



General Assembly

January Session, 2001

**Raised Bill No. 1409**

LCO No. 4748

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE ALTERNATIVE RULE AGAINST PERPETUITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) Sections 1 to 5, inclusive, of this act may be cited  
2 as the Alternative Rule Against Perpetuities.

3 Sec. 2. (NEW) (a) The provisions of sections 1 to 5, inclusive, of this  
4 act shall not apply unless a testator, settlor, transferor or other creator  
5 of a testamentary, revocable or irrevocable inter vivos agreement, or  
6 other instrument creating or amending a trust or granting a power of  
7 appointment makes a qualifying election as provided in subsection (b)  
8 of this section.

9 (b) A qualifying election is made if: (1) The instrument evidences a  
10 specific intent to have the Alternative Rule Against Perpetuities apply;  
11 (2) the instrument provides that the general statutes in effect at the  
12 time of its execution shall govern the interpretation of the instrument,  
13 and the administration of a trust, if a trust is created or amended; (3)  
14 the instrument created by one or more persons, at least one of whom is  
15 domiciled in this state at the time the instrument is executed, or if a

16 trust is created or amended, one or more of the individual or corporate  
17 trustees of the trust is domiciled in this state at the time the trust is  
18 executed; (4) the instrument does not provide for the suspension of  
19 power of alienation, as provided in subsection (c) of this section, with  
20 respect to property subject to the trust or power of appointment; and  
21 (5) the instrument is executed on or after October 1, 2001.

22 (c) For the purposes of subdivision (4) of subsection (b) of this  
23 section: (1) Subject to the provisions of subdivision (2) of this  
24 subsection, the power of alienation is suspended if there is no person  
25 alive who, alone or in combination with others, may, as to property  
26 that is subject to the power granted or the trust created or amended by  
27 the instrument, convey (A) title to real property in fee, or (B) complete  
28 ownership of personal property; and (2) the power of alienation is not  
29 suspended by an instrument creating or amending a trust if (A) the  
30 trustee is not prohibited from selling property subject to the trust for a  
31 period greater than ten years from the date the trust became  
32 irrevocable, (B) at all time during the duration of the trust the trustee  
33 of the trust has the power, either expressed or implied, and either  
34 alone or in combination with others, to sell property subject to the  
35 trust, or (C) at all times during the duration of the trust, at least one  
36 person has an unlimited power to terminate the trust pursuant to the  
37 terms of the instrument.

38 (d) Interests for which a qualifying election, as provided by  
39 subsection (b) of this section, is made to subject such interests to the  
40 Alternative Rule Against Perpetuities pursuant to an instrument as  
41 provided by subsection (a) of this section, shall not be subject to the  
42 Uniform Statutory Rule Against Perpetuities as provided by sections  
43 45a-490 to 45a-496, inclusive, of the general statutes.

44 Sec. 3. (NEW) (a) A nonvested property interest is invalid unless the  
45 interest either vests or terminates within one thousand years after its  
46 creation.

47 (b) A general power of appointment not presently exercisable

48 because of a condition precedent is invalid unless the condition  
49 precedent is either satisfied or becomes impossible to satisfy within  
50 one thousand years after its creation.

51 (c) A specific power of appointment or general testamentary power  
52 of appointment is invalid unless the power is irrevocably exercised or  
53 otherwise terminates within one thousand years after its creation.

54 Sec. 4. (NEW) (a) Except as provided in subsections (b) and (c) of  
55 this section, the time of creation of a nonvested property interest or a  
56 power of appointment is determined under general principles of  
57 property law.

58 (b) For the purposes of sections 1 to 5, inclusive, of this act, if there is  
59 a person who alone can exercise a power created by a governing  
60 instrument to become the unqualified beneficial owner of (1) a  
61 nonvested property interest, or (2) a property interest subject to a  
62 power of appointment described in subsection (b) or (c) of section 3 of  
63 this act, the nonvested property interest or power of appointment is  
64 created when the power to become the unqualified beneficial owner  
65 terminates.

66 (c) For the purposes of sections 1 to 5, inclusive, of this act, a  
67 nonvested property interest or a power of appointment arising from a  
68 transfer of property to a previously funded trust or other existing  
69 property arrangement is created when the nonvested property interest  
70 or power of appointment in the original contribution was created.

71 Sec. 5. (NEW) In the case of a disposition for which a qualifying  
72 election to be subject to the Alternative Rule Against Perpetuities has  
73 been made pursuant to section 2 of this act, upon petition of an  
74 interested person, a court shall reform such disposition in the manner  
75 that most closely approximates the transferor's manifested plan of  
76 distribution and is within one thousand years allowed by section 3 of  
77 this act if: (1) A nonvested property interest or a power of appointment  
78 becomes invalid under section 3 of this act; (2) a class gift is not but

79 may become invalid under section 3 of this act and the time has  
80 arrived when the share of any class member is to take effect in  
81 possession or enjoyment; or (3) a nonvested property interest may vest  
82 but not within one thousand years after its creation.

***Statement of Purpose:***

To broaden Connecticut's Uniform Rule Against Perpetuities which provides that a trust must terminate not later than twenty-one years following the deaths of all lives in being on the date the trust was created or became irrevocable or ninety years thereafter, whichever is longer, by adopting the Alternate Rule Against Perpetuities which would use one thousand years rather than ninety years, providing greater flexibility in using trusts for family asset management and tax savings.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*