

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 19.**  
**DESCENT, DISTRIBUTION, AND TRUSTS.**

**CHAPTER 9.**  
**STATUTORY RULE AGAINST PERPETUITIES;**  
**UNIFORM LAW.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 9. STATUTORY RULE AGAINST**  
**PERPETUITIES; UNIFORM LAW.**

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# CHAPTER 9. STATUTORY RULE AGAINST PERPETUITIES; UNIFORM LAW.

*Refs & Annos*

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	2011-532	1-1-2012	Ala. Code 1975 §§ 35-4A-1 to 35-4A-8.
Alaska	1994, c. 82	1-1-1996	AS §§ 34.27.050 to 34.27.100.
Arizona	1994, c. 290	After 12-31-1994	A.R.S. §§ 14-2901 to 14-2906.
Arkansas	2007, c. 240	3-9-2007	A.C.A. §§ 18-3-101 to 18-3-109.
California	1991, c. 156	7-22-1991 [FN*]	West's Ann.Cal.Probate Code, §§ 21200 to 21231.
Colorado	1991, c. 315	5-31-1991	West's C.R.S.A. §§ 15-11-1101 to 15-11-1107.
Connecticut	1989, P.A. No. 89-44	5-2-1989 [FN*]	C.G.S.A. §§ 45a-490 to 45a-496.
District of Columbia	2001, D.C. Law 13-292	4-27-2001	D.C. Official Code, 2001 Ed. §§ 19-901 to 19-907.
Florida	1988, c. 88-40	10-1-1988	West's F.S.A. § 689.225.
Georgia	1990, p. 1837	5-1-1990	O.C.G.A. §§ 44-6-200 to 44-6-206.
Hawaii	1992, Act 262	6-18-1992	HRS §§ 525-1 to 525-6.
Indiana	2002, P.L. 2-2002	7-1-2002	West's A.I.C. §§ 32-17-8-1 to 32-17-8-6.
Kansas	1992, c. 302	5-22-1992 [FN*]	K.S.A. §§ 59-3401 to 59-3408.
Massachusetts [FN1]	2010, c. 409	1-2-2012	M.G.L.A. c. 190B, §§ 2-901 2-906.
Michigan	1988, P.A. 418	12-24-1988	M.C.L.A. §§ 554.71 to 554.78.
Minnesota	1987, c. 60	1-1-1991	M.S.A. §§ 501A.01 to 501A.07.
Montana	1989, c. 250	10-1-1989	MCA §§ 72-2-1001 to 72-2-1007.
Nebraska	1989, LB377	8-25-1989	R.R.S. 1943, §§ 76-2001 to 76-2008.
Nevada	1987, c. 25	3-17-1987 [FN*]	N.R.S. §§ 111.103 to 111.1039.
New Jersey	1999, c. 159	7-8-1999 [FN*]	N.J.S.A. §§ 46:2F-9 to 46:2F-11.
New Mexico	1992, c. 66	7-1-1992	NMSA 1978, §§ 45-2-901 to 45-2-906.
North Carolina	1995, c. 190	10-1-1995	G.S. §§ 41-15 to 41-23.
North Dakota	1991, c. 484	7-1-1991	NDCC §§ 47-02-27.1 to 47-02-27.5.
Oregon	1989, c. 208	1-1-1990	ORS §§ 105.950 to 105.975.
South Carolina	1987, No. 12	3-12-1987	Code 1976, §§ 27-6-10 to 27-6-80.
Tennessee	1994, c. 654	7-1-1994	T.C.A. §§ 66-1-201 to 66-1-208.
Virgin Islands	2010, c. 7150	1-1-2011	15 V.I.C. §§ 2-901 to 2-906.
Virginia	2000, c. 714	7-1-2000	Code 1950, §§ 55-12.1 to 55-12.6.
West Virginia	1992, c. 74	90 days from 2-10-1992	Code, §§ 36-1A-1 to 36-1A-8.

[FN\*] Date of approval.

## § 19-901. STATUTORY RULE AGAINST PERPETUITIES.

(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 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 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 after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection (a)(1), (b)(1), or (c)(1) of this section, the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument (1) seeks to disallow the vesting or termination of any interest or trust beyond, (2) seeks to postpone the vesting or termination of any interest or trust until, or (3) seeks to operate in effect in any similar fashion upon, the later of (A) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (B) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

Law 13-292, the "Omnibus Trusts and Estates Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-298, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 26, 2001, it was assigned Act No. 13-599 and transmitted to both Houses of Congress for its review. D.C. Law 13-292 became effective on April 27, 2001.

##### *Uniform Law*

This section is based upon § 1 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

## **§ 19-902. WHEN NONVESTED PROPERTY INTEREST OR POWER OF APPOINTMENT IS CREATED.**

(a) Except as provided in subsections (b) and (c) of this section and in section 19-905(a), the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(b) For purposes of this chapter, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 19-901(b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(c) For purposes of this chapter, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

##### *Uniform Law*

This section is based upon § 2 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

### **§ 19-903. 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 allowed by section 19-901(a)(2), (b)(2), or (c)(2) if:

- (1) A nonvested property interest or a power of appointment becomes invalid under section 19-901;
- (2) A class gift is not but might become invalid under section 19-901 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 section 19-901(a)(1) can vest but not within 90 years after its creation.

(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

##### *Uniform Law*

This section is based upon § 3 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

### **§ 19-904. EXCLUSIONS FROM STATUTORY RULE AGAINST PERPETUITIES.**

(a) Section 19-901 does not apply to:

(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

- (A) A premarital or postmarital agreement;
- (B) A separation or divorce settlement;
- (C) A spouse or domestic partner's election under section 19-113;
- (D) A similar arrangement arising out of a prospective, existing, or previous marital relationship or domestic partnership relationship between the parties;
- (E) A contract to make or not to revoke a will or trust;
- (F) A contract to exercise or not to exercise a power of appointment;
- (G) A transfer in satisfaction of a duty of support; or
- (H) A reciprocal transfer;

(2) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

(3) A power to appoint a fiduciary;

(4) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) A nonvested property interest held by a charity, government, or governmental agency or subdivision;

(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries, spouses, or domestic partners, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries, spouses, or domestic partners, the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary, spouse, or domestic partner;

(7) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of the District of Columbia;

(8) A gift of a present interest or devise to charitable uses;

(9) In accordance with section 43-113, a grant, donation, or bequest for the embellishment, preservation, renewal, or repair of any tomb, monument, gravestone, or other structure, fence, railing, or other enclosure in or around any cemetery lot, or for the planting and cultivation of any trees, shrubs,

flowers, or plants in or around any cemetery lot, according to the terms of such grant, donation, or bequest; or

(10) A trust in which the governing instrument states that the provisions of this chapter do not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to hold, sell, lease, or mortgage property for any period of time beyond the period that is required for an interest created under the governing instrument to vest.

(b) For the purposes of this section, the term:

(1) "Domestic partner" shall have the same meaning as provided in § 32- 701(3).

(2) "Domestic partnership" shall have the same meaning as provided in § 32- 701(4).

(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(u), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 16-79 designated the existing text as subsec. (a); added subsec. (b); and rewrote subsecs. (a)(1)(C), (a)(1)(D) and (a)(6), which had read as follows:

"(C) A spouse's election under section 19-113;

"(D) A similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties;"

"(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse;"

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

For Law 16-79, see notes following § 19-101.02.

##### *Uniform Law*

This section is based upon § 4 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

## **§ 19-905. 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 the effective date of this chapter [April 27, 2001]. 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 the effective date of this chapter [April 27, 2001] and is determined in a judicial proceeding, commenced on or after the effective date of this chapter [April 27, 2001], to violate the District of Columbia's rule against perpetuities as that rule existed before the effective date of this chapter [April 27, 2001], 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.

(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

##### *Uniform Law*

This section is based upon § 5 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

## **§ 19-906. SUPERSESSION.**

This chapter supersedes the rule of the common law known as the rule against perpetuities.  
(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

#### *Uniform Law*

This section is based upon § 9 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

## **§ 19-907. UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

In applying and construing this Uniform Act [this chapter], consideration must be given to the need to promote uniformity of the law with respect to the subject matter among states enacting it.  
(Apr. 27, 2001, D.C. Law 13-292, § 402(b), 48 DCR 2087.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-901.

#### *Uniform Law*

This section is based upon § 7 of the Uniform Statutory Rule Against Perpetuities Act. See 8B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.