

1 AN ACT relating to trusts and future interest.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 381.225 is amended to read as follows:

- 4 (1) (a) A future interest or trust is void if it suspends the power of alienation for  
5 longer than the permissible period. The power of alienation is the power to  
6 convey to another an absolute fee in possession of land, or full ownership of  
7 personalty. The permissible period is within twenty-one (21) years after the  
8 death of an individual or individuals then alive.
- 9 (b) If the settlor of an inter vivos trust has an unlimited power to revoke, the  
10 permissible period is computed from the termination of that power.
- 11 (c) If a future property interest or trust is created by exercise of a power of  
12 appointment, the permissible period is computed from the time the power is  
13 exercised if the power is a general power exercisable in favor of the donee, the  
14 donee's estate, the donee's creditors, or the creditors of the donee's estate,  
15 whether or not it is exercisable in favor of others, and even if the general  
16 power is exercisable only by will; in the case of other powers, the permissible  
17 period is computed from the time the power is created **unless the instrument**  
18 **exercising the power provides that the period is computed from the date the**  
19 **power is irrevocably exercised** but facts at the time the power is exercised are  
20 considered in determining whether the power of alienation is suspended  
21 beyond the death of an individual or individuals alive at the time of creation of  
22 the power plus twenty-one (21) years.
- 23 (2) The power of alienation is suspended when there are no persons who, alone or in  
24 combination with others, can convey an absolute fee in possession of land, or full  
25 ownership of personalty.
- 26 (3) There is no suspension of the power of alienation by a trust or by equitable interests  
27 under a trust if the trustee has power to sell, either expressed or implied, or if there

1 is a power to terminate the trust by distributing the property subject to the trust to  
2 the beneficiaries in fee simple in one (1) or more persons then living.

3 (4) This section does not apply to limit any of the following:

4 (a) Transfers, outright or in trust, for charitable purposes;

5 (b) Transfers to one (1) or more charitable organizations as described in 26  
6 U.S.C. secs. 170(c), 2055(a), and 2522(a), or any similar statute;

7 (c) A future interest or a power of appointment arising out of a nondonative  
8 transfer, except a nonvested property interest or a power of appointment  
9 arising out of:

10 1. A premarital or post-marital agreement;

11 2. A separation or divorce settlement;

12 3. An arrangement similar to subparagraph 1. or 2. of this paragraph arising  
13 out of a prospective, existing, or previous marital relationship between  
14 the parties;

15 4. A contract to make or revoke a will or trust;

16 5. A contract to exercise or not to exercise a power of appointment;

17 6. A transfer in satisfaction of a duty of support; or

18 7. A reciprocal transfer;

19 (d) A transfer to a trust or other property arrangement forming part of a pension,  
20 profit-sharing, stock bonus, health, disability, death benefit, income deferral,  
21 or other current or deferred benefit plan for one (1) or more employees,  
22 independent contractors, or their beneficiaries or spouses, to which  
23 contributions are made for the purposes of distributing to or for the benefit of  
24 the participants or their beneficiaries or spouses the property, income, or  
25 principal in the trust or other property arrangement; or

26 (e) A property interest, power of appointment, or arrangement that was not  
27 subject to the common law rule against perpetuities or is excluded by another

1 statute of this Commonwealth.