

Act No. 45
Public Acts of 2009
Approved by the Governor
June 18, 2009
Filed with the Secretary of State
June 18, 2009
EFFECTIVE DATE: April 1, 2010

STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009

Introduced by Senator Kuipers

ENROLLED SENATE BILL No. 386

AN ACT to amend 1967 PA 224, entitled "An act relating to powers, the creation and exercise of powers, release of powers, contracts to appoint, dispositions when powers are unexercised, rights of creditors of donees of powers, computations under the rule against perpetuities, reservation of powers of revocation, and recording of instruments; and to repeal certain acts and parts of acts," by amending section 13 (MCL 556.123).

The People of the State of Michigan enact:

Sec. 13. (1) If a donee has a general power of appointment, any interest that the donee has power to appoint or has appointed is to be treated as property of the donee for the purposes of satisfying claims of the donee's creditors, as provided in this section.

(2) If a donee has an unexercised general power of appointment and the donee can presently exercise such a power, any creditor of the donee may by appropriate proceedings reach any interest that the donee could appoint, to the extent that the donee's individual assets are insufficient to satisfy the creditor's claim. If the donee has exercised the power, the creditor can reach the appointed interests to the same extent that under the law relating to fraudulent conveyances the creditor could reach property that the donee has owned and transferred.

(3) If a donee has at the time of his or her death a general power of appointment, whether or not he or she exercises the power, the personal representative or other legal representative of the donee may reach on behalf of creditors any interest that the donee could have appointed to the extent that the claim of a creditor has been filed and allowed in the donee's estate but not paid because the assets of the estate are insufficient.

(4) Under a general assignment by a donee for the benefit of the donee's creditors, the assignee may exercise any right that a creditor of the donee would have under subsection (2).

(5) A purchaser without actual notice and for a valuable consideration of any interest in property, legal or equitable, takes the interest free of any rights that the donee's estate or a creditor of the donee has under this section.

(6) If more than 1 person is the donee of a general power of appointment, it shall be presumed that the interests of the donees in the property subject to the power are equally owned among them unless the creating instrument indicates otherwise.

(7) The lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a donor is not a gift, conveyance, transfer, or assignment of property by the donee.

Enacting section 1. This amendatory act takes effect April 1, 2010.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 387 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor

Compiler's note: Senate Bill No. 387, referred to in enacting section 2, was filed with the Secretary of State June 18, 2009, and became 2009 PA 46, Eff. Apr. 1, 2010.