

## LEGISLATIVE BILL 385

Approved by the Governor March 18, 2002

Introduced by Landis, 46

AN ACT relating to the rule against perpetuities; to amend section 76-2005, Reissue Revised Statutes of Nebraska; to provide for an exclusion from the rule for certain trusts as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-2005, Reissue Revised Statutes of Nebraska, is amended to read:

76-2005. Section 76-2002 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 (i) a premarital or postmarital agreement, (ii) a separation or divorce settlement, (iii) a spouse's election, (iv) a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties, (v) a contract to make or not to revoke a will or trust, (vi) a contract to exercise or not to exercise a power of appointment, (vii) a transfer in satisfaction of a duty of support, or (viii) 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, if the nonvested property interest is preceded by an interest held by another 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 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;

(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 law of this state; ~~or~~

(8) A property interest, ownership, or a power of appointment transferred in trust for charitable purposes by whose terms such trust is to continue for an indefinite or unlimited period or arrangement of like import; or

(9) A trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee or other person to whom the power is properly granted or delegated has power under the governing instrument, any applicable statute, or the common law to sell, lease, or mortgage property for any period of time beyond the period which would otherwise be required for an interest created under the governing instrument to vest. This subdivision shall apply to all trusts created by will or inter vivos agreement executed or amended on or after the effective date of this act, and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after the effective date of this act.

Sec. 2. Original section 76-2005, Reissue Revised Statutes of Nebraska, is repealed.