

§115. Application

1. Nonvested property interest or a power of appointment created prior to effective date of this chapter. This subsection governs nonvested property interests and powers of appointment created prior to July 1, 2019.

A. Except as provided in section 116, subsection 1, this chapter may not be construed to invalidate or modify the terms of any limitation that would have been valid prior to August 20, 1955. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. This chapter applies only to inter vivos instruments taking effect after August 20, 1955, to wills if the testator dies after August 20, 1955 and to appointments made after August 20, 1955, including appointments by inter vivos instruments or wills under powers created before August 20, 1955. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Section 114, subsection 7 applies to all trusts created by will or inter vivos instrument executed or amended on or after July 1, 2019 and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2019. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. If a nonvested property interest or a power of appointment was created before July 1, 2019 and is determined in a judicial proceeding, commenced on or after July 1, 2019, to violate this State's rule against perpetuities as that rule existed before July 1, 2019, 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 distribution and so that the reformed disposition is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Nonvested property interest or a power of appointment created on or after July 1, 2019. Except as provided by subsection 1, paragraph D, this chapter applies to a nonvested property interest or a power of appointment that is created on or after July 1, 2019.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Creation by exercise of a power of appointment. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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