

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 84

Short Title: Limit Options in Gross.

(Public)

Sponsors: Senators Hartsell; and Odom.

Referred to: Judiciary II/Election Laws.

January 30, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO PLACE TIME LIMITS ON OPTIONS IN GROSS AND OTHER
3 INTERESTS IN LAND, AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 41 of the General Statutes is amended by designating the
7 existing provisions as Article 1, "Survivorship Rights and Future Interests", and by
8 adding a new Article to read:

9 **"ARTICLE 3.**
10 **"TIME LIMITS ON OPTIONS IN GROSS AND**
11 **CERTAIN OTHER INTERESTS IN LAND.**

12 **"§ 41-28. Definitions.**

13 As used in this Article:

- 14 (1) 'Nonvested easement in gross' means a nonvested easement which is
15 not created to benefit or which does not benefit the possessor of any
16 tract of land in his or her use of it as the possessor.
17 (2) 'Option in gross with respect to an interest in land' means an option in
18 which the holder of the option does not own any leasehold or other
19 interest in the land which is the subject of the option.
20 (3) 'Preemptive right in the nature of a right of first refusal in gross with
21 respect to an interest in land' means a preemptive right in which the
22 holder of the preemptive right does not own any leasehold or other
23 interest in the land which is the subject of the preemptive right.

24 **"§ 41-29. Options in gross, etc.**

1 An option in gross with respect to an interest in land or a preemptive right in the
2 nature of a right of first refusal in gross with respect to an interest in land becomes
3 invalid if it is not exercised within 30 years after its creation. For purposes of this
4 section, the term 'interest in land' does not include arrangements relating solely to an
5 interest in oil, gas, or minerals.

6 **"§ 41-30. Leases to commence in the future.**

7 A lease to commence at a time certain or upon the occurrence or nonoccurrence of a
8 future event becomes invalid if its term does not actually commence in possession
9 within 30 years after its execution. For purposes of this section, the term 'lease' does not
10 include an oil, gas, or mineral lease.

11 **"§ 41-31. Nonvested easements.**

12 A nonvested easement in gross becomes invalid if it does not vest within 30 years
13 after its creation.

14 **"§ 41-32. Possibilities of reverter, etc.**

15 Except as otherwise provided in this section:

16 (1) A possibility of reverter preceded by a fee simple determinable;

17 (2) A right of entry preceded by a fee simple subject to a condition
18 subsequent; or

19 (3) An executory interest preceded by either a fee simple determinable or
20 a fee simple subject to an executory limitation;

21 becomes invalid, and the preceding fee simple becomes a fee simple absolute, if the
22 right to vest in possession of the possibility of reverter, right of entry, or executory
23 interest depends on an event or events affecting the use of land and if the possibility of
24 reverter, right of entry, or executory interest does not vest in possession within 60 years
25 after its creation. This section does not apply to an arrangement relating solely to an
26 interest in oil, gas, or minerals.

27 **"§ 41-33. Prospective application.**

28 This Article applies only to a property interest or arrangement that is created on or
29 after October 1, 1995."

30 Sec. 2. In the event that the 1995 General Assembly enacts the "Uniform
31 Statutory Rule Against Perpetuities", G.S. 41-32, as enacted by this this act, reads as
32 rewritten:

33 **"§ 41-32. Possibilities of reverter, etc.**

34 Except as otherwise provided in this section:

35 (1) A possibility of reverter preceded by a fee simple determinable;

36 (2) A right of entry preceded by a fee simple subject to a condition
37 subsequent; or

38 (3) An executory interest preceded by either a fee simple determinable or
39 a fee simple subject to an executory limitation;

40 becomes invalid, and the preceding fee simple becomes a fee simple absolute, if the
41 right to vest in possession of the possibility of reverter, right of entry, or executory
42 interest depends on an event or events affecting the use of land and if the possibility of
43 reverter, right of entry, or executory interest does not vest in possession within 60 years
44 after its creation. This section does not apply to a possibility of reverter, right of entry,

1 or executory interest held by a charity, a government or governmental agency or
2 subdivision excluded from the Uniform Statutory Rule Against Perpetuities by G.S. 41-
3 18(5) or to an arrangement relating solely to an interest in oil, gas, or minerals."

4 Sec. 3. The Revisor of Statutes shall cause to be printed along with this act
5 all relevant portions of the Official Commentary to the Uniform Rule Against
6 Perpetuities Act and all explanatory comments of the drafters of this act as the Revisor
7 may deem appropriate.

8 Sec. 4. This act becomes effective October 1, 1995.