§114. Exclusions from statutory rule against perpetuities

Section 111 does not apply to: [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Nonvested property interest or power of appointment arising out of nondonative transfer; exceptions. 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; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. A separation or divorce settlement; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A spouse's election; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. An arrangement similar to those described in paragraphs A, B and C arising out of a prospective, existing or previous marital relationship between the parties; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. A contract to make or not to revoke a will or trust; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. A contract to exercise or not to exercise a power of appointment; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. A transfer in satisfaction of a duty of support; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. A reciprocal transfer; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Fiduciary's power. 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;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Power to appoint fiduciary. A power to appoint a fiduciary;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Discretionary power of trustee to distribute. 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;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Nonvested property interest held by charity, government or governmental agency or subdivision. A nonvested property interest held by a charity, government or governmental agency or subdivision if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Not subject to rule or excluded by other statute. 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 this State; or

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Trusts to which rule does not apply. A trust in which the governing instrument provides that the rule against perpetuities does not apply to the trust and under which the trustee or other individual to whom the power is properly granted or delegated has the power under the governing instrument, applicable statute or common law to sell, mortgage or lease property for any period of time beyond the period that is required for an interest created under the governing instrument to vest. This subsection applies to all trusts created by will or inter vivos instrument executed or amended on or after July 1, 2019 and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2019.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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