

# HOUSE BILL No. 4602

April 17, 2007, Introduced by Reps. Schuitmaker, Condino and Bieda and referred to the Committee on Judiciary.

A bill to amend 1988 PA 418, entitled  
"Uniform statutory rule against perpetuities,"  
by amending the title and sections 1, 2, and 5 (MCL 554.71, 554.72,  
and 554.75).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to adopt ~~the uniform~~ A statutory rule against  
3 perpetuities.

4 Sec. 1. This act shall be known and may be cited as the  
5 ~~"uniform"~~ statutory rule against perpetuities".

6 Sec. 2. (1) ~~A~~ **SUBJECT TO SECTION 5, A** nonvested property  
7 interest is invalid unless 1 or more of the following are  
8 applicable to the interest:

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

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

6 (2) ~~A~~**SUBJECT TO SECTION 5, A** general power of appointment not  
7 presently exercisable because of a condition precedent is invalid  
8 unless 1 or more of the following are applicable to the power:

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

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

14 (3) ~~A~~**SUBJECT TO SECTION 5, A** nongeneral power of appointment  
15 or a general testamentary power of appointment is invalid unless 1  
16 or more of the following are applicable to the power:

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

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

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

26 Sec. 5. Section 2 ~~shall~~**DOES** not apply to any of the  
27 following:

1 (a) A nonvested property interest or a power of appointment  
2 arising out of a nondonative transfer, except a nonvested property  
3 interest or a power of appointment arising out of a premarital or  
4 postmarital agreement; a separation or divorce settlement; a  
5 spouse's election; a similar arrangement arising out of a  
6 prospective, existing, or previous marital relationship between the  
7 parties; a contract to make or not to revoke a will or trust; a  
8 contract to exercise or not to exercise a power of appointment; a  
9 transfer in satisfaction of a duty of support; or a reciprocal  
10 transfer.

11 (b) A fiduciary's power relating to the administration or  
12 management of assets, including the power of a fiduciary to sell,  
13 lease, or mortgage property, and the power of a fiduciary to  
14 determine principal and income.

15 (c) A power to appoint a fiduciary.

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

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

22 **(F) AN INTEREST IN OR POWER OF APPOINTMENT RELATING TO**  
23 **PERSONAL PROPERTY.**

24 Enacting section 1. This amendatory act does not take effect  
25 unless all of the following bills of the 94th Legislature are  
26 enacted into law:

27 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4603 (request no.

1 00940'07).

2 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4604 (request no.

3 00940'07 a).