

MAR 5 2003
Place On Calendar

HOUSE FILE 450
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 151)

Passed House, Date Passed 3/20/03 Passed Senate, Date 4/28/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating an exception to the statutory rule against
2 perpetuities and making related changes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 450

1 Section 1. Section 557.7, Code 2003, is amended to read as
2 follows:

3 557.7 CONTINGENT REMAINDERS.

4 A Except as provided in section 558.68A, a contingent
5 remainder shall take effect, notwithstanding any determination
6 of the particular estate, in the same manner in which it would
7 have taken effect if it had been an executory devise or a
8 springing or shifting use, and shall, as well as such
9 limitations, be subject to the rule respecting remoteness
10 known as the rule against perpetuities, ~~exclusive of any other~~
11 ~~supposed rule respecting limitations to successive generations~~
12 ~~or double possibilities.~~

13 Sec. 2. NEW SECTION. 558.68A EXCEPTION TO RULE AGAINST
14 PERPETUITIES.

15 1. Notwithstanding section 558.68, a rule of law against
16 perpetuities, a suspension of the power of alienation of the
17 title to property, or a law restricting or limiting the
18 duration of trusts shall not apply with respect to any
19 interest in real or personal property held in trust if the
20 instrument creating the trust specifically states that such
21 rule or the provisions of section 558.68 shall not apply to
22 the trust and if either the trustee of the trust has unlimited
23 power to sell all trust assets, or one or more persons, one of
24 whom may be the trustee, has unlimited power to terminate the
25 entire trust.

26 2. A trust of real or personal property created by an
27 employer as part of a stock bonus plan, pension plan,
28 disability or death benefit plan, or profit sharing plan, for
29 the benefit of some or all the employer's employees, to which
30 contributions are made by the employer or employees, or both,
31 for the purposes of distributing to the employees or their
32 beneficiaries the earnings or the principal, or both, of such
33 trust is not invalid as violating the rule against
34 perpetuities or any other law restricting or limiting the
35 duration of trusts; but the trust may continue for the time

1 that is necessary to accomplish the purposes for which it was
2 created.

3 3. Subsection 1 shall be effective for interests in real
4 or personal property in trust created by an inter vivos or
5 testamentary trust or will executed on or after July 1, 2003,
6 or pursuant to the exercise of a general power of appointment
7 on or after July 1, 2003. For the purposes of this
8 subsection, "general power of appointment" means a power that
9 is exercisable in favor of the individual possessing the
10 power, the person's estate, the person's creditors, or the
11 creditors of the person's estate.

12 EXPLANATION

13 This bill creates an exception to the statutory rule
14 against perpetuities codified in Code section 558.68, which is
15 a legal rule related to invalidating interests in property
16 that are intended to belong to a person at some point in the
17 future, but for which the actual determination of ownership
18 cannot or will not be accomplished within a specified period
19 of time. The purpose of the rule is to keep property from
20 being frozen in trust beyond a certain period of years.

21 The bill allows a creator of a trust to suspend, explicitly
22 in the trust document, the rule from applying to a particular
23 trust, but only if the trustee has the power to sell all trust
24 assets or if one or more people, including the trustee, has
25 the power to terminate the trust.

26 The bill further allows suspension of the rule in
27 situations where an employer creates a stock bonus plan,
28 pension plan, disability or death benefit plan, or profit
29 sharing plan, in trust, for the benefit of the employer's
30 employees, for the purpose of distributing to the employees or
31 their beneficiaries earnings or principal or both.

32 This exception applies to all interests in real or personal
33 property by testamentary or inter vivos trust or will, or to
34 the exercise of a general power of appointment, executed on or
35 created after July 1, 2003.

HOUSE FILE 450

S-3277

1 Amend House File 450, as passed by the House, as
2 follows:

3 1. By striking page 1, line 15, through page 2,
4 line 2, and inserting the following:

5 "1. Notwithstanding section 558.68, no provision
6 of an instrument creating a trust and no other
7 disposition of property made pursuant to the exercise
8 of a power of appointment granted in or created
9 through such instrument is invalid under the rule
10 against perpetuities, or any similar statute or common
11 law, during the one hundred fifty years following the
12 effective date of the instrument. After such time,
13 the provision or other disposition of property is
14 deemed invalid unless the assets have previously been
15 distributed or have previously become vested in the
16 beneficiaries, including beneficiaries under a power
17 of appointment.

18 In the event the assets have not been distributed
19 or have not become vested at the end of the one
20 hundred fifty year period, the assets shall be
21 distributed as the district court directs, and the
22 court shall consider the express intent of the settlor
23 of the trust or the person exercising the power of
24 appointment."

25 2. Page 2, line 3, by striking the figure "3."
26 and inserting the following: "2."

27 3. By renumbering as necessary.

By LARRY MCKIBBEN
NANCY BOETTGER
HERMAN C. QUIRMBACH

JEFF LAMBERTI
DONALD B. REDFERN

S-3277 FILED APRIL 22, 2003

Withdrawn 4/28/03

limitations, be subject to the rule respecting remoteness known as the rule against perpetuities, ~~exclusive of any other supposed rule respecting limitations to successive generations or double possibilities.~~

Sec. 2. NEW SECTION. 558.68A EXCEPTION TO RULE AGAINST PERPETUITIES.

1. Notwithstanding section 558.68, a rule of law against perpetuities, a suspension of the power of alienation of the title to property, or a law restricting or limiting the duration of trusts shall not apply with respect to any interest in real or personal property held in trust if the instrument creating the trust specifically states that such rule or the provisions of section 558.68 shall not apply to the trust and if either the trustee of the trust has unlimited power to sell all trust assets, or one or more persons, one of whom may be the trustee, has unlimited power to terminate the entire trust.

2. A trust of real or personal property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit sharing plan, for the benefit of some or all the employer's employees, to which contributions are made by the employer or employees, or both, for the purposes of distributing to the employees or their beneficiaries the earnings or the principal, or both, of such trust is not invalid as violating the rule against perpetuities or any other law restricting or limiting the duration of trusts; but the trust may continue for the time that is necessary to accomplish the purposes for which it was created.

3. Subsection 1 shall be effective for interests in real or personal property in trust created by an inter vivos or testamentary trust or will executed on or after July 1, 2003, or pursuant to the exercise of a general power of appointment on or after July 1, 2003. For the purposes of this subsection, "general power of appointment" means a power that

HOUSE FILE 450

AN ACT

CREATING AN EXCEPTION TO THE STATUTORY RULE AGAINST PERPETUITIES AND MAKING RELATED CHANGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 557.7, Code 2003, is amended to read as follows:

557.7 CONTINGENT REMAINDERS.

A Except as provided in section 558.68A, a contingent remainder shall take effect, notwithstanding any determination of the particular estate, in the same manner in which it would have taken effect if it had been an executory devise or a springing or shifting use, and shall, as well as such

is exercisable in favor of the individual possessing the power, the person's estate, the person's creditors, or the creditors of the person's estate.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 450, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor