

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S3/16/17

A Bill

SENATE BILL 533

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO CREATE THE DYNASTY TRUST ACT; AND FOR OTHER
PURPOSES.

Subtitle

TO CREATE THE DYNASTY TRUST ACT.

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

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Dynasty Trust Act".

SECTION 2. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to:

(1) Join the majority of states that allow the creation of perpetual trusts also commonly known as dynasty trusts;

(2) Benefit successive generations of beneficiaries by protecting trust assets from federal taxes and the creditors of a beneficiary;

(3) Amend the current rule against perpetuities so that perpetual trusts may be created in the State of Arkansas, increasing trust business within the state, instead of having a trust grantor create a trust in a foreign state for the sole purpose of ensuring the life of the trust beyond the short period of time granted by Arkansas's rule against perpetuities; and

(4) Amend the current rule against perpetuities to allow the transfer of trust assets held in trust back to the State of Arkansas without creating a taxable event.



SECTION 3. Arkansas Code § 18-3-102, concerning when nonvested property interest or power of appointment is created, is amended to add an additional subsection to read as follows:

(d) For purposes of this chapter, if a nongeneral power of appointment or a general testamentary power of appointment is used to create another nongeneral power of appointment or general testamentary power of appointment, the nonvested property interest or power of appointment created through the exercise of the other nongeneral power of appointment or general testamentary power of appointment is considered to have been created at the same time the first nongeneral power of appointment or general testamentary power of appointment was created.

SECTION 4. Arkansas Code § 18-3-104, concerning exclusions from statutory rule against perpetuities, is amended to add an additional subdivision to read as follows:

(8)(A) a nonvested property interest or power of appointment provided in a trust created or administered in this state so long as the trust:

(i) has one (1) or more trustees who are able to convey an absolute fee in possession of land, or full ownership of personal property;

(ii) has one (1) or more trustees with express or implied power to sell the trust assets; or

(iii) vests in one (1) or more persons in being the unlimited power to terminate the trust.

(B) if the power of alienation is suspended during the life of the trust, the rule against perpetuities under § 18-3-101 will begin to run from the date of suspension.

(C) the exception created in this subdivision (8) applies to a trust created in Arkansas on or after the effective date of this act and to any other trust whose principal place of administration is transferred to Arkansas on or after the effective date of this act, regardless of when the trust was created.

/s/J. Hutchinson