

HOUSE BILL No. 5010

May 26, 2009, Introduced by Reps. Meadows and Schuitmaker and referred to the
Committee on Judiciary.

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

1 transfer in satisfaction of a duty of support; or a reciprocal
2 transfer.

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

7 (c) A power to appoint a fiduciary.

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

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

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

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

1 disposition under section 4, a period of 360 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.