

By: Paxton

H.B. No. 2239

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the applicability of the rule against perpetuities to
3 trusts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 5.042(a), Property Code, is amended to
6 read as follows:

7 (a) The following common-law rules or doctrines do not apply
8 in this state:

9 (1) [~~known as~~] the rule in Shelley's case;i

10 (2) [~~r~~] the rule forbidding a remainder to the
11 grantor's heirs;i

12 (3) [~~r~~] the doctrine of worthier title;i

13 (4) the rule against perpetuities or remoteness in
14 vesting as that rule relates to trusts; and

15 (5) [~~r and~~] the doctrine or rule prohibiting an
16 existing lien upon part of a homestead from extending to another
17 part of the homestead not charged with the debts secured by the
18 existing lien upon part of the homestead [~~do not apply in this~~
19 ~~state~~].

20 SECTION 2. Section 112.036, Property Code, is amended to
21 read as follows:

22 Sec. 112.036. RULE AGAINST PERPETUITIES; REMOTENESS IN
23 VESTING. (a) Except as provided by Section 121.004, this section
24 governs the applicability of any rule against perpetuities or

1 remoteness of vesting as that rule relates to trusts.

2 (b) The rule against perpetuities does not apply [~~applies~~]
3 to trusts [~~other than charitable trusts~~].

4 (c) An [~~Accordingly, an~~] interest in a trust is not good
5 unless it must vest, if at all, not later than 1,000 [~~21~~] years
6 after some life in being at the time of the creation of the
7 interest [~~, plus a period of gestation. Any interest in a trust may,~~
8 ~~however, be reformed or construed to the extent and as provided by~~
9 ~~Section 5.043~~].

10 SECTION 3. Section 121.004, Property Code, is amended to
11 read as follows:

12 Sec. 121.004. CONTINUATION OF PENSION TRUSTS [~~RULE AGAINST~~
13 ~~PERPETUITIES~~]. A pension trust may continue for as long as is
14 necessary to accomplish the purposes of the trust and is not invalid
15 under [~~the rule against perpetuities or~~] any [~~other~~] law
16 restricting or limiting the duration of a trust.

17 SECTION 4. (a) This Act takes effect January 1, 2004, but
18 only if the constitutional amendment proposed by the 78th
19 Legislature, Regular Session, 2003, removing the prohibition
20 against perpetual trusts is approved by the voters. If that
21 amendment is not approved by the voters, this Act has no effect.

22 (b) The change in law made by this Act applies only to a
23 trust that becomes irrevocable or is judicially modified or
24 reformed on or after the effective date of this Act. A trust that
25 does not become irrevocable or is not judicially modified or
26 reformed on or after the effective date of this Act is governed by
27 the law in effect when the trust was created, and the former law is

1 continued in effect for that purpose.