

Article - Estates and Trusts

[Previous][Next]

§11–102.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “Lives in being” means the lives of particular individuals in existence at the time of the creation of a nondonative property interest.

(3) “Nondonative” means given for consideration other than nominal consideration.

(4) (i) “Property interest” means a contract, lease, option, right of first offer, right of first refusal, right of first negotiation, or similar preemptive right relating to a right to the use, possession, transfer, or ownership of real or personal property or an interest in or appurtenant to real or personal property.

(ii) “Property interest” includes a right of the type described in subparagraph (i) of this paragraph even if the right is not applicable until after another party has failed to exercise or consummate a prior right of the same type.

(iii) “Property interest” does not include a property interest, power of appointment, or contract to exercise a release of a power of appointment arising out of:

1. A premarital or postmarital agreement;
2. A separation or divorce settlement;
3. An election by a spouse;
4. An arrangement arising out of a prospective, existing, or prior marital relationship between the parties to the relationship;
5. A contract to make or not to revoke a will or trust;
6. A contract to exercise or not to exercise a power of appointment;
7. A transfer in satisfaction of a duty of support; or
8. A reciprocal transfer.

(b) The common-law rule against perpetuities as now recognized in the State does not apply to a nondonative property interest that becomes effective on or after October 1, 2007.

(c) (1) For the purposes of this section, a nondonative property interest

becomes effective as of the date of delivery of the property interest.

(2) The date of delivery is presumed to be the later of:

(i) The date of the last acknowledgment of the nondonative property interest, if any; or

(ii) The date stated in the document creating the nondonative property interest.

(d) (1) A nondonative property interest that becomes effective on or after October 1, 2007, shall be void unless the nondonative property interest:

(i) Is not subject to the rule against perpetuities under § 11–102 of this subtitle; or

(ii) Is exercised or vested within the applicable period of time set forth in paragraph (2), (3), or (4) of this subsection.

(2) A document creating a nondonative property interest that does not state a date or make reference to lives in being by which the property interest must be exercised or vested shall be void unless exercised or vested within 7 years of the effective date of the property interest.

(3) A document creating a nondonative property interest that either expressly states a date by which the property interest shall be exercised or vested or one from which the date may be determined shall be void on the earlier of the expressed or determined date or 60 years after the effective date of the property interest.

(4) A document creating a nondonative property interest that refers to one or more lives in being for determining the date by which the property interest shall be exercised or vested shall be void:

(i) If the reference is to the duration of not more than 10 identified lives in being and not more than 21 years, at the expiration of the period of time referenced; or

(ii) If the reference is to the duration of more than 10 identified lives in being or to identified lives in being and more than 21 years, at the expiration of 60 years.

[Previous][Next]