

---

SENATE BILL 5054

---

State of Washington

57th Legislature

2001 Regular Session

By Senators Johnson and Constantine

Read first time 01/10/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to the rule against perpetuities; amending RCW  
2 11.98.130, 11.98.140, and 11.98.150; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 11.98.130 and 1985 c 30 s 55 are each amended to read  
5 as follows:

6 ~~((If any))~~ No provision of an instrument creating a trust,  
7 including the provisions of any further trust created, ~~((or any))~~ and  
8 no other disposition of property made pursuant to exercise of a power  
9 of appointment granted in or created through authority under such  
10 instrument ~~((violates))~~ is invalid under the rule against perpetuities,  
11 ~~((neither such provision nor any other provisions of the trust, or such~~  
12 ~~further trust or other disposition, is thereby rendered invalid during~~  
13 ~~any of the following periods:~~

14 ~~(1) The twenty-one))~~ or any similar statute or common law, during  
15 the one hundred fifty years following the effective date of the  
16 instrument.

17 ~~((2) The period measured by any life or lives in being or~~  
18 ~~conceived at the effective date of the instrument if by the terms of~~  
19 ~~the instrument the trust is to continue for such life or lives.~~

1       ~~(3) The period measured by any portion of any life or lives in~~  
2 ~~being or conceived at the effective date of the instrument if by the~~  
3 ~~terms of the instrument the trust is to continue for such portion of~~  
4 ~~such life or lives; and~~

5       ~~(4) The twenty one years following the expiration of the periods~~  
6 ~~specified in (2) and (3) above.)~~

7       Thereafter, unless the trust assets have previously become  
8 distributable or vested, the provision or other disposition of property  
9 is deemed to have been rendered invalid under the rule against  
10 perpetuities.

11       **Sec. 2.** RCW 11.98.140 and 1985 c 30 s 56 are each amended to read  
12 as follows:

13       If, during (~~any period in which~~) the one hundred fifty years  
14 following the effective date of an instrument creating a trust, ((as  
15 described in RCW 11.98.130, or any provision thereof, is not to be  
16 rendered invalid by the rule against perpetuities,)) any of the trust  
17 assets should by the terms of the instrument or pursuant to any further  
18 trust or other disposition resulting from exercise of the power of  
19 appointment granted in or created through authority under such  
20 instrument, become distributable or any beneficial interest in any of  
21 the trust assets should by the terms of the instrument, or such further  
22 trust or other disposition become vested, such assets shall be  
23 distributed and such beneficial interest shall validly vest in  
24 accordance with the instrument, or such further trust or other  
25 disposition.

26       **Sec. 3.** RCW 11.98.150 and 1985 c 30 s 57 are each amended to read  
27 as follows:

28       If, at the (~~expiration of any period in which~~) end of the one  
29 hundred fifty years following the effective date of an instrument  
30 creating a trust, ((as described in RCW 11.98.009, or any provision  
31 thereof, is not to be rendered invalid by the rule against  
32 perpetuities,)) any of the trust assets have not by the terms of the  
33 trust instrument become distributable or vested, then the assets shall  
34 be distributed as the superior court having jurisdiction directs,  
35 giving effect to the general intent of the creator of the trust or  
36 person exercising a power of appointment in the case of any further

1 trust or other disposition of property made pursuant to the exercise of  
2 a power of appointment.

3 NEW SECTION. **Sec. 4.** This act applies to any irrevocable trust  
4 with an effective date on or after January 1, 2002. Unless the trust  
5 instrument otherwise provides, this act does not apply to: (1) Any  
6 irrevocable trust with an effective date prior to January 1, 2002; or  
7 (2) a revocable inter vivos trust or testamentary trust with an  
8 effective date on or after January 1, 2002, if at all times after the  
9 date of enactment the creator of the revocable inter vivos trust or  
10 testamentary trust was not competent to revoke, amend, or modify the  
11 instrument.

--- END ---