

Act No. 42
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. 383

AN ACT 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:

Sec. 1. (1) Except as provided in subsections (2) to (4), a deed of gift, conveyance, transfer, or assignment, verbal or written, of property made in trust for the use of the person making the gift, conveyance, transfer, or assignment is void as against the creditors, existing or subsequent, of the person.

(2) Subsection (1) does not apply to the lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a third party. As used in this subsection, "donee" means that term 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.

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