

SUBSTITUTE FOR
HOUSE BILL NO. 6539

A bill to amend 2008 PA 148, entitled
"Personal property trust perpetuities act,"
by amending the title and sections 1, 2, 3, and 4 (MCL 554.91,
554.92, 554.93, and 554.94).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to exclude ~~certain personal~~ property held in trust from
the rule against perpetuities and similar rules that potentially
affect the duration of trusts.

Sec. 1. This act shall be known and may be cited as the
~~"personal property trust~~ **"TRUST** perpetuities act".

Sec. 2. As used in this act:

(a) "First power" means a nonfiduciary, nongeneral power of
appointment over ~~personal~~ property held in trust that is exercised
so as to subject the property to, or to create, another power of
appointment.

1 (b) "Nonfiduciary" means, with respect to a power of
2 appointment, that the power of appointment is not held by a trustee
3 in a fiduciary capacity.

4 (c) "Second power" means a nonfiduciary power of appointment
5 over ~~personal~~-property held in trust that is created or to which
6 property is subjected by the exercise of a first power and that is
7 not a presently exercisable general power.

8 (d) "Uniform statutory rule against perpetuities" means the
9 uniform statutory rule against perpetuities, 1988 PA 418, MCL
10 554.71 to 554.78.

11 Sec. 3. (1) Except as provided in subsection (3), an interest
12 in, or power of appointment over, ~~personal~~-property held in trust
13 is not invalidated by a rule against any of the following:

14 (a) Perpetuities.

15 (b) Suspension of absolute ownership.

16 (c) Suspension of the power of alienation.

17 (d) Accumulations of income.

18 (2) Except as provided in subsection (3), all of the following
19 may be indefinitely suspended, postponed, or allowed to go on with
20 respect to ~~personal~~-property held in trust:

21 (a) The vesting of a future interest.

22 (b) The satisfaction of a condition precedent to the exercise
23 of a general power of appointment.

24 (c) The exercise of a nongeneral or testamentary power of
25 appointment.

26 (d) Absolute ownership.

27 (e) The power of alienation.

House Bill No. 6539 (H-1) as amended December 3, 2008

1 (f) Accumulations of income.

2 (3) If a first power is exercised so as to subject the
3 property to, or to create, a second power, the period during which
4 the vesting of a future interest in the property may be postponed
5 by the exercise of the second power shall be determined under the
6 uniform statutory rule against perpetuities by reference to the
7 time the first power was created. A nonvested interest, general
8 power of appointment not presently exercisable because of a
9 condition precedent, or nongeneral or testamentary power of
10 appointment created, or to which property is subjected, by the
11 exercise of the second power is invalid, to the extent of the
12 exercise of the second power, unless the interest or power
13 satisfies the uniform statutory rule against perpetuities measured
14 from the time of the creation of the first power.

15 Sec. 4. (1) This act applies only to a nonvested interest in,
16 or power of appointment over, ~~personal~~ property held in a trust
17 that is either revocable on ~~—~~ or created after ~~—~~ ~~[the effective date~~
18 ~~of this act MAY 28, 2008]~~ **AND ONLY TO THE EXTENT THAT THE TRUST IS NOT**
19 **A SPECIAL APPOINTEE TRUST.**

20 (2) **FOR PURPOSES OF THIS SECTION, A TRUST IS A SPECIAL**
21 **APPOINTEE TRUST TO THE EXTENT THAT IT WAS CREATED OR ADDED TO BY**
22 **THE EXERCISE OF A NONGENERAL POWER OF APPOINTMENT UNDER A TRUST**
23 **THAT WAS IRREVOCABLE ON SEPTEMBER 25, 1985.**

24 Enacting section 1. This amendatory act does not take effect
25 unless House Bill No. 6540 of the 94th Legislature is enacted into
26 law.