

# HOUSE BILL No. 6539

October 15, 2008, Introduced by Reps. Schuitmaker, Elsenheimer, Condino, Bieda, LaJoy, David Law and Hildenbrand and referred to the Committee on Judiciary.

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

1 appointment over ~~personal~~ property held in trust that is exercised  
2 so as to subject the property to, or to create, another power of  
3 appointment.

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

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

11 (d) "Uniform statutory rule against perpetuities" means the  
12 uniform statutory rule against perpetuities, 1988 PA 418, MCL  
13 554.71 to 554.78.

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

17 (a) Perpetuities.

18 (b) Suspension of absolute ownership.

19 (c) Suspension of the power of alienation.

20 (d) Accumulations of income.

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

24 (a) The vesting of a future interest.

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

27 (c) The exercise of a nongeneral or testamentary power of

1 appointment.

2 (d) Absolute ownership.

3 (e) The power of alienation.

4 (f) Accumulations of income.

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

18 Sec. 4. This act applies only to a nonvested interest in, or  
19 power of appointment over, ~~personal~~ property held in a trust that  
20 is either revocable on, or created after, the effective date of  
21 this act.