

Legislative Analysis



ELIMINATE RULE AGAINST PERPETUITIES FOR REAL PROPERTY

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House Bill 6539

Sponsor: Rep. Tonya Schuitmaker

House Bill 6540

Sponsor: Rep. Paul Condino

Committee: Judiciary

Complete to 11-25-08

A SUMMARY OF HOUSE BILLS 6539 AND 6540 AS INTRODUCED 10-15-08

Earlier this year, Public Act 148 (House Bill 5909) created the Personal Property Trust Perpetuities Act, and Public Act 149 (House Bill 4602) amended the Uniform Statutory Rule Against Perpetuities to exempt personal property from the rule against perpetuities under certain conditions.

House Bill 6539 and 6540 would amend the same acts to apply the provisions also to real property. Thus, in effect, the bills would allow both personal and real property to be held in perpetual trusts if certain conditions were met.

House Bill 6539 would amend the Personal Property Trust Perpetuities Act (MCL 554.91 et al.). The bill would change the short title to the "Trust Perpetuities Act" and revise the term "personal property" to instead refer to "property" held in trust. As is currently the case, the act would apply only to a nonvested interest in, or power of appointment over, property held in a trust that is either revocable on May 28, 2008 or created after that date (the effective date of Public Act 148).

House Bill 6540 would amend the Uniform Statutory Rule Against Perpetuities (MCL 554.75) to apply the provisions to "property" held in trust rather than just "personal property" held in trust. The bill would also revise a reference to the Personal Property Trust Perpetuities Act to instead reference the Trust Perpetuities Act to reflect the changes to that act proposed by House Bill 6539. House Bill 6540 is tie-barred to House Bill 6539.

FISCAL IMPACT:

There would be little or no fiscal impact on state or local government.

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