

**SUBSTITUTE FOR
HOUSE BILL NO. 6540**

A bill to amend 1988 PA 418, entitled
"Uniform statutory rule against perpetuities,"
by amending section 5 (MCL 554.75), as amended by 2008 PA 149.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Section 2 does not apply to any of the following:
2 (a) A nonvested property interest or a power of appointment
3 arising out of a nondonative transfer, except a nonvested property
4 interest or a power of appointment arising out of a premarital or
5 postmarital agreement; a separation or divorce settlement; a
6 spouse's election; a similar arrangement arising out of a
7 prospective, existing, or previous marital relationship between the
8 parties; a contract to make or not to revoke a will or trust; a
9 contract to exercise or not to exercise a power of appointment; a
10 transfer in satisfaction of a duty of support; or a reciprocal

1 transfer.

2 (b) A fiduciary's power relating to the administration or
3 management of assets, including the power of a fiduciary to sell,
4 lease, or mortgage property, and the power of a fiduciary to
5 determine principal and income.

6 (c) A power to appoint a fiduciary.

7 (d) A discretionary power of a trustee to distribute principal
8 before termination of a trust to a beneficiary having an
9 indefeasibly vested interest in the income and principal.

10 (e) A property interest, power of appointment, or any other
11 arrangement that was not subject to the common-law rule against
12 perpetuities or is excluded by another statute.

13 (f) Except as provided in subsection (2), an interest ~~in, or~~
14 ~~power of appointment over, personal property held in a trust that~~
15 ~~is either revocable on or created after the effective date of the~~
16 ~~personal property~~ **TO WHICH THE** trust perpetuities act, 2008 PA 148,
17 **MCL 554.91 TO 554.94, APPLIES.**

18 (2) Section 2 is applicable to an interest ~~in, or~~ power of
19 ~~appointment over, personal property held in trust~~ **TO WHICH THE**
20 **TRUST PERPETUITIES ACT, 2008 PA 148, MCL 554.91 TO 554.94, APPLIES**
21 if the interest or power was created, or property was made subject
22 to the interest or power, by the exercise of a second power. If
23 section 2 is applicable to an interest or power under this
24 subsection, it applies only to the extent of the exercise of the
25 second power, and instead of using a period of 90 years to
26 determine whether section 2(1)(b), (2)(b), or (3)(b) is satisfied,
27 or whether to reform a disposition under section 4, a period of 360

1 years shall be used.

2 (3) As used in this section, "second power" means that term as
3 defined in section 2 of the ~~personal property trust~~ perpetuities
4 act, **2008 PA 148, MCL 554.92.**

5 Enacting section 1. This amendatory act does not take effect
6 unless House Bill No. 6539 of the 94th Legislature is enacted into
7 law.