



Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	0

MR. SPEAKER:

*Your Committee on Judiciary, to which was referred House Bill 1209, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 30-4-5-26 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2024]: **Sec. 26. (a) If the trustee has the full, unrestricted power**
- 5 **to alienate trust property and the trust expressly states that this**
- 6 **exception applies to the trust, IC 32-17-8-3 shall apply to a**
- 7 **nonvested property interest or power of appointment contained in**
- 8 **the trust by substituting three hundred sixty (360) years instead of**
- 9 **ninety (90) years in each place where the term appears in**
- 10 **IC 32-17-8-3, unless the terms of the trust require that all**
- 11 **beneficial interests in the trust vest or terminate within a lesser**
- 12 **period.**
- 13 **(b) When a power of appointment in a trust ("first power") is**

1 **exercised to create another power of appointment ("second**
 2 **power"), then a nonvested property interest or second power**
 3 **created through the exercise of the first power is considered to**
 4 **have been created at the time of irrevocable exercise of the first**
 5 **power, unless the instrument exercising the first power provides**
 6 **that the second power was created at the time of creation of the**
 7 **first power.**

8 SECTION 2. IC 32-17-8-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) A nonvested
 10 property interest is valid if:

11 (1) when the interest is created, the interest is certain to vest or
 12 terminate not later than twenty-one (21) years after the death of
 13 an individual then alive; or

14 (2) the interest either vests or terminates within ~~ninety (90) years~~
 15 ~~after the interest's creation. three hundred sixty (360) years~~
 16 **after the interest's creation, unless the terms of the trust**
 17 **require that all beneficial interests in the trust vest or**
 18 **terminate within a lesser period of time.**

19 (b) A general power of appointment not presently exercisable
 20 because of a condition precedent is valid if:

21 (1) when the power is created, the condition precedent is certain
 22 to be satisfied or become impossible to satisfy not later than
 23 twenty-one (21) years after the death of an individual then alive;
 24 or

25 (2) the condition precedent either is satisfied or becomes
 26 impossible to satisfy within ~~ninety (90) years after the condition~~
 27 ~~precedent's creation. three hundred sixty (360) years after the~~
 28 **condition precedent's creation, unless the terms of the trust**
 29 **require that all beneficial interests in the trust vest or**
 30 **terminate within a lesser period of time.**

31 (c) A nongeneral power of appointment or a general testamentary
 32 power of appointment is valid if:

33 (1) when the power is created, the power is certain to be
 34 irrevocably exercised or otherwise to terminate not later than
 35 twenty-one (21) years after the death of an individual then alive;
 36 or

37 (2) the power is irrevocably exercised or otherwise terminates
 38 within ~~ninety (90) years after the power's creation. three hundred~~

1 **sixty (360) years after the power's creation, unless the terms**
2 **of the trust require that all beneficial interests in the trust vest**
3 **or terminate within a lesser period of time.**

4 (d) In determining whether a nonvested property interest or a power
5 of appointment is valid under subsection (a)(1), (b)(1), or (c)(1), the
6 possibility that a child will be born to an individual after the
7 individual's death is disregarded.

8 SECTION 3. IC 32-17-8-3.5 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2024]: **Sec. 3.5. When the initial power of appointment in a**
11 **legacy trust is exercised to create a second power of appointment,**
12 **a nonvested property interest or the second power of appointment**
13 **created through the exercise of the initial power of appointment is**
14 **considered to have been created at the time of the irrevocable**
15 **exercise of the initial power of appointment, unless the instrument**
16 **exercising the initial power of appointment provides that the**
17 **second power of appointment was created at the time of the**
18 **creation of the initial power of appointment."**

19 Page 2, delete lines 1 through 13.
20 Renumber all SECTIONS consecutively.
 (Reference is to HB 1209 as introduced.)

and when so amended that said bill do pass.

Representative Jeter