

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5498

A bill to amend 1967 PA 224, entitled  
"Powers of appointment act of 1967,"  
by amending sections 4 and 20 (MCL 556.114 and 556.130).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4. Unless otherwise provided in the creating instru-  
2 ment, an instrument manifests an intent to exercise the power if  
3 the instrument purports to transfer an interest in the appointive  
4 property ~~which~~ THAT the donee would have no power to transfer  
5 except by virtue of the power, even though the power is not  
6 recited or referred to in the instrument, or if the instrument  
7 either expressly or by necessary implication from its wording,  
8 interpreted in the light of the circumstances surrounding its  
9 drafting and execution, manifests an intent to exercise the  
10 power. ~~If the creating instrument explicitly directs that no~~  
11 ~~instrument shall be effective to exercise the power unless it~~

**HB 5498, As Passed Senate, March 23, 2000**

House Bill No. 5498

2

1 ~~contains a reference to the specific power, an instrument which~~  
2 ~~lacks such reference does not validly exercise the power.~~  
3 Subject to the ~~foregoing~~ OTHER PROVISIONS OF THIS SECTION, if  
4 there is a general power exercisable by will with no express gift  
5 in default in the creating instrument, a residuary clause or  
6 other general language in the donee's will purporting to dispose  
7 of all of the donee's estate or property operates to exercise the  
8 power, but in all other cases such a clause or language does not  
9 in itself manifest an intent to exercise a power exercisable by  
10 will.

11       Sec. 20. If an attempted exercise of a power is ineffective  
12 because of ~~the death of an appointee prior to~~ AN APPOINTEE'S  
13 DEATH BEFORE the effective date of the exercise, the appointment  
14 ~~shall~~ DOES not lapse and section ~~11 of the probate code, Act~~  
15 ~~No. 288 of the Public Acts of 1939, being section 702.11 of the~~  
16 ~~Compiled Laws of 1948, shall apply as though the property subject~~  
17 ~~to the power were property of the decedent, provided that section~~  
18 ~~11 shall not be applied to pass property to a person not a member~~  
19 ~~of the class of permissible appointees~~ 2603 OF THE ESTATES AND  
20 PROTECTED INDIVIDUALS CODE, 1998 PA 286, MCL 700.2603, APPLIES.

21       Enacting section 1. This amendatory act takes effect April  
22 1, 2000.