

UNIFORM STATUTORY RULE AGAINST PERPETUITIES (EXCERPT)
Act 418 of 1988

554.75 Applicability of MCL 554.72; "second power" defined.

Sec. 5.

(1) Section 2 does not apply to any of the following:

(a) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of a premarital or postmarital agreement; a separation or divorce settlement; a spouse's election; a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties; a contract to make or not to revoke a will or trust; a contract to exercise or not to exercise a power of appointment; a transfer in satisfaction of a duty of support; or a reciprocal transfer.

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

(c) A power to appoint a fiduciary.

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

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

(f) Except as provided in subsection (2), an interest or power of appointment to which the personal property trust perpetuities act, 2008 PA 148, MCL 554.91 to 554.94, applies.

(2) Section 2 is applicable to an interest or power of appointment to which the personal property trust perpetuities act, 2008 PA 148, MCL 554.91 to 554.94, applies if the interest or power was created, or property was made subject to the interest or power, by the exercise of a second power. If section 2 is applicable to an interest or power under this subsection, it applies only to the extent of the exercise of the second power, and instead of using a period of 90 years to determine whether section 2(1)(b), (2)(b), or (3)(b) is satisfied, or whether to reform a disposition under section 4, a period of 360 years shall be used.

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

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988 ;-- Am. 2008, Act 149, Imd. Eff. May 28, 2008 ;-- Am. 2011, Act 11, Imd. Eff. Mar. 24, 2011