

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 609

Short Title: Limit Options in Gross.

(Public)

Sponsors: Senators Hartsell; Simpson and Johnson.

Referred to: Judiciary I.

March 29, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GENERAL
3 STATUTES COMMISSION TO PLACE TIME LIMITS ON OPTIONS IN GROSS
4 AND OTHER INTEREST IN LAND.

5 The General Assembly of North Carolina enacts:

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

9 **"ARTICLE 3.**
10 **"TIME LIMITS ON OPTIONS IN GROSS AND**
11 **CERTAIN OTHER INTERESTS IN LAND.**

12 **"§ 41-23. Options in gross, etc.**

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

18 **"§ 41-24. Leases to commence in the future.**

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

23 **"§ 41-25. Nonvested easements.**

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

3 **"§ 41-26. Possibilities of reverter, etc.**

4 Except as otherwise provided in this section:

5 (1) A possibility of reverter preceded by a fee simple determinable;

6 (2) A right of entry preceded by a fee simple subject to a condition
7 subsequent; or

8 (3) An executory interest preceded by either a fee simple determinable or
9 a fee simple subject to an executory limitation;

10 becomes invalid, and the preceding fee simple becomes a fee simple absolute, if the
11 right to vest in possession of the possibility of reverter, right of entry, or executory
12 interest depends on an event or events affecting the use of land and if the possibility of
13 reverter, right of entry, or executory interest does not vest in possession within 60 years
14 after its creation. This section does not apply to a possibility of reverter, right of entry,
15 or executory interest held by a charity, a government or governmental agency or
16 subdivision excluded from the Statutory Rule Against Perpetuities by G.S. 41-18(5), if
17 Article 2 of this Chapter is enacted by the General Assembly, or to an arrangement
18 relating solely to an interest in oil, gas, or minerals.

19 **"§ 41-27. Prospective application.**

20 This Article applies only to a property interest or arrangement that is created on or
21 after October 1, 1993."

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

26 Sec. 3. This act becomes effective October 1, 1993.