

**381.226 Applicability of KRS 381.224 and 381.225 to property interests and powers of appointment -- Construction of provisions requiring vesting within period provided by common law rule against perpetuities.**

- (1) Except as provided in subsection (2) of this section, KRS 381.224 and 381.225 shall apply to:
  - (a) A future property interest or a power of appointment that is created on or after July 15, 2010, including a property interest or power of appointment created pursuant to the exercise of a power of appointment under an instrument executed prior to July 15, 2010; or
  - (b) A future property interest or a power of appointment:
    1. That is created pursuant to the laws of any state that does not have a rule against perpetuities in force;
    2. That is not covered by any previously existing rule against perpetuities; and
    3. To which, after July 15, 2010, the laws of this state are made applicable by transfer of the situs of a trust to Kentucky, by a change in the law governing a trust instrument to Kentucky law, or otherwise.
- (2) With respect to a nonvested property interest or a power of appointment created either before or after July 15, 2010, which is determined in a judicial proceeding commenced on or after July 15, 2010, to violate Kentucky's rule against perpetuities as that rule existed at the time the interest or power was created, 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 disposition and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.
- (3) For purposes of this section only, a future property interest or a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.
- (4) An instrument which contains a provision requiring the vesting of all interests created by the instrument within the period provided by the common law rule against perpetuities shall be construed as requiring the interests to vest within the period specified by this section and KRS 381.224 and 381.225, unless the provision is determined by a court to have been included in the instrument for reasons other than protecting the interest against a violation of the common law rule against perpetuities. For purposes of this subsection, the term "common law rule against perpetuities" shall include KRS 381.215, 381.216, and 381.217 prior to their repeal on July 15, 2010. This subsection does not apply to any interest in property created by the exercise of the special power of appointment granted by an instrument that was irrevocable on September 25, 1985.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 41, sec. 39, effective July 15, 2020. -- Created 2010 Ky. Acts ch. 21, sec. 3, effective July 15, 2010.