PERSONAL PROPERTY TRUST PERPETUITIES ACT
Act 148 of 2008

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.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

The People of the State of Michigan enact:

554.91 Short title.

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

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.92 Definitions.

Sec. 2. As used in this act:

(a) "Fiduciary" means, with respect to a power of appointment, that the power is held by a trustee in a fiduciary capacity.

(b) "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.

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

(d) "Second-order fiduciary power" means a fiduciary power of appointment that is created or has property subjected to it by the exercise of 1 of the following:

(*i*) A first power.

(*ii*) A fiduciary power of appointment that was created or had property subjected to it by the exercise of a first power.

(*iii*) A fiduciary power of appointment whose creation or control over property subject to the power is traceable through a succession of previous exercises of fiduciary powers to the exercise of a fiduciary power that was created or had property subjected to it by the exercise of a first power.

(e) "Second power" means a power of appointment over personal property held in trust, other than a presently exercisable general power, that is created or to which property is subjected by the exercise of either a first power or a second-order fiduciary power.

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

History: 2008, Act 148, Imd. Eff. May 28, 2008;—Am. 2012, Act 484, Imd. Eff. Dec. 28, 2012.

CAUTION! This document is from an archive and may contain outdated information.

554.93 Personal property held in trust; interest in or power of appointment over; validity; exercise of second power; determination under uniform statutory rule against perpetuities.

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

(a) Perpetuities.

(b) Suspension of absolute ownership.

(c) Suspension of the power of alienation.

(d) Accumulations of income.

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

(a) The vesting of a future interest.

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

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

(d) Absolute ownership.

(e) The power of alienation.

(f) Accumulations of income.

(3) The period during which the vesting of a future interest in property may be postponed by the exercise of a second power shall be determined under the uniform statutory rule against perpetuities by reference to the time of the creation of the power of appointment that subjected property to, or created, the second power. A nonvested interest, general power of appointment not presently exercisable because of a condition precedent, or nongeneral or testamentary power of appointment created, or to which property is subjected, by the exercise of the second power is invalid, to the extent of the exercise of the second power, unless the interest or

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

power satisfies the uniform statutory rule against perpetuities measured from the time of the creation of the power of appointment that subjected property to, or created, the second power.

History: 2008, Act 148, Imd. Eff. May 28, 2008;—Am. 2012, Act 484, Imd. Eff. Dec. 28, 2012.

554.94 Applicability of act to certain personal property; scope of trust.

Sec. 4. (1) This act applies only to a nonvested interest in, or power of appointment over, personal property held in a trust that is either revocable on, or created after, May 28, 2008, and only to the extent that the trust is not a special appointee trust.

(2) For purposes of this section, a trust is a special appointee trust to the extent it includes assets that were held in a trust that was irrevocable on September 25, 1985, if both of the following apply to the assets:

(a) The assets have continuously been held in trust since September 25, 1985.

(b) The assets have not become subject to a general power of appointment since September 25, 1985.

History: 2008, Act 148, Imd. Eff. May 28, 2008;—Am. 2011, Act 12, Imd. Eff. Mar. 24, 2011.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov