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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2248

2001 SENATE JUDICIARY

SB 2248

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

Conference Committee

Hearing Date January 31st, 2001

Tape Number	Side A	Side B	Meter #
1	X		17.0-51.2
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2248: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 47-02-27.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO CONTINGENT PROPERTY INTERESTS IN PERSONAL PROPERTY.

Senator Judy Lee, representing West Fargo, encourages a do pass.

Representative Rennerfeldt, supports SB 2248.

Susan Ribeiro, president of Frontier Trust Company at Fargo. (testimony attached) supports SB 2248

Senator Traynor, what about a trust that has real estate and personal trusts?

Susaon Ribeiro, in that case the dynasty would still be limited.

Senator Traynor, so the personal property held by the trust would be limited by the statutes.

Susaon Ribeiro, that is my understanding. This will create two separate trusts.

Senator Trenbeath, Doctrine of equitable conversion, that when you put real estate into trusts it is treated as personity. Does that need to be more clearer. I don't have a problem if we're dealing only with private property. If there is a doctrine out there then we are not doing what we are intending to do. I'm not sure I'm correct on this, but this doctrine of equitable conversion turns real property to personity.

Senator Traynor, I had a client whose estate was in California. She also had land in ND, and in her will she wanted this land sold, however, California seized upon this land. The said their was an equitable conversion of the land in ND, personal property. They levied their tax on this land.

Susan Ribeiro, the section we're amending is the one that doesn't allow dynasty trusts. This will then take out the limitations and allow them.

Senator Traynor, passage of bill would not prevent a beneficiary who was annoyed with the administration of the trust to change to another trustee.

Susan Ribeiro, no. There are 4 kinds of trusts we do. 1) revocable trusts, 2) rabbi trusts, 3) bi trusts and 4) employee benefits trust.

Marilyn Foss, appearing on behalf of the ND Bankers association and Frontier Trust Company, supports SB 2248. This offers the dynasty trust.

Senator Traynor, has this been reviewed by the real property of the bar association?

Marilyn Foss, I did not run it by the real property section. I did run it by the Bar association which does review all pieces of legislation which are introduced and take positions on them. The Bar association would have reviewed this. Representative Rennerfeldt noted that this is competitive issue in Williston. It is competitive all over ND. I discussed dynasty trust with trust bankers. I asked, "Does this cause a problem for you," they replied it didn't. This could be used in ND for broad areas.

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Senate Judiciary Committee

Bill/Resolution Number SB 2248

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Senator Traynor, as I understand, starting on line 6 of the bill, the rule against perpetuities is maintained as far as real properties is concerned. On line 23 what about the language the common law against perpetuities not enforced in this state?

Marilyn Foss, This is to make the language clearer. As a matter of perspective from a trust company. Most assests would be personal property which is alot easier to manage.

Senator Traynor closed the hearing on SB 2248.

Senator Trenbeath motioned to do pass, seconded by Senator Lyson. Vote indicated 7 yeas, 0 nays, and 0 absent and not voting. **Senator Trenbeath** volunteered to carry the bill.

Date: 1/31/01
 Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2249

Senate Judiciary Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Trenbeath Seconded By Lyson

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Trenbeath

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 31, 2001 4:55 p.m.

Modulo No: SR-17-2049
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2248: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2248 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2248

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

House Judiciary Committee

Conference Committee

Hearing Date 03-06-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	1223 to 2704
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2248. Relating to contingent property interests in personal property.

Marilyn Foss: appearing on behalf of Frontier Trust Company and the North Dakota Bankers Association, (see attached testimony).

Chairman DeKrey: Is this a different bill than two years ago.

Marilyn Foss: I didn't participate in that one, this bill is not identical, real property is left out.

Chairman DeKrey: This bill excludes real property.

Marilyn Foss: Yes, this bill page one lines 21 through 23 where it says that the common law rule against perpetuities is not in force in this state, I am not sure that it was in the bill two years ago.

Rep Klemin: The only rule against perpetuity that would be enforced would be in this section.

Marilyn Foss: That would be correct.

Vice Chr Kretschmar: My recollection of the law against perpetuity is that the dead hand does not control the living, would this not be a good rule for today.

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House Judiciary Committee

Bill/Resolution Number SB 2248

Hearing Date 03-06-01

Marilyn Foss: The rule would also provide that real estate would change hands within a certain amount of time. Goes on to explain her views on the rule.

Vice Chr Kretschmar: In that day land was the principal assets, it has now changed.

Marilyn Foss: She makes an observation, people made a living off the land then, that is not true anymore.

Rep Klemin: What will the repeal of the federal estate tax have on this.

Marilyn Foss: It will not have any effect.

Chairman DeKrey: If there are no questions, thank you for appearing before our committee.

Susan Ribeiro: President of the Frontier trust Company, (see attached testimony)

Chairman DeKrey: Are there any questions, seeing none, thank you for appearing before the committee. We will be in recess until 2:00 pm.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248b

House Judiciary Committee

Conference Committee

Hearing Date 03-13-01

Tape Number	Side A	Side B	Meter #
TAPE 1		x	2587 to 3360
Committee Clerk Signature <i>Joan Rivers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2248.

COMMITTEE ACTION

Chairman DeKrey: What are your wishes. Vice Chr Kretschmar moved a DO NOT PASS, seconded by Rep Delmore.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO NOT PASS motion on SB 2248. The motion passes with a vote of 11 YES, 2 NO and 2 ABSENT. Carrier Vice Chr Kretschmar.

Date: 03-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2248

House JUDICIARY Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Vice-Chr Kretschmar Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande		✓			
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin		✓			
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 11 No 2

Absent 2

Floor Assignment Rep Kretschmar

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 13, 2001 1:00 p.m.

Module No: HR-43-5477
Carrier: Kretschmer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2248: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2248 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2248



Consultants • Certified Public Accountants

January 31, 2001

Senate Judiciary Committee
North Dakota Senate
600 E Boulevard Ave
Bismarck, ND 58505

RE: Senate Bill 2248 Relating to Rules Against Perpetuities

Dear Chairman and Committee Members:

I'm am in favor of House Bill 2248.

While not for everyone, using trust longer than North Dakota's rule against perpetuities, is appropriate for certain situations. Currently, where a longer term trust is appropriate, it is drafted and domiciled in South Dakota with a bonus that the accumulation of income in the trust is not taxed for state income tax purposes. It is unfortunate that planning professionals have to domicile trust in South Dakota because they can't be domiciled in North Dakota.

When pondering perpetuities, one may think of almost 10,000 years. Well that is a stretch. However, the current law can limit a trust to as few as 21 years. For example, assume a single parent, one child, age 20, and an unborn grandchild. The parent dies setting up a \$1,000,000 trust. The trust provides for distribution of principal at age 35. Grandchildren are named as contingent beneficiaries, and in this case, there is only one grandchild. Grandchild is born and shortly thereafter, child dies. The trust will be required to distribute the principal of the trust to the grandchild at age 21.

I respectfully request you yes vote on SB 2248.

Sincerely,

EIDE BAILLY LLP


Paul J. Wonnoutka, CPA

PJW/bp

