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SENATE BILL NO. 502

Offered January 24, 2000

A BILL to amend and reenact § 55-13.3 of the Code of Virginia, relating to rule against perpetuities.

Patrons—Reynolds and Stosch; Delegates: Howell and McClure

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 55-13.3 of the Code of Virginia is amended and reenacted as follows:

§ 55-13.3. Application of the rule against perpetuities to testamentary and inter-vivos transfers.

A. Except as provided in paragraph C hereof, a transfer of an interest in property fails, if the interest does not vest, if it ever vests, within the period of the rule against perpetuities.

B. If under a donative transfer an interest in property fails because it does not vest or cannot vest within the period of the rule against perpetuities, the transferred property shall be disposed of in the manner which most closely effectuates the transferor's manifested plan of distribution, which is within the limits of the rule against perpetuities. The determination of the transferor's manifested plan of distribution shall be made by a court of equity in the county or city wherein the affected property or the greater part thereof is located.

C. If an interest in property transferred to a charity does not vest within the period of the rule against perpetuities, it fails unless it would divest a valid interest in another charity, in which case it does not fail on the ground of the rule against perpetuities, even though the divestiture does not occur within the period of the rule.

D. The provisions of this section shall apply (i) to all interests hereafter created, and (ii) to all interests heretofore created except insofar as any conveyance or distribution of the affected property has been made, or any detrimental action has been taken, in reliance upon the common law rule against perpetuities. Any interests provided for in a will shall not be considered "created" during the testator's lifetime.

E. *The rule against perpetuities shall not apply to a trust that by its terms provides that the rule against perpetuities does not apply to the trust nor to a transfer of an interest in property under a trust that by its terms provides that the rule against perpetuities does not apply to the trust, provided that the trustee, or other person to whom the power is properly granted or delegated, has the power under the trust, applicable statute, or common law to sell, lease, mortgage or otherwise dispose of property for any period of time beyond the period of the rule against perpetuities.*

INTRODUCED

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