

By: Eiland

H.B. No. 2561

A BILL TO BE ENTITLED

AN ACT

1
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 5.043(d), Property Code, is amended to
6 read as follows:

7 (d) Except as provided by this subsection, this ~~[This]~~
8 section applies to legal and equitable interests, including
9 noncharitable gifts and trusts, conveyed by an inter vivos
10 instrument or a will that takes effect on or after September 1,
11 1969, and this section applies to an appointment made on or after
12 that date regardless of when the power was created. This section
13 does not apply to a trust created on or after January 1, 2006.

14 SECTION 2. Section 112.036, Property Code, is amended to
15 read as follows:

16 Sec. 112.036. RULE AGAINST PERPETUITIES NOT APPLICABLE.
17 The rule against perpetuities does not apply ~~[applies]~~ to trusts
18 ~~[other than charitable trusts. Accordingly, an interest is not~~
19 ~~good unless it must vest, if at all, not later than 21 years after~~
20 ~~some life in being at the time of the creation of the interest, plus~~
21 ~~a period of gestation. Any interest in a trust may, however, be~~
22 ~~reformed or construed to the extent and as provided by Section~~
23 ~~5.043].~~

24 SECTION 3. The change in law made by this Act applies only

1 to a trust created on or after the effective date of this Act. A
2 trust created before the effective date of this Act is governed by
3 the law in effect immediately before that date, and that law is
4 continued in effect for that purpose.

5 SECTION 4. This Act takes effect January 1, 2006, but only
6 if the constitutional amendment proposed by the 79th Legislature,
7 Regular Session, 2005, to allow the legislature to enact laws
8 authorizing the creation of perpetual trusts is approved by the
9 voters. If that amendment is not approved by the voters, this Act
10 has no effect.