

AN ACT

AMENDING SECTION 14-2901, ARIZONA REVISED STATUTES; RELATING TO NONVESTED INTERESTS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 14-2901, Arizona Revised Statutes, is amended to read:

14-2901 . Nonvested property interest; general power of appointment; validity; exception

A. A nonvested property interest is invalid unless ~~at least one~~ **EITHER** of the following is true:

1. At the time the interest is created it is certain to vest or to terminate not later than twenty-one years after the death of a person who is then alive.

2. The interest either vests or terminates within ~~five hundred~~ **NINETY** years after its creation.

~~3. The interest is under a trust whose trustee has the expressed or implied power to sell the trust assets and at one or more times after the creation of the interest one or more persons who are living when the trust is created have an unlimited power to terminate the interest.~~

B. A general power of appointment that is not presently exercisable because of a condition precedent is invalid unless ~~any~~ **EITHER** of the following is true:

1. At the time the power is created the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than twenty-one years after the death of a person who is then alive.

2. The condition precedent either is satisfied or becomes impossible to satisfy within ~~five hundred~~ **NINETY** years after its creation.

~~3. The power is with respect to an interest under a trust whose trustee has the expressed or implied power to sell the trust assets and at one or more times after the creation of the interest one or more persons who are living when the trust is created have an unlimited power to terminate the interest.~~

C. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless ~~at least one~~ **EITHER** of the following is true:

1. At the time the power is created it is certain to be irrevocably exercised or

otherwise to terminate not later than twenty-one years after the death of a person who is then alive.

2. The power is irrevocably exercised or otherwise terminates within ~~five hundred~~ **NINETY** years after its creation.

~~3. The power is with respect to an interest under a trust whose trustee has the expressed or implied power to sell the trust assets and at one or more times after the creation of the interest one or more persons who are living when the trust is created have an unlimited power to terminate the interest.~~

D. In determining whether a nonvested property interest or a power of appointment is valid under subsection A, paragraph 1, subsection B, paragraph 1 or subsection C, paragraph 1, the possibility that a child will be born to a person after that person's death is disregarded.

E. If the governing instrument seeks to do either **ANY** of the following after the expiration of the latest period described by subsection A, B or C, that language is inoperative to the extent it produces a period of time that exceeds ~~five hundred~~ **NINETY** years after the creation of the trust:

1. Disallow the vesting or termination of an interest or trust beyond that time.
2. Postpone the vesting or termination of an interest or trust until that time.

3. REQUIRE OR ALLOW THE ACCUMULATION OF INCOME IN TRUST BEYOND THAT TIME.

Section 2. Effective date

This act is effective ninety days after the close of the legislative session in which it is enacted, **BUT APPLIES TO INTERESTS CREATED BEFORE, ON, OR AFTER THAT DATE.**