



General Assembly

January Session, 2003

Raised Bill No. 938

LCO No. 3186

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT ESTABLISHING AN ALTERNATIVE RULE AGAINST PERPETUITIES.

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

1 Section 1. (NEW) (*Effective October 1, 2003*) Sections 1 to 5, inclusive,
2 of this act may be cited as the "Alternative Rule Against Perpetuities".

3 Sec. 2. (NEW) (*Effective October 1, 2003*) (a) The provisions of sections
4 1 to 5, inclusive, of this act do not apply unless a testator, settlor,
5 transferor or other creator of a testamentary instrument, revocable or
6 irrevocable inter vivos agreement or other document creating,
7 amending or restating a trust or granting a power of appointment
8 makes a qualifying election to have the Alternative Rule Against
9 Perpetuities apply to the interests created thereunder in accordance
10 with subsection (b) of this section.

11 (b) In order to constitute a qualifying election to be subject to the
12 Alternative Rule Against Perpetuities: (1) The document shall evidence
13 a specific intent to have the Alternative Rule Against Perpetuities
14 apply; (2) the document shall, at the time of its execution, provide that
15 the law of this state shall govern the interpretation of the document

16 and, in the case of a document creating a trust, the administration of
17 the trust; (3) the creator of the document or the person exercising the
18 power of appointment shall be domiciled in this state at the time the
19 document is executed or the power is exercised or, in the case of a
20 document creating a trust, one or more of the trustees of the trust shall
21 be domiciled in this state at the time the document is executed; (4) the
22 document may not provide for the suspension of the power of
23 alienation with respect to property subject to the trust or the power of
24 appointment, as provided in subsection (c) of this section; and (5) the
25 document shall be executed on or after October 1, 2003.

26 (c) For the purposes of subdivision (4) of subsection (b) of this
27 section:

28 (1) The power of alienation is suspended by a document if there is
29 no person alive who, alone or in combination with others, may, as to
30 property that is subject to the power granted or the trust created by the
31 document, convey (A) title to real property in fee, or (B) complete
32 ownership of personal property; and

33 (2) The power of alienation is not suspended by a document
34 creating a trust if (A) the trustee of the trust has power, either
35 expressed or implied, and either alone or in combination with others,
36 to sell property subject to the trust, or (B) at least one person alive at
37 the time the trust was created has an unlimited power to terminate the
38 trust.

39 (d) Interests created under a document making a qualifying election
40 to be subject to the Alternative Rule Against Perpetuities in accordance
41 with subsection (b) of this section shall not be subject to the Uniform
42 Statutory Rule Against Perpetuities as provided in sections 45a-490 to
43 45a-496, inclusive, of the general statutes.

44 Sec. 3. (NEW) (*Effective October 1, 2003*) (a) A nonvested property
45 interest is invalid unless the interest either vests or terminates within
46 one thousand years after its 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 nongeneral power of appointment or general testamentary
52 power of appointment is invalid unless the power is irrevocably
53 exercised or otherwise terminates within one thousand years after its
54 creation.

55 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) Except as provided in
56 subsections (b) and (c) of this section, the time of creation of a
57 nonvested property interest or a power of appointment is determined
58 under general principles of property law.

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

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

72 Sec. 5. (NEW) (*Effective October 1, 2003*) In the case of a disposition
73 for which a qualifying election to be subject to the Alternative Rule
74 Against Perpetuities has been made pursuant to section 2 of this act,
75 upon petition of an interested person, a court shall reform such
76 disposition in the manner that most closely approximates the
77 transferor's manifested plan of distribution and is within the one

78 thousand years allowed by section 3 of this act if:

79 (1) A nonvested property interest or a power of appointment
80 becomes invalid under section 3 of this act;

81 (2) A class gift is not but may become invalid under section 3 of this
82 act and the time has arrived when the share of any class member is to
83 take effect in possession or enjoyment; or

84 (3) A nonvested property interest may vest but not within one
85 thousand years after its creation.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

JUD *Joint Favorable*