The Rule Against Perpetuities

No interest is good unless it must vest, if at all, not later than twenty-one years after some life in being at the creation of the interest.

Defeasible Estates
And
The Rule Against Perpetuities

The rule against perpetuities does not apply to defeasible estates because future interests in the grantor--reversions, possibilities of reverter and rights of entry/powers of termination--are inherently vested.
Validating Life

A person who allows you to prove that the contingent interest will vest or fail within the life of that person, or at the death of that person, or within 21 years after that person’s death.

This person will be causally connected to the vesting or failing of the contingent interest.

Validating Life Cont’d

Examples

• Preceding life tenant
• Taker or takers of the contingent interest
• Anyone who can affect the identity of the takers
• Anyone who can effect events related to the condition precedent
Warning Signs for RAP Violations

• Condition not personal to someone
• Identified age or time period is greater than 21 years
• Interest given to a generation after the next generation (grandchildren)
• Requires holder survive someone who is merely described rather than named (“unborn widow”)

Warning Signs for RAP Violations Cont’d

• Identified event that would normally happen well within 21 years, but might not (distribution of another’s estate)
• Holder won’t be identified until the death of someone merely described rather than named (President of the United States)
Problem 6, p. 249

T devises property “to A for life, and on A’s death to A’s children for their lives, and upon the death of A and A’s children to . . . .

A and B survive T.