

381.225 Permissible period of power of alienation under trust -- Future interest.

- (1) (a) A future interest or trust is void if it suspends the power of alienation for longer than the permissible period. The power of alienation is the power to convey to another an absolute fee in possession of land, or full ownership of personalty. The permissible period is within twenty-one (21) years after the death of an individual or individuals then alive.
 - (b) If the settlor of an inter vivos trust has an unlimited power to revoke, the permissible period is computed from the termination of that power.
 - (c) If a future property interest or trust is created by exercise of a power of appointment, the permissible period is computed from the time the power is exercised if the power is a general power exercisable in favor of the donee, the donee's estate, the donee's creditors, or the creditors of the donee's estate, whether or not it is exercisable in favor of others, and even if the general power is exercisable only by will; in the case of other powers, the permissible period is computed from the time the power is created but facts at the time the power is exercised are considered in determining whether the power of alienation is suspended beyond the death of an individual or individuals alive at the time of creation of the power plus twenty-one (21) years.
- (2) The power of alienation is suspended when there are no persons who, alone or in combination with others, can convey an absolute fee in possession of land, or full ownership of personalty.
 - (3) There is no suspension of the power of alienation by a trust or by equitable interests under a trust if the trustee has power to sell, either expressed or implied, or if there is a power to terminate the trust by distributing the property subject to the trust to the beneficiaries in fee simple in one (1) or more persons then living.
 - (4) This section does not apply to limit any of the following:
 - (a) Transfers, outright or in trust, for charitable purposes;
 - (b) Transfers to one (1) or more charitable organizations as described in 26 U.S.C. secs. 170(c), 2055(a), and 2522(a), or any similar statute;
 - (c) A future 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:
 1. A premarital or post-marital agreement;
 2. A separation or divorce settlement;
 3. An arrangement similar to subparagraph 1. or 2. of this paragraph arising out of a prospective, existing, or previous marital relationship between the parties;
 4. A contract to make or revoke a will or trust;
 5. A contract to exercise or not to exercise a power of appointment;
 6. A transfer in satisfaction of a duty of support; or
 7. A reciprocal transfer;

- (d) A transfer 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 (1) or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purposes 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; or
- (e) 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 Commonwealth.

Effective: July 15, 2010

History: Created 2010 Ky. Acts ch. 21, sec. 2, effective July 15, 2010.