

SENATE BILL No. 386

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

A bill to amend 1967 PA 224, entitled
"Powers of appointment act of 1967,"
by amending section 13 (MCL 556.123).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) If ~~the~~**A** donee has a general power of
2 appointment, any interest ~~which~~**THAT** the donee has power to appoint
3 or has appointed is to be treated as property of the donee for the
4 purposes of satisfying claims of ~~his~~**THE DONEE'S** creditors, as
5 provided in this section.

6 (2) If ~~the~~**A** donee has an unexercised general power of
7 appointment and ~~he~~**THE DONEE** can presently exercise such a power,
8 any creditor of the donee may by appropriate proceedings reach any
9 interest ~~which~~**THAT** the donee could appoint, to the extent that the
10 donee's individual assets are insufficient to satisfy the
11 creditor's claim. If the donee has exercised the power, the

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Senate Bill No. 386 as amended June 3, 2009

1 creditor can reach the appointed interests to the same extent that
 2 under the law relating to fraudulent conveyances ~~he~~ **THE CREDITOR**
 3 could reach property ~~which~~ **THAT** the donee has owned and
 4 transferred.

5 (3) If ~~the~~ **A** donee has at the time of his **OR HER** death a
 6 general power of appointment, whether or not he **OR SHE** exercises
 7 the power, the ~~executor~~ **PERSONAL REPRESENTATIVE** or other legal
 8 representative of the donee may reach on behalf of creditors any
 9 interest ~~which~~ **THAT** the donee could have appointed to the extent
 10 that the claim of ~~any~~ **A** creditor has been filed and allowed in the
 11 donee's estate but not paid because the assets of the estate are
 12 insufficient.

13 (4) Under a general assignment by ~~the~~ **A** donee for the benefit
 14 of ~~his~~ **THE DONEE'S** creditors, the assignee may exercise any right
 15 ~~which~~ **THAT** a creditor of the donee would have under subsection (2).

16 (5) A purchaser without actual notice and for a valuable
 17 consideration of any interest in property, legal or equitable,
 18 takes the interest free of any rights ~~which~~ **THAT** the donee's estate
 19 or a creditor of the donee ~~might have~~ **HAS** under this section.

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

24 (7) **THE LAPSE, RELEASE, WAIVER, OR DISCLAIMER OF A POWER OF**
 25 **APPOINTMENT GIVEN TO A DONEE BY A DONOR IS NOT A GIFT, CONVEYANCE,**
 26 **TRANSFER, OR ASSIGNMENT OF PROPERTY BY THE DONEE.**

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

27 Enacting section [2]. This amendatory act does not take effect

1 unless Senate Bill No. 387

2 of the 95th Legislature is enacted into law.