

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 34

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MCGUIRE

Introduced: 1/22/01

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the statutory rule against perpetuities, to nonvested property**
2 **interests and trusts, and to the suspension of the power of alienation of property; and**
3 **providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 34.27.051(b) is amended to read:

6 (b) If a nongeneral power of appointment is exercised to create a new
7 **presently exercisable** general power of appointment, all property interests subject to
8 [THE EXERCISE OF] that new **presently exercisable** general power of appointment
9 are invalid unless, within 1,000 years after the creation of the new **presently**
10 **exercisable** general power of appointment, the property interests that are subject to the
11 **new presently exercisable** general power of appointment either vest or terminate.

12 * **Sec. 2.** AS 34.27.051(c) is amended to read:

13 (c) If a nongeneral power of appointment is exercised to create a new or
14 successive nongeneral power of appointment **or a new or successive testamentary**

1 **general power of appointment**, all property interests subject to the exercise of that
 2 new or successive nongeneral **or testamentary general** power of appointment are
 3 invalid unless, within 1,000 years from the time of creation of the original instrument
 4 or conveyance creating the original nongeneral power of appointment that is exercised
 5 to create a new or successive nongeneral **or testamentary general** power of
 6 appointment, the property interests that are subject to the **new or successive**
 7 nongeneral **or testamentary general** power of appointment either vest or terminate.

8 * **Sec. 3.** AS 34.27.100(a) is amended to read:

9 (a) A future interest or trust is void if, as to property subject to the future
 10 interest or trust,

11 (1) the future interest or trust suspends the power of alienation of the
 12 property, the suspension of the power **of alienation** is for a period of at least 30 years
 13 after the death of an individual alive at the time of the creation of the future interest or
 14 trust, and the suspension of the power of alienation occurs in the document creating
 15 the future interest or trust;

16 (2) the future interest or trust suspends the power of alienation of the
 17 property and the suspension of the power **of alienation** is for a period of at least 30
 18 years after **the death of an individual alive at the time of the creation of the future**
 19 **interest or trust as computed from the time of the** termination of a **settlor's** power
 20 to revoke the trust;

21 (3) the future interest or trust suspends the power of alienation of the
 22 property, the future interest or trust is created by the exercise of a **presently**
 23 **exercisable** general power of appointment, whether by will or otherwise, and the
 24 suspension of the power **of alienation** is for a period of at least 30 years **after the**
 25 **death of an individual alive at the time of the creation of the future interest or**
 26 **trust as computed** from the time **of creation of** the **presently exercisable** power of
 27 appointment [IS EXERCISED]; or

28 (4) the future interest or trust suspends the power of alienation of the
 29 property, the future interest or trust is created by the exercise of a **nongeneral or**
 30 **testamentary general** power of appointment [THAT IS NOT A GENERAL POWER
 31 OF APPOINTMENT], and the suspension of the power **of alienation** is for a period of

1 at least 30 years **after the death of an individual alive at the time of the creation of**
2 **the future interest or trust as computed** from the time of creation of the original
3 instrument or conveyance creating the original power of appointment that was
4 exercised to create a new or successive nongeneral **or testamentary general** power of
5 appointment.

6 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 RETROACTIVE EFFECT. AS 34.27.051(b), 34.27.051(c), and 34.27.100(a), as
9 amended by this Act, are retroactive to April 22, 2000, and apply to a trust instrument or
10 conveyance executed on or after that date upon the conditions set out in those subsections.

11 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).