

SENATE BILL No. 1396

September 5, 2006, Introduced by Senator SWITALSKI and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 5419 (MCL 700.5419).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5419. (1) Appointment of a conservator vests in the
2 conservator title as trustee to all of the protected individual's
3 property, or to the part of that property specified in the order,
4 held at the time of or acquired after the order, including title to
5 property held for the protected individual by a custodian or
6 attorney-in-fact. An order specifying that only a part of the
7 protected individual's property vests in the conservator creates a
8 limited conservatorship.

9 (2) Except as otherwise provided in this act, the protected

1 individual's interest in property vested in a conservator by this
2 section is not transferable or assignable by the protected
3 individual. Though ineffective to affect property rights, an
4 attempted transfer or assignment by the protected individual may
5 generate a claim for restitution or damages that, subject to
6 presentation and allowance, may be satisfied as provided in section
7 5429.

8 (3) Property vested in a conservator by this section and the
9 protected individual's interest in that property is not subject to
10 levy, garnishment, or similar process other than an order issued in
11 the protective proceeding made as provided in section 5429.

12 (4) ON APPOINTMENT, A CONSERVATOR FOR AN ADULT SHALL SEND A
13 NOTICE TO EACH MAJOR NATIONAL CREDIT REPORTING AGENCY, REQUESTING
14 THAT THE AGENCY INCLUDE THE NOTICE IN ANY REPORT OF THE PROTECTED
15 INDIVIDUAL'S CREDIT PROVIDED BY THE AGENCY. THE NOTICE SHALL
16 INCLUDE ALL OF THE FOLLOWING:

17 (A) THE NAME OF THE PROTECTED INDIVIDUAL.

18 (B) A STATEMENT THAT A COURT HAS DETERMINED THAT THE PROTECTED
19 INDIVIDUAL IS UNABLE TO MANAGE HIS OR HER PROPERTY AND BUSINESS
20 AFFAIRS EFFECTIVELY.

21 (C) THE NAME OF THE CONSERVATOR.

22 (D) THE DATE OF APPOINTMENT.

23 (E) A STATEMENT THAT IF A CREDITOR EXTENDS CREDIT TO THE
24 PROTECTED INDIVIDUAL, THE RESULTING DEBT WILL IN GENERAL BE LEGALLY
25 UNENFORCEABLE.