

PURPOSE TRUST (AMENDMENT) BILL, 2011

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PURPOSE TRUST (AMENDMENT) BILL, 2011

ABILL FOR AN ACT TO AMEND THE PURPOSE TRUST ACT

Enacted by the Parliament of The Bahamas

1. Short title.

This Act which amends the Purpose Trust Act¹ may be cited as the Purpose Trust (Amendment) Act, 2011.

2. Application of Act.

This Act shall apply to an existing purpose trust with effect from the date of the creation of that trust.

3. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in subsection (1) by the insertion, in the appropriate alphabetical order, of the following new term and definition—

“the rule against perpetuities” includes the rule of law prohibiting trusts of excessive duration and any rule of law restricting the period during which income may be accumulated;”.

4. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended by the repeal and replacement of subsection (1)(c) as follows—

¹Ch. 176A

“(c) the trust instrument specifies the event upon the happening of which the trust may or will terminate and provides for the disposition of surplus assets of the trust upon such termination.”.

OBJECTS AND REASONS

This Bill seeks to provide for an amendment to section 2(1) to provide for a definition of the term "the rule against perpetuities" which would encompass the rule known as the rule against inalienability (income being inalienable as having to be used only for the relevant purpose) and any other rule which may restrict the period during which income may be accumulated.

Section 3 of the Bill seeks to amend section 3(1)(c) of the Act to further clarify the intention of the provision with respect to the validity of a purpose trust.

In addition, the Bill seeks to apply the provisions of this Act to an existing purpose trust with effect from the date of the creation of the trust.

The purpose of this provision was that it was never the intention to restrict the application of the Purpose Trust Act to the remoteness of vesting, but rather that the provisions apply broadly to the rule against perpetuities inclusive of any rule restricting the period during which income may be accumulated.