is created, it is certain to vest or terminate no later than twenty-one years after the death of an individual then alive; or
- (2) The interest either vests or terminates within ninety years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

- (1) When the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than twenty-one years after the death of an individual then alive; or
- (2) The condition precedent either is satisfied or becomes impossible to satisfy within ninety years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

- (1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than twenty-one years after the death of an individual then alive; or
- (2) The power is irrevocably exercised or otherwise terminates within ninety years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection (a)(1), (b)(1), or (c)(1), the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument either seeks to disallow the vesting or termination of any interest or trust beyond, seeks to postpone the vesting or termination of any interest or trust until, or seeks to operate in effect in any similar fashion upon, the later of:

- (1) The expiration of a period of time not exceeding twenty-one years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; or
- (2) The expiration of a period of time that exceeds or might exceed twenty-one years after the death of the survivor of lives in being at the creation of the trust or other property arrangement;

that language is inoperative to the extent it produces a period of time that exceeds twenty-one years after the death of the survivor of the specified lives. [L 1992, c 262, pt of §2]

" **[§525-2] When nonvested property interest or power of appointment created.** (a) Except as provided in subsections (b) and (c) and in section 525-5(a), the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(b) For the purposes of this chapter, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 525-1(b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates. For the purposes of this chapter, a joint power with respect to community property under chapter 510 held by individuals married to each other is a power exercisable by one person alone.

(c) For the purposes of this chapter, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created. [L 1992, c 262, pt of §2]

Revision Note

In subsection (a), section "525-5(a)" substituted for "525-4(a)".

" **[§525-3] Reformation.** Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the ninety years allowed by section 525-1(a)(2), (b)(2), or (c)(2) if:

- (1) A nonvested property interest or a power of appointment becomes invalid under section 525-1;
- (2) A class gift is not but might become invalid under section 525-1 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or
- (3) A nonvested property interest that is not validated by section 525-1(a)(1) can vest but not within ninety years after its creation. [L 1992, c 262, pt of §2]

" **§525-4 Exclusions from statutory rule against perpetuities.** Section 525-1 shall not apply to:

- (1) A fiduciary's power to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

- (2) A discretionary power of a trustee to distribute principal before termination of a trust;
- (3) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;
- (4) A property interest in or a power of appointment with respect to a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses;
- (5) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by any other applicable law; or
- (6) A trust described in chapter 554G. [L 1992, c 262, pt of §2; am L 2010, c 182, §3]

" **[\$525-5] Prospective application.** (a) Except as extended by subsection (b), this chapter applies to a nonvested property interest or a power of appointment that is created on or after June 18, 1992. For the purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) If a nonvested property interest or a power of appointment was created before June 18, 1992 and is determined in a judicial proceeding, commenced on or after June 18, 1992, to violate this State's common law rule against perpetuities as that rule existed before June 18, 1992, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created. [L 1992, c 262, pt of §2]

Revision Note

"June 18, 1992" substituted for "the effective date of this chapter".

" **[§525-6] Short title.** This chapter may be cited as the "Uniform Statutory Rule Against Perpetuities". [L 1992, c 262, pt of §2]