

Reported Recommending .....  
Ind. Postponed .....  
Passed Senate .....  
Failed to Pass Senate .....  
Passed House .....  
Failed to Pass House .....

**Senate File 249**

February 11, 1947.  
Passed on File.

By JUDICIARY II.

## **A BILL FOR**

An Act to amend five hundred fifty-nine (559), Code 1946, to define the term "power to appoint" as used therein, and to include within said definition powers of consumption, powers in trust or in the nature of a trust, powers to amend, and all other powers which are in substance or effect powers of appointment, regardless of the language used to create them; to provide for the disclaimer of powers, the release of one donee of his right to exercise a joint power, to provide for release of powers for a period of time and to provide for the delivery of releases and disclaimers of powers.

*Be It Enacted by the General Assembly of the State of Iowa:*

- 1 Chapter five hundred fifty-nine (559), Code 1946,
- 2 is hereby amended by adding thereto the following:
- 1 Section 1. The term "power to appoint" as used in
- 2 section five hundred fifty-nine point one (559.1), Code 1946,
- 3 shall mean and include all powers which are in substance and
- 4 effect powers of appointment, regardless of the language used
- 5 in creating them and whether they are (a) general, special or
- 6 otherwise, (b) vested, contingent or conditional, (c) in gross,
- 7 appendant, simply collateral, in trust or in the nature of a
- 8 trust or otherwise, (d) exercisable by an instrument amending,
- 9 revoking, altering or terminating a trust or an estate, or an

10 interest thereunder or otherwise, (e) exercisable presently  
11 or in the future, (f) exercisable in an individual or a  
12 fiduciary capacity whether alone or in conjunction with one  
13 or more other persons or corporations, (g) powers to evade  
14 or consume property, or (h) powers remaining after one or  
15 more partial releases have heretofore or hereafter been made  
16 with respect to a power to appoint.

1     Sec. 2. If a power to appoint is or may be  
2 exercisable by two or more persons either in an individual  
3 or fiduciary capacity in conjunction with one another or  
4 successively, a release or disclaimer of the power in whole  
5 or in part executed by any one of the donees of the power shall  
6 be effective to release or disclaim, to the extent therein  
7 provided, all right of such person to exercise or to participate  
8 in the exercise of the said power, but unless the instrument  
9 creating the power otherwise provides, shall not prevent or  
10 limit the exercise or participation in the exercise thereof  
11 by the other donee or donees.

1     Sec. 3. A release of a power to appoint may also  
2 be made for life or lives or for a specified period of time.

1     Sec. 4. A donee of a power to appoint may disclaim  
2 the same at any time, wholly or in part, in the same manner  
3 and to the same extent as he might release it.

1     Sec. 5. A release or disclaimer may be delivered  
2 to any of the following: (a) any person who could be adversely  
3 affected by the exercise of the power; or (b) any trustee of

4 the property to which the power relates; or (c) any person  
 5 specified for such purpose in the instrument creating the power;  
 6 or (d) the county recorder as provided in section five hundred  
 7 fifty-nine point one (559.1).

1 Sec. 6. Nothing contained in this chapter as  
 2 amended shall prevent the release of any power to appoint or  
 3 the disclaimer thereof in any lawful manner.

1 Sec. 7. This chapter as amended shall be deemed  
 2 declaratory of the common law of this state and it shall be  
 3 liberally construed so as to effectuate the intent that all  
 4 powers to appoint whatsoever shall be releasable.

1 Sec. 8. This chapter as amended shall apply to  
 2 releases and disclaimers heretofore or hereafter delivered.

1 Sec. 9. If any of the provisions of this chapter  
 2 as amended shall be held invalid or unconstitutional in relation  
 3 to any of the applications thereof, such invalidity or  
 4 unconstitutionality shall not affect other applications thereof  
 5 or other provisions of this chapter as amended, and to these  
 6 ends the provisions of this chapter as amended are declared to  
 7 be severable.

1 Sec. 10. This act being deemed of immediate  
 2 importance shall be in full force and effect from and after  
 3 its publication in....., a newspaper  
 4 published at....., Iowa and.....,  
 5 a newspaper published at....., Iowa.