

HOUSE BILL No. 6156

November 8, 1990, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend section 2 of Act No. 418 of the Public Acts of 1988, entitled
"Uniform statutory rule against perpetuities,"
being section 554.72 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 418 of the Public Acts of
2 1988, being section 554.72 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 2. (1) A nonvested property interest is invalid unless
5 1 or more of the following are applicable to the interest:

6 (a) When the interest is created, it is certain to vest or
7 terminate no later than 21 years after the death of an individual
8 then alive.

9 (b) The interest either vests or terminates within 90 years
10 after its creation.

1 (2) A general power of appointment not presently exercisable
2 because of a condition precedent is invalid unless 1 or more of
3 the following are applicable to the power:

4 (a) When the power is created, the condition precedent is
5 certain either to be satisfied or become impossible to satisfy no
6 later than 21 years after the death of an individual then alive.

7 (b) The condition precedent either is satisfied or becomes
8 impossible to satisfy within 90 years after its creation.

9 (3) A nongeneral power of appointment or a general testamen-
10 tary power of appointment is invalid unless 1 or more of the fol-
11 lowing are applicable to the power:

12 (a) When the power is created, it is certain to be irrevoca-
13 bly exercised or otherwise to terminate no later than 21 years
14 after the death of an individual then alive.

15 (b) The power is irrevocably exercised or otherwise termi-
16 nates within 90 years after its creation.

17 (4) In determining whether a nonvested property interest or
18 a power of appointment is valid under subsection (1)(a), (2)(a),
19 or (3)(a), the possibility that a child will be born to an indi-
20 vidual after the individual's death is disregarded.

21 (5) IF, IN MEASURING A PERIOD FROM THE CREATION OF A TRUST
22 OR OTHER PROPERTY ARRANGEMENT, A CLAUSE IN A GOVERNING INSTRUMENT
23 PURPORTS TO POSTPONE THE VESTING OR TERMINATION OF ANY INTEREST
24 OR TRUST UNTIL, PURPORTS TO DISALLOW THE VESTING OR TERMINATION
25 OF ANY INTEREST OR TRUST BEYOND, PURPORTS TO REQUIRE ALL INTER-
26 ESTS OR TRUSTS TO VEST OR TERMINATE NO LATER THAN, OR OPERATES IN
27 ANY SIMILAR FASHION UPON, THE LATER OF EITHER THE EXPIRATION OF A

1 PERIOD OF TIME THAT EXCEEDS 21 YEARS OR THAT EXCEEDS OR MIGHT
2 EXCEED 21 YEARS AFTER THE DEATH OF THE SURVIVOR OF LIVES IN BEING
3 AT THE CREATION OF THE TRUST OR OTHER PROPERTY ARRANGEMENT, OR
4 THE DEATH OF, OR THE EXPIRATION OF A PERIOD NOT EXCEEDING 21
5 YEARS AFTER THE DEATH OF, THE SURVIVOR OF SPECIFIED LIVES IN
6 BEING AT THE CREATION OF THE TRUST OR OTHER PROPERTY ARRANGEMENT,
7 THEN THE PORTION OF THE CLAUSE PERTAINING TO THE PERIOD OF TIME
8 THAT EXCEEDS 21 YEARS OR THAT EXCEEDS OR MIGHT EXCEED 21 YEARS
9 AFTER THE DEATH OF THE SURVIVOR OF LIVES IN BEING AT THE CREATION
10 OF THE TRUST OR OTHER PROPERTY ARRANGEMENT SHALL BE DISREGARDED,
11 AND THE CLAUSE OPERATES UPON THE DEATH OF, OR UPON THE EXPIRATION
12 OF THE PERIOD NOT EXCEEDING 21 YEARS AFTER THE DEATH OF, THE SUR-
13 VIVOR OF THE SPECIFIED LIVES IN BEING AT THE CREATION OF THE
14 TRUST OR OTHER PROPERTY ARRANGEMENT.