

# 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

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.**

27 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 387

2 of the 95th Legislature is enacted into law.