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## Property; Uniform Statutory Rule Against Perpetuities

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brought within four years after the transfer was made or the obligation incurred.<sup>79</sup>

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79. *Id.* (enacting NEV. REV. STAT. § 112.\_\_\_\_) (applies if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor was engaged or was about to engage in a business or transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction). A claim must also be brought within four years if the debtor intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as the debts became due, or the debtor was insolvent as a result of the transfer or obligation. *Id.* See generally Kennedy, *supra* note 1, at 210-11 (the Uniform Fraudulent Transfer Act provides a basis for clarifying the statute of limitation problem regarding fraudulent transfers which in the past caused great difficulty in determining what statute of limitation applied and varied enormously from state to state).

## Property; Uniform Statutory Rule Against Perpetuities

NEV. REV. STAT. § 111.\_\_\_\_ (new); §§ 111.103, 117.103 (amended).  
AB 182 (Committee on Judiciary); 1987 STAT. Ch 25

Under prior law, the principles of the *cy pres*<sup>1</sup> and the “wait and see”<sup>2</sup> doctrines were combined to form the basis of the statutory rule against perpetuities.<sup>3</sup> Chapter 25 adopts the Uniform Statutory Rule Against Perpetuities.<sup>4</sup> Chapter 25 provides that a nonvested property interest<sup>5</sup> is invalid unless the interest, when created,<sup>6</sup> is

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1. See Note, *Property—Perpetuities—Texas Enacts Cy Pres Statute*, 49 TEX. L. REV. 181, 184 (Dec. 1970); see TEX. CIV. STAT. ANN. art. 1291b (Supp. 1969) (definition of *cy pres* doctrine).

2. See Case Comment, *Property Law—Rule Against Perpetuities - Use of Cy Pres Doctrine to Reform Testamentary Trust Violating Rule Against Perpetuities* — In re Chun Quan Yee Hop, 84 HARV. L. REV. 738, 744 (Jan. 1971) (definition of the “wait & see” doctrine).

3. 1983 Nev. Stat. ch. 388, sec. 4, at 928 (enacting NEV. REV. STAT. § 111.103). See 1983 PAC. L.J. REV. NEV. LEGIS. 117, 134 (Oct. 1983).

4. 1987 Nev. Stat. ch. 25, sec. 7, at \_\_\_\_ (amending NEV. REV. STAT. 111.103).

5. 1987 Nev. Stat. ch. 25, sec. 5, at \_\_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_). A nonvested property interest is subject to the rule against perpetuities if the interest is a donative transfer, or if the interest is a nondonative transfer and arose out of the following: (1) A premarital or postmarital agreement; (2) a separation or divorce settlement; (3) a spouse's election; (4) a similar arrangement arising out of a prospective, existing or previous marital relationship between the parties; (5) a contract to make or not to revoke a will or trust; (6) a contract to exercise or not to exercise a power of appointment; (7) a transfer in satisfaction of a duty of support; or (8) a reciprocal transfer. *Id.*

6. 1987 Nev. Stat. ch. 25, sec. 3, at \_\_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_). If a person can exercise a power created by a governing instrument to become the unqualified

certain to vest or terminate not more than twenty-one years after the death of a natural person then alive, or vests or terminates within ninety years after the creation of the interest.<sup>7</sup>

Chapter 25 specifies that a general power of appointment not presently exercisable because of a condition precedent is invalid unless, when the power was created,<sup>8</sup> the condition would be satisfied or would terminate within the statutory time limit.<sup>9</sup> Chapter 25 further provides that a nongeneral power of appointment or a general testamentary power of appointment is invalid unless the interest is certain to be irrevocably exercised or otherwise to terminate during the statutory period.<sup>10</sup> In addition, Chapter 25 provides that a court may reform an otherwise invalid disposition of property.<sup>11</sup> The court, however, must reform the interest in a manner that most closely approximates the transferor's manifested intent and complies with the statutory time limit.<sup>12</sup>

Chapter 25 expressly excludes the following areas from coverage by the rule against perpetuities: (1) A nonvested property interest arising out of specific nondonative transfers; (2) a fiduciary's power relating to the administration or management of assets;<sup>13</sup> (3) a power to appoint a fiduciary; (4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal; (5) a nonvested property interest held by a charity or government, if the nonvested property interest is preceded by an interest held by another charity or government; (6) a nonvested property interest or a power of appointment with respect to a trust or other specific

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beneficial owner of a nonvested property interest, then the nonvested property interest is created when the power to become the unqualified beneficial owner terminates. *Id.*

7. 1987 Nev. Stat. ch. 25, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_).

8. *Id.* sec. 3, at \_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_). The time of creation is determined under the general principles of property law. *Id.* If a person can exercise a power created by a governing instrument to become the unqualified beneficial owner of a property interest subject to a power of appointment, then the power of appointment is created when the power to become the unqualified beneficial owner terminates. *Id.*

9. 1987 Nev. Stat. ch. 25, sec. 2, at \_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_). The power of appointment, when created, must be certain to be irrevocably exercised or otherwise terminate no later than 21 years after the death of a natural person then alive; or the power is irrevocably exercised or otherwise terminates within 90 years after creation. *Id.*

10. *Id.*

11. 1987 Nev. Stat. ch. 25, sec. 4, at \_\_\_ (enacting NEV. REV. STAT. § 111.\_\_\_\_).

12. *Id.* (applies to nonvested property interest and power of appointments created before July 1, 1987).

13. *Id.* sec. 5, at \_\_\_ (management of assets includes the power to sell, lease or mortgage property, and the power of a fiduciary to determine principal and income).

property arrangements;<sup>14</sup> and (7) a property interest, power of appointment or other arrangement that was not subject to the common law rule against perpetuities or is expressly excluded by another statute.<sup>15</sup>

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14. *Id.* (property arrangements include contributions which are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries).

15. *Id.*

### **Property; disclosure of water and sewage disposal**

NEV. REV. STAT. § 113.\_\_\_\_ (new).

AB 138 (Committee on Government Affairs); 1987 STAT. Ch 206

Under existing law, sellers of real property have a limited duty to disclose to purchasers information concerning that property.<sup>1</sup> Chapter 206 requires a seller of real property<sup>2</sup> which is served by a small public utility<sup>3</sup> to post a notice of the name and current rates of the public utility.<sup>4</sup>

*AGW*

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1. See *Freeman v. Soukup*, 70 Nev. 198, 205 n.3, 265 P.2d 207, 210-11 n.3 (1953) (purchasers are charged with having the knowledge of certain restrictions on the use of property).

2. 1987 Nev. Stat. ch. 206, sec. 1, at \_\_\_\_ (enacting NEV. REV. STAT. § 113.\_\_\_\_) (Chapter 206 applies only to the sale of a previously unsold home or improved lot).

3. *Id.* (Chapter 206 applies to public utilities which serve or plan to serve more than 25 but less than 2000 customers).

4. *Id.* The seller must provide the address and telephone number of the public utility and the division of consumer relations of the public service commission of Nevada. The seller must also post the notice on the property or at his sales office, if an improved lot is being sold, and must also provide the purchaser with a copy of the notice. *Id.*