

SENATE BILL No. 383

March 17, 2009, Introduced by Senator KUIPERS and referred to the Committee on Judiciary.

A bill to amend 1846 RS 81, entitled
"Of fraudulent conveyances and contracts, relative to goods,
chattels, and things in action,"
by amending section 1 (MCL 566.131).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~All deeds of gift, all conveyances, and all~~
2 ~~transfers or assignments~~ **EXCEPT AS PROVIDED IN SUBSECTIONS (2) TO**
3 **(4), A DEED OF GIFT, CONVEYANCE, TRANSFER, OR ASSIGNMENT,** verbal or
4 written, of goods, ~~chattels or things in action,~~ **PROPERTY** made in
5 trust for the use of the person making the ~~same, shall be~~ **GIFT,**
6 **CONVEYANCE, TRANSFER, OR ASSIGNMENT IS** void ~~, as against the~~
7 creditors, existing or subsequent, of ~~such~~ **THE** person.

8 (2) **SUBSECTION (1) DOES NOT APPLY TO THE LAPSE, RELEASE,**
9 **WAIVER, OR DISCLAIMER OF A POWER OF APPOINTMENT GIVEN TO A DONEE BY**
10 **A THIRD PARTY. AS USED IN THIS SUBSECTION, "DONEE" MEANS THAT TERM**

Senate Bill No. 383 as amended June 3, 2009

AS DEFINED IN SECTION 2 OF THE POWERS OF APPOINTMENT ACT OF 1967,
1967 PA 224, MCL 556.112.

(3) SUBSECTION (1) DOES NOT APPLY TO THE CREATION OF A TRUST
BY AN INDIVIDUAL IF ALL OF THE FOLLOWING APPLY:

(A) THE INDIVIDUAL CREATED THE TRUST FOR THE BENEFIT OF THE
INDIVIDUAL'S SPOUSE.

(B) THE TRUST IS TREATED AS QUALIFIED TERMINABLE INTEREST
PROPERTY UNDER SECTION 2523(F) OF THE INTERNAL REVENUE CODE, 26 USC
2523.

(C) THE INDIVIDUAL RETAINS A BENEFICIAL INTEREST IN THE TRUST
INCOME, TRUST PRINCIPAL, OR BOTH, WHICH BENEFICIAL INTEREST FOLLOWS
THE TERMINATION OF THE INDIVIDUAL'S SPOUSE'S PRIOR BENEFICIAL
INTEREST IN THE TRUST.

(4) SUBSECTION (1) DOES NOT APPLY TO A GIFT, CONVEYANCE,
TRANSFER, OR ASSIGNMENT FROM A TRUST TO A PERSON WHO CREATED THE
TRUST IF ALL OF THE FOLLOWING APPLY:

(A) THE TRUST IS AN IRREVOCABLE TRUST FOR THE BENEFIT OF THIRD
PARTIES.

(B) THE TRUST IS A GRANTOR TRUST WITH REGARD TO THE PERSON FOR
INCOME TAX PURPOSES UNDER SECTIONS 671 TO 679 OF THE INTERNAL
REVENUE CODE, 26 USC 671 TO 679.

(C) THE TRUSTEE HAS THE DISCRETIONARY AUTHORITY TO REIMBURSE
OR ADVANCE TRUST PROPERTY TO THE PERSON FOR TAXES CONCERNING INCOME
ATTRIBUTABLE TO THE TRUST PROPERTY.

(D) THE GIFT, CONVEYANCE, TRANSFER, OR ASSIGNMENT IS THE
EXERCISE BY THE TRUSTEE OF THE DISCRETIONARY AUTHORITY DESCRIBED IN
SUBDIVISION (C).

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

Senate Bill No. 383 as amended June 3, 2009

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