

Senate Fiscal Agency
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SFA

BILL ANALYSIS

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House Bill 5647 (as passed by the House)
Sponsor: Representative Larry DeVuyst
House Committee: Commerce
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-18-98

CONTENT

The bill would amend the Uniform Statutory Rule Against Perpetuities to invalidate language in an instrument governing a trust or other property arrangement, to the extent that the language would produce a period of time for vesting or terminating beyond 21 years after the death of the survivor of specified lives in being at the time the trust or property arrangement was created.

Under the uniform rule, a nonvested property interest is invalid unless one or both of the following apply to the property interest:

- When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual alive at the time the interest is created.
- The interest either vests or terminates within 90 years after its creation.

("Nonvested property interest" refers to an interest to which the transferee is not presently entitled and might never become entitled.)

The bill provides that if, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument...

- (a) "seeks to disallow the vesting or termination of any interest or trust beyond...",
- (b) "seeks to postpone the vesting or termination of any interest or trust until...", or
- (c) "seeks to operate in effect in any similar fashion upon..." *the later of*:
 - 1) "the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement", or
 - 2) "the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement"...

"that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives".

MCL 554.72

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman