

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/20/23
A Bill

HOUSE BILL 1339

By: Representatives Lundstrum, Maddox

By: Senator C. Penzo

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE RULE
AGAINST PERPETUITIES.

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

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

(a) A nonvested property interest is invalid unless:

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

(2) the interest either vests or terminates within ~~90 years~~ 365 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 21 years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within ~~90 years~~ 365 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 21 years after the death of an individual then alive; or

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

SECTION 2. Arkansas Code § 18-3-103 is amended to read as follows:
18-3-103. 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 ~~90 years~~ 365 years allowed by § 18-3-101(a)(2), § 18-3-101(b)(2), or § 18-3-101(c)(2) if:

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

(2) a class gift is not but might become invalid under § 18-3-101 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 § 18-3-101(a)(1) can vest but not within ~~90 years~~ 365 years after its creation.

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

(a) Except as extended by subsection (b) of this section, this chapter applies to a nonvested property interest or a power of appointment that is created on or after ~~March 9, 2007~~ the effective date of this act. For 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 ~~March 9, 2007~~ the effective date of this act, and is determined in a judicial proceeding, commenced on or after ~~March 9, 2007~~ the effective date of this act, to violate this State's rule against perpetuities as that rule existed before ~~March 9, 2007~~ the effective date of this act, 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.

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

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

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

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

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

/s/Lundstrum