

HOUSE BILL No. 6693

November 30, 2006, Introduced by Rep. Schuitmaker and referred to the Committee on Judiciary.

A bill to amend 1988 PA 418, entitled "Uniform statutory rule against perpetuities," by amending sections 2 and 5 (MCL 554.72 and 554.75).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A nonvested ~~property~~ interest **IN REAL PROPERTY**
2 is invalid unless 1 or more of the following are applicable to the
3 interest:

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

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

9 (2) A general power of appointment not presently exercisable
10 because of a condition precedent is invalid unless 1 or more of the

1 following are applicable to the power:

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

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

7 (3) A nongeneral power of appointment or a general
8 testamentary power of appointment is invalid unless 1 or more of
9 the following are applicable to the power:

10 (a) When the power is created, it is certain to be irrevocably
11 exercised or otherwise to terminate no later than 21 years after
12 the death of an individual then alive.

13 (b) The power is irrevocably exercised or otherwise terminates
14 within 90 years after its creation.

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

19 **(5) THIS SECTION DOES NOT APPLY TO INTERESTS IN PERSONAL**
20 **PROPERTY.**

21 Sec. 5. Section 2 shall not apply to any of the following:

22 (a) A nonvested property interest or a power of appointment
23 arising out of a nondonative transfer, except a nonvested property
24 interest or a power of appointment arising out of a premarital or
25 postmarital agreement; a separation or divorce settlement; a
26 spouse's election; a similar arrangement arising out of a
27 prospective, existing, or previous marital relationship between the

1 parties; a contract to make or not to revoke a will or trust; a
2 contract to exercise or not to exercise a power of appointment; a
3 transfer in satisfaction of a duty of support; or a reciprocal
4 transfer.

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

9 (c) A power to appoint a fiduciary.

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

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

16 **(F) AN INTEREST IN PERSONAL PROPERTY.**