



## Ohio Revised Code

### Section 2131.08 Rule against perpetuities.

Effective: March 27, 2013

Legislation: House Bill 479 - 129th General Assembly

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(A) Subject to sections 1746.14, 1747.09, and 2131.09 of the Revised Code, no interest in real or personal property shall be good unless it must vest, if at all, not later than twenty-one years after a life or lives in being at the creation of the interest. All estates given in tail, by deed or will, in real property lying within this state shall be and remain an absolute estate in fee simple to the issue of the first donee in tail. It is the intention by the adoption of this section to make effective in this state what is generally known as the common law rule against perpetuities, except as set forth in divisions (B) and (C) of this section.

(B) For the purposes of this section and subject to sections 1746.14, 1747.09, and 2131.09 of the Revised Code, the time of the creation of an interest in real or personal property subject to a power reserved by the grantor to revoke or terminate the interest shall be the time at which the reserved power expires by reason of the death of the grantor, by release of the power, or otherwise.

(C) Any interest in real or personal property that would violate the rule against perpetuities under division (A) of this section shall be reformed, within the limits of the rule, to approximate most closely the intention of the creator of the interest. In determining whether an interest would violate the rule and in reforming an interest, the period of perpetuities shall be measured by actual rather than possible events.

(D) For purposes of this section and subject to sections 1746.14, 1747.09, and 2131.09 of the Revised Code, the following apply:

(1) The time of the creation of an interest in real or personal property resulting from the exercise of a general power of appointment exercisable in a nonfiduciary capacity by deed, whether or not also exercisable by will, shall be the time at which that power of appointment is exercised.

(2) The time of the creation of an interest in real or personal property resulting from the termination, without exercise, of a general power of appointment exercisable in a nonfiduciary capacity by deed,



whether or not also exercisable by will, shall be the time at which that power of appointment terminates by reason of the death of the power holder, by release of the power, or otherwise.

(E) Divisions (B) and (C) of this section shall be effective with respect to interests in real or personal property created by wills of decedents dying after December 31, 1967, with respect to interests in real or personal property created by inter vivos instruments executed after December 31, 1967, and with respect to interests in real or personal property created by inter vivos instruments executed on or before December 31, 1967, that by reason of division (B) of this section will be treated as interests created after December 31, 1967. Divisions (B) and (C) of this section shall be effective with respect to interests in real or personal property created by the exercise of a power of appointment if divisions (B) and (C) of this section apply to the instrument that exercises the power, whether or not divisions (B) and (C) of this section apply to the instrument that creates the power.

(F) Divisions (D) and (G) of this section are intended to be a statement of the common law of this state and shall be effective with respect to interests in real or personal property whenever created.

(G) For purposes of this section:

(1) "General power of appointment" has the same meaning as in section 2131.09 of the Revised Code.

(2) "Exercisable by deed" in reference to a power of appointment means a power that can be exercised during the power holder's lifetime by an instrument that takes effect immediately.