

HOUSE BILL No. 5909

(As amended April 8, 2008)

March 18, 2008, Introduced by Reps. Meisner and Schuitmaker and referred to the Committee on Judiciary.

A bill to exclude certain personal property held in trust from the rule against perpetuities and similar rules that potentially affect the duration of trusts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. As used in this act:

4 (a) "First power" means a nonfiduciary, nongeneral power of
5 appointment over personal property held in trust that is exercised
6 so as to subject the property to, or to create, [another power of
7 appointment].

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

 (c) "Second power" means a nonfiduciary power of appointment

1 over personal property held in trust that is created or to which
2 property is subjected by the exercise of a first power and that is
3 not a presently exercisable general power.

4 (d) "Uniform statutory rule against perpetuities" means the
5 uniform statutory rule against perpetuities, 1988 PA 418, MCL
6 554.71 to 554.78.

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

10 (a) Perpetuities.

11 (b) Suspension of absolute ownership.

12 (c) Suspension of the power of alienation.

13 (d) Accumulations of income.

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

17 (a) The vesting of a future interest.

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

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

22 (d) Absolute ownership.

23 (e) The power of alienation.

24 (f) Accumulations of income.

25 (3) If a first power is exercised so as to subject the
26 property to, or to create, a second power, the period during which
27 the vesting of a future interest in the property may be postponed

1 by the exercise of the second power shall be determined under the
2 uniform statutory rule against perpetuities by reference to the
3 time the first power was created. A nonvested interest, general
4 power of appointment not presently exercisable because of a
5 condition precedent, or nongeneral or testamentary power of
6 appointment created, or to which property is subjected, by the
7 exercise of the second power is invalid, to the extent of the
8 exercise of the second power, unless the interest or power
9 satisfies the uniform statutory rule against perpetuities measured
10 from the time of the creation of the first power.

11 Sec. 4. This act applies only to a nonvested interest in, or
12 power of appointment over, personal property held in a trust that
13 is either revocable on, or created after, the effective date of
14 this act.

15 Enacting section 1. This act does not take effect unless House
16 Bill No. 4602 of the 94th Legislature is enacted into law.