

# WEST VIRGINIA CODE: §36-1A-1

## §36-1A-1. Statutory rule against perpetuities.

(a) Except as provided in subsection (e) of this section, a nonvested property interest is invalid unless:

(1) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) The interest either vests or terminates within 90 years after its creation.

(b) Except as provided in subsection (e) of this section, a general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) Except as provided in subsection (e) of this section, a nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under the provisions of this section, the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) As to any trust administered by a private trust company pursuant to §311-1-1 *et seq.* of this code on or after July 1, 2023, this subsection shall apply to a nonvested property interest or power of appointment contained in a trust by substituting 1,000 years in place of "90 years" in each place such term appears in this section, unless the terms of the trust require that all beneficial interests in the trust vest or terminate within a lesser period.