

Act No. 148
Public Acts of 2008
Approved by the Governor
May 28, 2008
Filed with the Secretary of State
May 28, 2008
EFFECTIVE DATE: May 28, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Meisner and Schuitmaker

ENROLLED HOUSE BILL No. 5909

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.

The People of the State of Michigan enact:

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

Sec. 2. As used in this act:

(a) “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.

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

(c) “Second power” means a nonfiduciary power of appointment over personal property held in trust that is created or to which property is subjected by the exercise of a first power and that is not a presently exercisable general power.

(d) “Uniform statutory rule against perpetuities” means the uniform statutory rule against perpetuities, 1988 PA 418, MCL 554.71 to 554.78.

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:

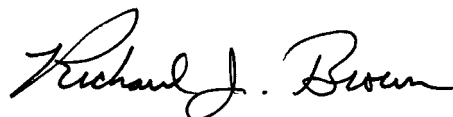
- (a) The vesting of a future interest.
- (b) The satisfaction of a condition precedent to the exercise of a general power of appointment.
- (c) The exercise of a nongeneral or testamentary power of appointment.
- (d) Absolute ownership.
- (e) The power of alienation.
- (f) Accumulations of income.

(3) If a first power is exercised so as to subject the property to, or to create, a second power, the period during which the vesting of a future interest in the property may be postponed by the exercise of the second power shall be determined under the uniform statutory rule against perpetuities by reference to the time the first power was created. 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 power satisfies the uniform statutory rule against perpetuities measured from the time of the creation of the first power.

Sec. 4. 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, the effective date of this act.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor