

House Bill 122

By: Representatives Efration of the 104<sup>th</sup>, Willard of the 51<sup>st</sup>, Powell of the 171<sup>st</sup>, Reeves of the 34<sup>th</sup>, Holcomb of the 81<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 9 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated,  
2 relating to the Uniform Statutory Rule Against Perpetuities, so as to change provisions  
3 relating to the validity of nonvested property interest or power of appointment; to change  
4 provisions relating to reform of disposition by court to approximate transferor's plan of  
5 distribution; to provide for application and construction of article; to provide for related  
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 9 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to the  
10 Uniform Statutory Rule Against Perpetuities, is amended by revising paragraph (2) of  
11 subsections (a) through (c) of Code Section 44-6-201, relating to the validity of nonvested  
12 property interest or power of appointment, as follows:

13 "(2) The interest either vests or terminates within ~~90~~ 360 years after its creation."

14 "(2) The condition precedent either is satisfied or becomes impossible to satisfy within  
15 ~~90~~ 360 years after its creation."

16 "(2) The power is irrevocably exercised or otherwise terminates within ~~90~~ 360 years after  
17 its creation."

18 **SECTION 2.**

19 Said article is further amended by revising Code Section 44-6-203, relating to reform of  
20 disposition by court to approximate transferor's plan of distribution, as follows:

21 "44-6-203.

22 Upon the petition of an interested person, a court shall reform a disposition in the manner  
23 that most closely approximates the transferor's manifested plan of distribution and is within  
24 the ~~90~~ number of years allowed by paragraph (2) of ~~subsection (a), paragraph (2) of~~

25 ~~subsection (b), or paragraph (2) of subsection~~ subsection (a), (b), or (c) of Code Section  
 26 44-6-201 if:

27 (1) A nonvested property interest or a power of appointment becomes invalid under Code  
 28 Section 44-6-201;

29 (2) A class gift is not but might still become invalid under Code Section 44-6-201 and  
 30 the time has arrived when the share of any class member is to take effect in possession  
 31 or enjoyment; or

32 (3) A nonvested property interest that is not validated by paragraph (1) of subsection (a)  
 33 of Code Section 44-6-201 can vest, but not within ~~90~~ 360 years after its creation."

34 **SECTION 3.**

35 Said article is further amended by revising Code Section 44-6-205, relating to the  
 36 applicability of this article and court reform of nonvested dispositions created before this  
 37 article became effective, as follows:

38 "44-6-205.

39 (a) Except as extended by subsection (b) of this Code section, this article applies to a  
 40 nonvested property interest or a power of appointment that is created on or after ~~May 1,~~  
 41 ~~1990~~ July 1, 2017. For purposes of this Code section only, a nonvested property interest  
 42 or a power of appointment created by the exercise of a power of appointment is created  
 43 when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

44 (b) With respect to a nonvested property interest or a power of appointment that was  
 45 created before ~~May 1, 1990~~ July 1, 2017, and that violates this state's rule against  
 46 perpetuities as that rule existed before ~~May 1, 1990~~ July 1, 2017, a court upon the petition  
 47 of an interested party may exercise its equitable power to reform the disposition in the  
 48 manner that most closely approximates the transferor's manifested plan of distribution and  
 49 is within the limits of the rule against perpetuities applicable when the nonvested property  
 50 interest or power of appointment was created."

51 **SECTION 4.**

52 This Act shall become effective on July 1, 2017.

53 **SECTION 5.**

54 All laws and parts of laws in conflict with this Act are repealed.