

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 525
SENATE BILL 84

AN ACT TO PLACE TIME LIMITS ON OPTIONS IN GROSS AND OTHER INTERESTS IN LAND, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

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

"ARTICLE 3.
"Time Limits on Options in Gross and
Certain Other Interests in Land.

"§ 41-28. Definitions.

As used in this Article:

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

"§ 41-29. Options in gross, etc.

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

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

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

"§ 41-31. Nonvested easements.

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

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

(a) Except as otherwise provided in this section:

- (1) A possibility of reverter preceded by a fee simple determinable;
- (2) A right of entry preceded by a fee simple subject to a condition subsequent; or
- (3) An executory interest preceded by either a fee simple determinable or a fee simple subject to an executory limitation;

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

(b) This section does not apply to a possibility of reverter, right of entry, or executory interest held by a charity, a government or governmental agency or subdivision excluded from the Uniform Statutory Rule Against Perpetuities by G.S. 41-18(5) or to an arrangement relating solely to an interest in oil, gas, or minerals.

"§ 41-33. Prospective application.

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

Sec. 2. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the Official Commentary to the Uniform Rule Against Perpetuities Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

Sec. 3. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 29th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives