

MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 1175

S. P. 411

In Senate, March 2, 1955.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Woodcock of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Modifying and Clarifying the Rule Against Perpetuities.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 160, §§ 27-33, additional. Chapter 160 of the revised statutes is hereby amended by adding thereto 7 new sections to be numbered 27 to 33, inclusive, to read as follows:

'The Rule Against Perpetuities.

Sec. 27. When rule applied. In applying the rule against perpetuities to an interest in real or personal property limited to take effect at or after the termination of one or more life estates in, or lives of, persons in being when the period of said rule commences to run, the validity of the interest shall be determined on the basis of facts existing at the termination of such one or more life estates or lives. In this section an interest which must terminate not later than the death of one or more persons is a "life estate" even though it may terminate at an earlier time.

Sec. 28. Age may be reduced to 21. If an interest in real or personal property would violate the rule against perpetuities as modified by section 27 because such interest is contingent upon any person attaining or failing to attain an age in excess of 21, the age contingency shall be reduced to 21 as to all persons subject to the same age contingency.

Sec. 29. Contingent fees. A fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken shall become a fee simple absolute if the specified contingency does not occur within 30 years from the date when such fee simple determinable or such fee simple subject to a right

of entry becomes possessory. If such contingency occurs within said 30 years the succeeding interest, which may be an interest in a person other than the person creating the interest or his heirs, shall become possessory or the right of entry exercisable notwithstanding the rule against perpetuities. But if a fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken is so limited that the specified contingency must occur, if at all, within the period of the rule against perpetuities, said interests shall take effect as limited. This section shall not apply where both such fee simple determinable and such succeeding interest, or both such fee simple and such right of entry are for public, charitable or religious purposes; nor shall it apply to a deed, gift or grant to the State or any political subdivision thereof.

Sec. 30. Application of sections 27-33. Sections 27 to 33, inclusive, shall apply to both legal and equitable interests.

Sec. 31. Limitation of sections 27-33. Except as provided in the first sentence of section 29, sections 27 to 33, inclusive, shall not be construed to invalidate or modify the terms of any limitation which would have been valid prior to the effective date of this act.

Sec. 32. Severability of sections 27-33. If any of the provisions of sections 27 to 33, inclusive, shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or others of said sections; and to this end sections 27 to 33, inclusive, are declared to be severable.

Sec. 33. To what instruments effective. Sections 27 to 33, inclusive, shall apply only to inter vivos instruments taking effect after the effective date of this act, to wills where the testator dies after the effective date of this act, and to appointments made after the effective date of his act, including appointments by inter vivos instruments or wills under powers created before said effective date.'