

MAR 6 2001

JUDICIARY

HOUSE FILE 534

BY EICHHORN

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act abolishing the statutory rule against perpetuities, making
2 related changes, and providing an applicability date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 534

1 Section 1. Section 557.7, Code 2001, is amended to read as
2 follows:

3 557.7 CONTINGENT REMAINDERS.

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

12 Sec. 2. Section 558.68, Code 2001, is amended by striking
13 the section and inserting in lieu thereof the following:

14 588.68 NO RULE AGAINST PERPETUITIES.

15 As of July 1, 2001, there shall be no rule against
16 perpetuities or remoteness of vesting.

17 Sec. 3. Section 633.2102, subsection 1, paragraph c, Code
18 2001, is amended to read as follows:

19 c. Unless the trust is a charitable trust, an honorary
20 trust, or a trust for the care of an animal, the trust has a
21 definite beneficiary ~~or a beneficiary who will be definitely~~
22 ~~ascertained within the period of the applicable rule against~~
23 ~~perpetuities.~~

24 Sec. 4. Section 633.4402, subsection 5, Code 2001, is
25 amended to read as follows:

26 5. Acquire or dispose of property, for cash or on credit,
27 at public or private sale, or by exchange. By specific
28 provision in the trust instrument, the settlor may provide
29 that the trustee not sell one or more specified parcels of
30 real property held in the trust for a period not to exceed
31 ninety years from the date the trust instrument becomes
32 irrevocable. After the expiration of such period, the trustee
33 shall have the power to sell the property.

34 Sec. 5. APPLICABILITY. This section applies to all trusts
35 in existence on or created after July 1, 2001.

EXPLANATION

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2 This bill strikes Code section 558.68, relating to future
3 interests in property, and replaces it with a statement that
4 there shall be no rule against perpetuities or remoteness of
5 vesting. The common-law rule against perpetuities, which
6 current Code section 558.68 is based upon, is aimed at
7 invalidating interests in property that are intended to belong
8 to a person at some point in the future, but for which the
9 actual determination of ownership cannot or will not be
10 accomplished within a specified period of time. The basic
11 rule states that a nonvested interest in property is invalid
12 unless it must vest, if at all, within 21 years after one or
13 more lives in being at the creation of the interest and any
14 relevant period of gestation. Current law states that this
15 rule shall be measured by actual events rather than possible
16 events in situations which would provide validation, and
17 further provides for judicial reformation of a nonvested
18 interest violating the rule to most closely approximate the
19 creator's intention with regard to the interest. The bill
20 applies to all interests in existence on or created after July
21 1, 2001.

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