

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/20/23

A Bill

HOUSE BILL 1339

5 By: Representatives Lundstrum, Maddox
6 By: Senator C. Penzo
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE RULE AGAINST
10 PERPETUITIES; AND FOR OTHER PURPOSES.
11

Subtitle

14 TO AMEND THE LAW CONCERNING THE RULE
15 AGAINST PERPETUITIES.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 18-3-101(a)-(c), concerning the statutory
21 rule against perpetuities, is amended to read as follows:

22 (a) A nonvested property interest is invalid unless:

23 (1) when the interest is created, it is certain to vest or
24 terminate no later than 21 years after the death of an individual then alive;
25 or

26 (2) the interest either vests or terminates within ~~90 years~~ 365
27 years after its creation.

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

30 (1) when the power is created, the condition precedent is
31 certain to be satisfied or becomes impossible to satisfy no later than 21
32 years after the death of an individual then alive; or

33 (2) the condition precedent either is satisfied or becomes
34 impossible to satisfy within ~~90 years~~ 365 years after its creation.

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



1 (1) when the power is created, it is certain to be irrevocably
2 exercised or otherwise to terminate no later than 21 years after the death of
3 an individual then alive; or

4 (2) the power is irrevocably exercised or otherwise terminates
5 within ~~90 years~~ 365 years after its creation.

6
7 SECTION 2. Arkansas Code § 18-3-103 is amended to read as follows:
8 18-3-103. Reformation.

9 Upon the petition of an interested person, a court shall reform a
10 disposition in the manner that most closely approximates the transferor's
11 manifested plan of distribution and is within the ~~90 years~~ 365 years allowed
12 by § 18-3-101(a)(2), § 18-3-101(b)(2), or § 18-3-101(c)(2) if:

13 (1) a nonvested property interest or a power of appointment
14 becomes invalid under § 18-3-101;

15 (2) a class gift is not but might become invalid under § 18-3-
16 101 and the time has arrived when the share of any class member is to take
17 effect in possession or enjoyment; or

18 (3) a nonvested property interest that is not validated by § 18-
19 3-101(a)(1) can vest but not within ~~90 years~~ 365 years after its creation.

20
21 SECTION 3. Arkansas Code § 18-3-105 is amended to read as follows:
22 18-3-105. Prospective application.

23 (a) Except as extended by subsection (b) of this section, this chapter
24 applies to a nonvested property interest or a power of appointment that is
25 created on or after ~~March 9, 2007~~ the effective date of this act. For
26 purposes of this section, a nonvested property interest or a power of
27 appointment created by the exercise of a power of appointment is created when
28 the power is irrevocably exercised or when a revocable exercise becomes
29 irrevocable.

30 (b) If a nonvested property interest or a power of appointment was
31 created before ~~March 9, 2007~~ the effective date of this act, and is
32 determined in a judicial proceeding, commenced on or after ~~March 9, 2007~~ the
33 effective date of this act, to violate this State's rule against perpetuities
34 as that rule existed before ~~March 9, 2007~~ the effective date of this act, a
35 court upon the petition of an interested person may reform the disposition in
36 the manner that most closely approximates the transferor's manifested plan of

1 distribution and is within the limits of the rule against perpetuities
2 applicable when the nonvested property interest or power of appointment was
3 created.

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5 SECTION 4. Arkansas Code § 18-3-106 is amended to read as follows:
6 18-3-106. Short title.

7 This chapter may be cited as the ~~Uniform~~ Statutory Rule Against
8 Perpetuities.

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10 SECTION 5. Arkansas Code § 18-3-107 is repealed.

11 ~~18-3-107. Uniformity of application and construction.~~

12 ~~This chapter shall be applied and construed to effectuate its general~~
13 ~~purpose to make uniform the law with respect to the subject of this chapter~~
14 ~~among states enacting it.~~

15
16 /s/Lundstrum

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19 **APPROVED: 4/12/23**