

SENATE BILL NO. 382—COMMITTEE ON JUDICIARY

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to property.
(BDR 13-727)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to property; authorizing a fiduciary to transfer trust property to a corporation, limited-liability company or other entity formed by the fiduciary; authorizing such an entity that acts as a fiduciary or trustee to be owned or controlled by the trust under certain circumstances; extending the time within which a nonvested property interest must vest or terminate; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 162 is hereby amended by adding thereto a
2 new section to read as follows:

3 ***1. A fiduciary may form a corporation, limited-liability***
4 ***company or other entity, and transfer, assign and convey to the***
5 ***corporation, limited-liability company or entity all or any part of***
6 ***an estate or of any trust property in exchange for the stock,***
7 ***securities or obligations of the corporation, limited-liability***
8 ***company or entity, and continue to hold the stock and securities***
9 ***and obligations.***

10 ***2. A corporation, limited-liability company or other entity***
11 ***incorporated, organized or registered under the laws of this State***
12 ***that acts as a fiduciary or trustee of an estate or trust administered***
13 ***under the laws of this State may be owned or controlled by the***
14 ***trust if the trust instrument authorizes the trust to own an affiliate.***



1 **3. As used in this section, “affiliate” has the meaning**
2 **ascribed to it in NRS 163.020.**

3 **Sec. 2.** NRS 111.1031 is hereby amended to read as follows:

4 111.1031 1. A nonvested property interest is invalid unless:

5 (a) When the interest is created, it is certain to vest or terminate
6 no later than 21 years after the death of a natural person then alive;
7 or

8 (b) The interest either vests or terminates within ~~199~~ 150 years
9 after its creation.

10 2. A general power of appointment not presently exercisable
11 because of a condition precedent is invalid unless:

12 (a) When the power is created, the condition precedent is certain
13 to be satisfied or become impossible to satisfy no later than 21 years
14 after the death of a natural person then alive; or

15 (b) The condition precedent either is satisfied or becomes
16 impossible to satisfy within ~~199~~ 150 years after its creation.

17 3. A nongeneral power of appointment or a general
18 testamentary power of appointment is invalid unless:

19 (a) When the power is created, it is certain to be irrevocably
20 exercised or otherwise to terminate no later than 21 years after the
21 death of a natural person then alive; or

22 (b) The power is irrevocably exercised or otherwise terminates
23 within ~~199~~ 150 years after its creation.

24 4. In determining whether a nonvested property interest or a
25 power of appointment is valid under paragraph (a) of subsection 1,
26 paragraph (a) of subsection 2 or paragraph (a) of subsection 3, the
27 possibility that a child will be born to a person after his or her death
28 is disregarded.

29 5. If, in measuring a period from the creation of a trust or other
30 property arrangement, language in a governing instrument seeks to
31 disallow the vesting or termination of any interest or trust beyond,
32 seeks to postpone the vesting or termination of any interest or trust
33 until, or seeks to operate in effect in any similar fashion upon, the
34 later of:

35 (a) The expiration of a period of time not exceeding 21 years
36 after the death of the survivor of specified lives in being at the
37 creation of the trust or other property arrangement; or

38 (b) The expiration of a period of time that exceeds or might
39 exceed 21 years after the death of the survivor of lives in being at
40 the creation of the trust or other property arrangement,

41 ➔ that language is inoperative to the extent it produces a period of
42 time that exceeds 21 years after the death of the survivor of the
43 specified lives.



1 **Sec. 3.** NRS 111.1035 is hereby amended to read as follows:

2 111.1035 Upon the petition of an interested person, a court
3 shall reform a disposition in the manner that most closely
4 approximates the transferor's manifested plan of distribution and is
5 within the ~~99~~ 150 years allowed by paragraph (b) of subsection 1,
6 paragraph (b) of subsection 2 or paragraph (b) of subsection 3 of
7 NRS 111.1031 if:

8 1. A nonvested property interest or a power of appointment
9 becomes invalid under NRS 111.1031;

10 2. A class gift is not but might become invalid under NRS
11 111.1031 and the time has arrived when the share of any class
12 member is to take effect in possession or enjoyment; or

13 3. A nonvested property interest that is not validated by
14 paragraph (a) of subsection 1 of NRS 111.1031 can vest but not
15 within ~~99~~ 150 years after its creation.



