

# HOUSE BILL No. 4072

January 27, 2015, Introduced by Rep. Forlini and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
by amending sections 1103, 1104, 1106, 1107, 3709, 3715, 5407,  
5415, 5501, and 7817 (MCL 700.1103, 700.1104, 700.1106, 700.1107,  
700.3709, 700.3715, 700.5407, 700.5415, 700.5501, and 700.7817),  
section 1103 as amended by 2013 PA 157, sections 1104, 1106, 1107,  
3715, and 5407 as amended by 2009 PA 46, section 5501 as amended by  
2012 PA 141, and section 7817 as amended by 2010 PA 325, and by  
adding sections 3715a, 3723, 5423a, 5501a, and 7912a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1103. As used in this act:

(a) "Agent" includes, but is not limited to, an attorney-in-  
fact under a durable or nondurable power of attorney and an  
individual authorized to make decisions as a patient advocate  
concerning another's health care.

1 (b) "Application" means a written request to the probate  
2 register for an order of informal probate or informal appointment  
3 under part 3 of article III.

4 (c) "Attorney" means, if appointed to represent a child under  
5 the provisions referenced in section 5213, an attorney **AS THAT TERM**  
6 **IS DEFINED AND** serving as the child's legal advocate in the manner  
7 ~~defined and~~ described in section 13a of chapter XIIA of the probate  
8 code of 1939, 1939 PA 288, MCL 712A.13a.

9 (d) "Beneficiary" includes, but is not limited to, the  
10 following:

11 (i) In relation to a trust, a person that is a trust  
12 beneficiary as defined in section 7103.

13 (ii) In relation to a charitable trust, a person that is  
14 entitled to enforce the trust.

15 (iii) In relation to a beneficiary of a beneficiary designation,  
16 a person that is a beneficiary of an insurance or annuity policy,  
17 of an account with POD designation, of a security registered in  
18 beneficiary form (TOD), of a pension, profit-sharing, retirement,  
19 or similar benefit plan, or of another nonprobate transfer at  
20 death.

21 (iv) In relation to a beneficiary designated in a governing  
22 instrument, a person that is a grantee of a deed, devisee, trust  
23 beneficiary, beneficiary of a beneficiary designation, donee,  
24 appointee, taker in default of a power of appointment, or person in  
25 whose favor a power of attorney or power held in an individual,  
26 fiduciary, or representative capacity is exercised.

27 (e) "Beneficiary designation" means the naming in a governing

1 instrument of a beneficiary of an insurance or annuity policy, of  
2 an account with POD designation, of a security registered in  
3 beneficiary form (TOD), of a pension, profit-sharing, retirement,  
4 or similar benefit plan, or of another nonprobate transfer at  
5 death.

6 (f) "Child" includes, but is not limited to, an individual  
7 entitled to take as a child under this act by intestate succession  
8 from the parent whose relationship is involved. Child does not  
9 include an individual who is only a stepchild, a foster child, or a  
10 grandchild or more remote descendant.

11 (g) "Claim" includes, but is not limited to, in respect to a  
12 decedent's or protected individual's estate, a liability of the  
13 decedent or protected individual, whether arising in contract,  
14 tort, or otherwise, and a liability of the estate that arises at or  
15 after the decedent's death or after a conservator's appointment,  
16 including funeral and burial expenses and costs and expenses of  
17 administration. Claim does not include an estate or inheritance  
18 tax, or a demand or dispute regarding a decedent's or protected  
19 individual's title to specific property alleged to be included in  
20 the estate.

21 (h) "Conservator" means a person appointed by a court to  
22 manage a protected individual's estate.

23 (i) "Cost-of-living adjustment factor" means a fraction, the  
24 numerator of which is the United States consumer price index for  
25 the prior calendar year and the denominator of which is the United  
26 States consumer price index for 1997. As used in this subdivision,  
27 "United States consumer price index" means the annual average of

1 the United States consumer price index for all urban consumers as  
2 defined and reported by the United States department of labor,  
3 bureau of labor statistics, or its successor agency, and as  
4 certified by the state treasurer.

5 (j) "Court" means the probate court or, when applicable, the  
6 family division of circuit court.

7 (k) "Descendant" means, in relation to an individual, all of  
8 his or her descendants of all generations, with the relationship of  
9 parent and child at each generation being determined by the  
10 definitions of child and parent contained in this act.

11 (l) "Devise" means, when used as a noun, a testamentary  
12 disposition of real or personal property and, when used as a verb,  
13 to dispose of real or personal property by will.

14 (m) "Devisee" means a person designated in a will to receive a  
15 devise. For the purposes of article II, for a devise to a trustee  
16 of an existing trust or to a trustee under a will, the trustee is a  
17 devisee and a beneficiary is not.

18 (N) "DIGITAL ACCOUNT" MEANS AN ELECTRONIC SYSTEM FOR CREATING,  
19 GENERATING, SENDING, RECEIVING, STORING, DISPLAYING, OR PROCESSING  
20 ELECTRONIC INFORMATION THAT PROVIDES ACCESS TO A DIGITAL ASSET OR A  
21 DIGITAL SERVICE.

22 (O) "DIGITAL ACCOUNT HOLDER" MEANS A DECEDENT, PROTECTED  
23 INDIVIDUAL, PRINCIPAL OF A DURABLE POWER OF ATTORNEY, OR SETTLOR  
24 WHO HAS A TERMS-OF-SERVICE AGREEMENT WITH A DIGITAL CUSTODIAN.

25 (P) "DIGITAL ASSET" MEANS ELECTRONIC INFORMATION CREATED,  
26 GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED BY ELECTRONIC  
27 MEANS ON A DIGITAL SERVICE OR DIGITAL DEVICE. DIGITAL ACCOUNT

1 INCLUDES A USERNAME, WORD, CHARACTER, CODE, OR CONTRACT RIGHT UNDER  
2 A TERMS-OF-SERVICE AGREEMENT.

3 (Q) "DIGITAL CUSTODIAN" MEANS A PERSON THAT ELECTRONICALLY  
4 STORES DIGITAL PROPERTY OF A DIGITAL ACCOUNT HOLDER OR OTHERWISE  
5 HAS CONTROL OVER DIGITAL PROPERTY OF THE DIGITAL ACCOUNT HOLDER.

6 (R) "DIGITAL DEVICE" MEANS AN ELECTRONIC DEVICE THAT CAN  
7 RECEIVE, STORE, PROCESS, OR SEND DIGITAL INFORMATION.

8 (S) "DIGITAL PROPERTY" MEANS THE OWNERSHIP AND MANAGEMENT OF  
9 AND RIGHTS RELATED TO A DIGITAL ACCOUNT AND DIGITAL ASSET.

10 (T) "DIGITAL SERVICE" MEANS THE DELIVERY OF DIGITAL  
11 INFORMATION, SUCH AS DATA OR CONTENT, AND TRANSACTIONAL SERVICES,  
12 SUCH AS ONLINE FORMS AND BENEFITS APPLICATIONS, ACROSS A VARIETY OF  
13 PLATFORMS, DEVICES, AND DELIVERY MECHANISMS, SUCH AS WEBSITES,  
14 MOBILE APPLICATIONS, AND SOCIAL MEDIA.

15 (U) ~~(n)~~—"Disability" means cause for a protective order as  
16 described in section 5401.

17 (V) ~~(e)~~—"Distributee" means a person that receives a  
18 decedent's property from the decedent's personal representative or  
19 trust property from the trustee other than as a creditor or  
20 purchaser. A trustee of a trust created by will is a distributee  
21 only to the extent that distributed property or an increment of the  
22 distributed property remains in the trustee's hands. A beneficiary  
23 of a trust created by will to whom the trustee distributes property  
24 received from a personal representative is a distributee of the  
25 personal representative. For the purposes of this subdivision,  
26 "trustee of a trust created by will" includes a trustee to whom  
27 property is transferred by will to the extent of the devised

1 property.

2 (W) ~~(p)~~—"Do-not-resuscitate order" means that term as defined  
3 in section 2 of the Michigan do-not-resuscitate procedure act, 1996  
4 PA 193, MCL 333.1052.

5 Sec. 1104. As used in this act:

6 (A) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING  
7 ELECTRONIC, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC,  
8 OR SIMILAR CAPABILITIES.

9 (B) "ELECTRONIC INFORMATION" INCLUDES DATA, TEXT, IMAGES,  
10 SOUNDS, AUDIOVISUAL WORKS, CODES, COMPUTER PROGRAMS, SOFTWARE, AND  
11 DATABASES.

12 (C) "ELECTRONIC RECORD" MEANS ELECTRONIC INFORMATION THAT IS  
13 INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC  
14 OR OTHER MEDIUM AND IS RETRIEVABLE IN A PERCEIVABLE FORM.

15 (D) ~~(a)~~—"Environmental law" means a federal, state, or local  
16 law, rule, regulation, or ordinance that relates to the protection  
17 of the environment or human health.

18 (E) ~~(b)~~—"Estate" includes the property of the decedent, trust,  
19 or other person whose affairs are subject to this act as the  
20 property is originally constituted and as it exists throughout  
21 administration. Estate also includes the rights described in  
22 sections 3805, 3922, and 7606 to collect from others amounts  
23 necessary to pay claims, allowances, and taxes.

24 (F) ~~(c)~~—"Exempt property" means property of a decedent's  
25 estate that is described in section 2404.

26 (G) ~~(d)~~—"Family allowance" means the allowance prescribed in  
27 section 2403.

1           (H) ~~(e)~~—"Fiduciary" includes, but is not limited to, a  
2 personal representative, guardian, conservator, trustee, plenary  
3 guardian, partial guardian, and successor fiduciary.

4           (I) ~~(f)~~—"Financial institution" means an organization  
5 authorized to do business under state or federal laws relating to a  
6 financial institution and includes, but is not limited to, a bank,  
7 trust company, savings bank, building and loan association, savings  
8 and loan company or association, credit union, insurance company,  
9 and entity that offers mutual fund, securities brokerage, money  
10 market, or retail investment accounts.

11           (J) ~~(g)~~—"Foreign personal representative" means a personal  
12 representative appointed by another jurisdiction.

13           (K) ~~(h)~~—"Formal proceedings" means proceedings conducted  
14 before a judge with notice to interested persons.

15           (L) ~~(i)~~—"Funeral establishment" means that term as defined in  
16 section 1801 of the occupational code, 1980 PA 299, MCL 339.1801,  
17 and the owners, employees, and agents of the funeral establishment.

18           (M) ~~(j)~~—"General personal representative" means a personal  
19 representative other than a special personal representative.

20           (N) ~~(k)~~—"Governing instrument" means a deed; will; trust;  
21 insurance or annuity policy; account with POD designation; security  
22 registered in beneficiary form (TOD); pension, profit-sharing,  
23 retirement, or similar benefit plan; instrument creating or  
24 exercising a power of appointment or a power of attorney; or  
25 dispositive, appointive, or nominative instrument of any similar  
26 type.

27           (O) ~~(l)~~—"Guardian" means a person who has qualified as a

1 guardian of a minor or a legally incapacitated individual under a  
2 parental or spousal nomination or a court appointment and includes  
3 a limited guardian as described in sections 5205, 5206, and 5306.  
4 Guardian does not include a guardian ad litem.

5 (P) ~~(m)~~—"Hazardous substance" means a substance defined as  
6 hazardous or toxic or otherwise regulated by an environmental law.

7 (Q) ~~(n)~~—"Heir" means, except as controlled by section 2720, a  
8 person, including the surviving spouse or the state, that is  
9 entitled under the statutes of intestate succession to a decedent's  
10 property.

11 (R) ~~(o)~~—"Homestead allowance" means the allowance prescribed  
12 in section 2402.

13 Sec. 1106. As used in this act:

14 (a) "Mental health professional" means an individual who is  
15 trained and experienced in the area of mental illness or  
16 developmental disabilities and who is 1 of the following:

17 (i) A physician who is licensed to practice medicine or  
18 osteopathic medicine and surgery in this state under article 15 of  
19 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

20 (ii) A psychologist licensed to practice in this state under  
21 article 15 of the public health code, 1978 PA 368, MCL 333.16101 to  
22 333.18838.

23 (iii) A registered professional nurse licensed to practice in  
24 this state under article 15 of the public health code, 1978 PA 368,  
25 MCL 333.16101 to 333.18838.

26 (iv) A licensed master's social worker licensed under article  
27 15 of the public health code, 1978 PA 368, MCL 333.16101 to



1 333.18838.

2 (v) A physician's assistant licensed to practice in this state  
3 under article 15 of the public health code, 1978 PA 368, MCL  
4 333.16101 to 333.18838.

5 (vi) A licensed professional counselor licensed under part 181  
6 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

7 (b) "Michigan prudent investor rule" means the fiduciary  
8 investment and management rule prescribed by part 5 of this  
9 article.

10 (c) "Minor" means an individual who is less than 18 years of  
11 age.

12 (d) "Minor ward" means a minor for whom a guardian is  
13 appointed solely because of minority.

14 (e) "Money" means legal tender or a note, draft, certificate  
15 of deposit, stock, bond, check, or credit card.

16 (f) "Mortgage" means a conveyance, agreement, or arrangement  
17 in which property is encumbered or used as security.

18 (g) "Nonresident decedent" means a decedent who was domiciled  
19 in another jurisdiction at the time of his or her death.

20 (h) "Organization" means a corporation, business trust,  
21 estate, trust, partnership, limited liability company, association,  
22 or joint venture; governmental subdivision, agency, or  
23 instrumentality; public corporation; or another legal or commercial  
24 entity.

25 (i) "Parent" includes, but is not limited to, an individual  
26 entitled to take, or who would be entitled to take, as a parent  
27 under this act by intestate succession from a child who dies

1 without a will and whose relationship is in question. Parent does  
2 not include an individual who is only a stepparent, foster parent,  
3 or grandparent.

4 (j) "Partial guardian" means that term as defined in section  
5 600 of the mental health code, 1974 PA 258, MCL 330.1600.

6 (k) "Patient advocate" means an individual designated to  
7 exercise powers concerning another individual's care, custody, and  
8 medical or mental health treatment or authorized to make an  
9 anatomical gift on behalf of another individual, or both, as  
10 provided in section 5506.

11 (l) "Patient advocate designation" means the written document  
12 executed and with the effect as described in sections 5506 to 5515.

13 (m) "Payor" means a trustee, insurer, business entity,  
14 employer, government, governmental subdivision or agency, or other  
15 person authorized or obligated by law or a governing instrument to  
16 make payments.

17 (n) "Person" means an individual or an organization.

18 (o) "Personal representative" includes, but is not limited to,  
19 an executor, administrator, successor personal representative, and  
20 special personal representative, and any other person, other than a  
21 trustee of a trust subject to article VII, who performs  
22 substantially the same function under the law governing that  
23 person's status.

24 (p) "Petition" means a written request to the court for an  
25 order after notice.

26 (q) "Plenary guardian" means that term as defined in section  
27 600 of the mental health code, 1974 PA 258, MCL 330.1600.

1 (r) "Proceeding" includes an application and a petition, and  
2 may be an action at law or a suit in equity. A proceeding may be  
3 denominated a civil action under court rules.

4 (s) "Professional conservator" means a person that provides  
5 conservatorship services for a fee. Professional conservator does  
6 not include a person who is an individual who is related to all but  
7 2 of the protected individuals for whom he or she is appointed as  
8 conservator.

9 (t) "Professional guardian" means a person that provides  
10 guardianship services for a fee. Professional guardian does not  
11 include a person who is an individual who is related to all but 2  
12 of the wards for whom he or she is appointed as guardian.

13 (u) "Property" means anything that may be the subject of  
14 ownership, and includes both real and personal property or an  
15 interest in real or personal property. **PROPERTY INCLUDES DIGITAL**  
16 **PROPERTY.**

17 (v) "Protected individual" means a minor or other individual  
18 for whom a conservator has been appointed or other protective order  
19 has been made as provided in part 4 of article V.

20 (w) "Protective proceeding" means a proceeding under the  
21 provisions of part 4 of article V.

22 Sec. 1107. As used in this act:

23 (a) "Register" or "probate register" means the official of the  
24 court designated to perform the functions of register as provided  
25 in section 1304.

26 (b) "Revised judicature act of 1961" means the revised  
27 judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

1 (c) "Security" includes, but is not limited to, a note, stock,  
2 treasury stock, bond, debenture, evidence of indebtedness,  
3 certificate of interest or participation in an oil, gas, or mining  
4 title or lease or in payments out of production under such a title  
5 or lease, collateral trust certificate, transferable share, voting  
6 trust certificate, or interest in a regulated investment company or  
7 other entity generally referred to as a mutual fund or, in general,  
8 an interest or instrument commonly known as a security, or a  
9 certificate of interest or participation for, a temporary or  
10 interim certificate, receipt, or certificate of deposit for, or any  
11 warrant or right to subscribe to or purchase any of the items  
12 listed in this subdivision.

13 (d) "Settlement" means, in reference to a decedent's estate,  
14 the full process of administration, distribution, and closing.

15 (e) "Special personal representative" means a personal  
16 representative as described by sections 3614 to 3618.

17 (f) "State" means a state of the United States, the District  
18 of Columbia, the Commonwealth of Puerto Rico, or a territory or  
19 insular possession subject to the jurisdiction of the United  
20 States.

21 (g) "Successor" means a person, other than a creditor, who is  
22 entitled to property of a decedent under the decedent's will or  
23 this act.

24 (h) "Successor personal representative" means a personal  
25 representative, other than a special personal representative, who  
26 is appointed to succeed a previously appointed personal  
27 representative.

1 (i) "Supervised administration" means the proceedings  
2 described in part 5 of article III.

3 (j) "Survive" means that an individual neither predeceases an  
4 event, including the death of another individual, nor is considered  
5 to predecease an event under section 2104 or 2702.

6 (K) **"TERMS-OF-SERVICE AGREEMENT" MEANS A CONTRACT THAT**  
7 **CONTROLS THE RELATIONSHIP BETWEEN A DIGITAL ACCOUNT HOLDER AND A**  
8 **DIGITAL CUSTODIAN. TERMS-OF-SERVICE AGREEMENT INCLUDES A TERMS-OF-**  
9 **USE AGREEMENT.**

10 (I) ~~(k)~~ "Terms of a trust" or "terms of the trust" means the  
11 manifestation of the settlor's intent regarding a trust's  
12 provisions as expressed in the trust instrument or as may be  
13 established by other evidence that would be admissible in a  
14 judicial proceeding.

15 (M) ~~(l)~~ "Testacy proceeding" means a proceeding to establish a  
16 will or determine intestacy.

17 (N) ~~(m)~~ "Testator" includes an individual of either gender.

18 (O) ~~(n)~~ "Trust" includes, but is not limited to, an express  
19 trust, private or charitable, with additions to the trust, wherever  
20 and however created. Trust includes, but is not limited to, a trust  
21 created or determined by judgment or decree under which the trust  
22 is to be administered in the manner of an express trust. Trust does  
23 not include a constructive trust or a resulting trust,  
24 conservatorship, personal representative, custodial arrangement  
25 under the Michigan uniform transfers to minors act, 1998 PA 433,  
26 MCL 554.521 to 554.552, business trust providing for a certificate  
27 to be issued to a beneficiary, common trust fund, voting trust,

1 security arrangement, liquidation trust, or trust for the primary  
2 purpose of paying debts, dividends, interest, salaries, wages,  
3 profits, pensions, or employee benefits of any kind, or another  
4 arrangement under which a person is a nominee or escrowee for  
5 another.

6 (P) ~~(e)~~—"Trustee" includes an original, additional, or  
7 successor trustee, whether or not appointed or confirmed by the  
8 court.

9 Sec. 3709. (1) Except as otherwise provided by a decedent's  
10 will or by this section, a personal representative has a right to ~~7~~  
11 and, if necessary for purposes of administration, shall take  
12 possession or control of ~~7~~the decedent's property, **OTHER THAN**  
13 **DIGITAL PROPERTY SUBJECT TO SUBSECTION (2)**, except that real  
14 property or tangible personal property may be left with or  
15 surrendered to the person presumptively entitled to that property  
16 unless or until, in the personal representative's judgment,  
17 possession of the property will be necessary for purposes of  
18 administration. A personal representative's request for delivery of  
19 property possessed by an heir or devisee is conclusive evidence, in  
20 an action against the heir or devisee for possession of that  
21 property, that the possession of the property by the personal  
22 representative is necessary for purposes of administration. The  
23 personal representative shall pay taxes on, and take all steps  
24 reasonably necessary for the management, protection, and  
25 preservation of, the estate in the personal representative's  
26 possession. The personal representative may maintain an action to  
27 recover possession of, or to determine the title to, property.

1           (2) EXCEPT AS OTHERWISE PROVIDED BY A DECEDENT'S WILL, AND  
2 SUBJECT TO APPLICABLE STATE AND FEDERAL LAW, INCLUDING COPYRIGHT  
3 LAW AND A TERMS-OF-SERVICE AGREEMENT, WITH RESPECT TO A DECEDENT'S  
4 DIGITAL PROPERTY, A PERSONAL REPRESENTATIVE HAS THE LAWFUL CONSENT  
5 OF THE DECEDENT AND IS AN AUTHORIZED USER UNDER ALL APPLICABLE  
6 STATE AND FEDERAL STATUTES. A PERSONAL REPRESENTATIVE HAS THE RIGHT  
7 TO, AND IF NECESSARY FOR PURPOSES OF ADMINISTRATION SHALL, EXERCISE  
8 CONTROL OVER THE DECEDENT'S DIGITAL PROPERTY. A PERSONAL  
9 REPRESENTATIVE'S WRITTEN REQUEST FOR ACCESS TO, OR CONTROL OF,  
10 DIGITAL PROPERTY IS CONCLUSIVE EVIDENCE IN ANY ACTION THAT THE  
11 ACCESS TO, EXERCISE OF CONTROL OF, OR BOTH, DIGITAL PROPERTY BY THE  
12 PERSONAL REPRESENTATIVE IS NECESSARY FOR PURPOSES OF  
13 ADMINISTRATION. THE PERSONAL REPRESENTATIVE MAY MAINTAIN AN ACTION  
14 TO GAIN ACCESS TO, EXERCISE CONTROL OF, OR BOTH, DIGITAL PROPERTY  
15 IN ACCORDANCE WITH SECTION 3715A.

16           Sec. 3715. Except as restricted or otherwise provided by the  
17 will or by an order in a formal proceeding, and subject to the  
18 priorities stated in section 3902, a personal representative,  
19 acting reasonably for the benefit of interested persons, may  
20 properly do any of the following:

21           (a) Retain property owned by the decedent pending distribution  
22 or liquidation, including property in which the personal  
23 representative is personally interested or that is otherwise  
24 improper for trust investment.

25           (b) Receive property from a fiduciary or another source.

26           (c) Perform, compromise, or refuse performance of a contract  
27 of the decedent that continues as an estate obligation, as the

1 personal representative determines under the circumstances. If the  
2 contract is for a conveyance of land and requires the giving of  
3 warranties, the personal representative shall include in the deed  
4 or other instrument of conveyance the required warranties. The  
5 warranties are binding on the estate as though the decedent made  
6 them but do not bind the personal representative except in a  
7 fiduciary capacity. In performing an enforceable contract by the  
8 decedent to convey or lease land, the personal representative,  
9 among other possible courses of action, may do any of the  
10 following:

11 (i) Execute and deliver a deed of conveyance for cash payment  
12 of the amount remaining due or for the purchaser's note for the  
13 amount remaining due secured by a mortgage on the land.

14 (ii) Deliver a deed in escrow with directions that the  
15 proceeds, when paid in accordance with the escrow agreement, be  
16 paid to the decedent's successors, as designated in the escrow  
17 agreement.

18 (d) If, in the judgment of the personal representative, the  
19 decedent would have wanted the pledge satisfied under the  
20 circumstances, satisfy a written charitable pledge of the decedent  
21 irrespective of whether the pledge constitutes a binding obligation  
22 of the decedent or is properly presented as a claim.

23 (e) If ~~funds are~~ **MONEY IS** not needed to meet a debt or  
24 expenses currently payable and ~~are~~ **IS** not immediately  
25 distributable, deposit or invest liquid assets of the estate,  
26 including ~~funds~~ **MONEY** received from the sale of other property, in  
27 accordance with the Michigan prudent investor rule.



1 (f) Acquire or dispose of property, including land in this or  
2 another state, for cash or on credit, at public or private sale;  
3 and manage, develop, improve, exchange, partition, change the  
4 character of, or abandon estate property.

5 (g) Make an ordinary or extraordinary repair or alteration in  
6 a building or other structure, demolish an improvement, or raze an  
7 existing or erect a new party wall or building.

8 (h) Subdivide, develop, or dedicate land to public use, make  
9 or obtain the vacation of a plat or adjust a boundary, adjust a  
10 difference in valuation on exchange or partition by giving or  
11 receiving consideration, or dedicate an easement to public use  
12 without consideration.

13 (i) Enter into a lease as lessor or lessee for any purpose,  
14 with or without an option to purchase or renew, for a term within  
15 or extending beyond the period of administration.

16 (j) Enter into a lease or arrangement for exploration and  
17 removal of minerals or another natural resource, or enter into a  
18 pooling or unitization agreement.

19 (k) Abandon property ~~when~~, **IF**, in the opinion of the personal  
20 representative, it is valueless, or is so encumbered or in such a  
21 condition as to be of no benefit to the estate.

22 (l) Vote stocks or another security in person or by general or  
23 limited proxy.

24 (m) Pay a call, assessment, or other amount chargeable or  
25 accruing against or on account of a security, unless barred by a  
26 provision relating to claims.

27 (n) Hold a security in the name of a nominee or in other form

1 without disclosure of the estate's interest. However, the personal  
2 representative is liable for an act of the nominee in connection  
3 with the security so held.

4 (o) Insure the estate property against damage, loss, and  
5 liability and insure the personal representative against liability  
6 as to third persons.

7 (p) Borrow property with or without security to be repaid from  
8 the estate property or otherwise, and advance money for the  
9 estate's protection.

10 (q) Effect a fair and reasonable compromise with a debtor or  
11 obligor, or extend, renew, or in any manner modify the terms of an  
12 obligation owing to the estate. If the personal representative  
13 holds a mortgage, pledge, or other lien ~~upon~~ **ON** another person's  
14 property, the personal representative may, in lieu of foreclosure,  
15 accept a conveyance or transfer of encumbered property from the  
16 property's owner in satisfaction of the indebtedness secured by  
17 lien.

18 (r) Pay a tax, an assessment, the personal representative's  
19 compensation, or another expense incident to the estate's  
20 administration.

21 (s) Sell or exercise a stock subscription or conversion right.

22 (t) Consent, directly or through a committee or other agent,  
23 to the reorganization, consolidation, merger, dissolution, or  
24 liquidation of a corporation or other business enterprise.

25 (u) Allocate items of income or expense to either estate  
26 income or principal, as permitted or provided by law.

27 (v) Employ, and pay reasonable compensation for reasonably

1 necessary services performed by, a person, including, but not  
2 limited to, an auditor, investment advisor, or agent, even if the  
3 person is associated with the personal representative, to advise or  
4 assist the personal representative in the performance of  
5 administrative duties; act on such a person's recommendations  
6 without independent investigation; and, instead of acting  
7 personally, employ 1 or more agents to perform an act of  
8 administration, whether or not discretionary.

9 (w) Employ an attorney to perform necessary legal services or  
10 to advise or assist the personal representative in the performance  
11 of the personal representative's administrative duties, even if the  
12 attorney is associated with the personal representative, and act  
13 without independent investigation ~~upon~~ **ON** the attorney's  
14 recommendation. An attorney employed under this subdivision shall  
15 receive reasonable compensation for his or her employment.

16 (x) Prosecute or defend a claim or proceeding in any  
17 jurisdiction for the protection of the estate and of the personal  
18 representative in the performance of the personal representative's  
19 duties.

20 (y) Sell, mortgage, or lease estate property or an interest in  
21 estate property for cash, credit, or part cash and part credit, and  
22 with or without security for unpaid balances.

23 (z) Continue a business or venture in which the decedent was  
24 engaged at the time of death as a sole proprietor or a general  
25 partner, including continuation as a general partner by a personal  
26 representative that is a corporation, in any of the following  
27 manners:

1           (i) In the same business form for a period of not more than 4  
2 months after the date of appointment of a general personal  
3 representative if continuation is a reasonable means of preserving  
4 the value of the business, including goodwill.

5           (ii) In the same business form for an additional period of time  
6 if approved by court order in a formal proceeding to which the  
7 persons interested in the estate are parties.

8           (iii) Throughout the period of administration if the personal  
9 representative incorporates the business or converts the business  
10 to a limited liability company and if none of the probable  
11 distributees of the business who are competent adults object to its  
12 incorporation or conversion and its retention in the estate.

13           (aa) Change the form of a business or venture in which the  
14 decedent was engaged at the time of death through incorporation or  
15 formation as a limited liability company or other entity offering  
16 protection against or limiting exposure to liabilities.

17           (bb) Provide for the personal representative's exoneration  
18 from personal liability in a contract entered into on the estate's  
19 behalf.

20           (cc) Respond to an environmental concern or hazard affecting  
21 estate property as provided in section 3722.

22           (dd) Satisfy and settle claims and distribute the estate as  
23 provided in this act.

24           (ee) Make, revise, or revoke an available allocation, consent,  
25 or election in connection with a tax matter as appropriate in order  
26 to carry out the decedent's estate planning objectives and to  
27 reduce the overall burden of taxation, both in the present and in

1 the future. This authority includes, but is not limited to, all of  
2 the following:

3 (i) Electing to take expenses as estate tax or income tax  
4 deductions.

5 (ii) Electing to allocate the exemption from the tax on  
6 generation skipping transfers among transfers subject to estate or  
7 gift tax.

8 (iii) Electing to have all or a portion of a transfer for a  
9 spouse's benefit qualify for the marital deduction.

10 (iv) Electing the date of death or an alternate valuation date  
11 for federal estate tax purposes.

12 (v) Excluding or including property from the gross estate for  
13 federal estate tax purposes.

14 (vi) Valuing property for federal estate tax purposes.

15 (vii) Joining with the surviving spouse or the surviving  
16 spouse's personal representative in the execution and filing of a  
17 joint income tax return and consenting to a gift tax return filed  
18 by the surviving spouse or the surviving spouse's personal  
19 representative.

20 (ff) Divide portions of the estate, including portions to be  
21 allocated into trust, into 2 or more separate portions or trusts  
22 with substantially identical terms and conditions, and allocate  
23 property between them, in order to simplify administration for  
24 generation skipping transfer tax purposes, to segregate property  
25 for management purposes, or to meet another estate or trust  
26 objective.

27 **(GG) SUBJECT TO STATE AND FEDERAL LAW, INCLUDING COPYRIGHT**

1 LAW, AND THE APPLICABLE TERMS-OF-SERVICE AGREEMENT, EXERCISE  
2 CONTROL OVER THE DECEDENT'S DIGITAL PROPERTY.

3 SEC. 3715A. (1) WITHIN 56 DAYS AFTER RECEIPT OF A PERSONAL  
4 REPRESENTATIVE'S WRITTEN REQUEST FOR ACCESS TO DIGITAL PROPERTY,  
5 OWNERSHIP OF DIGITAL PROPERTY, OR A COPY OF A DIGITAL ASSET, A  
6 DIGITAL CUSTODIAN SHALL PROVIDE THE PERSONAL REPRESENTATIVE WITH  
7 THE REQUESTED ACCESS, OWNERSHIP, OR COPY, AS APPLICABLE. A PERSONAL  
8 REPRESENTATIVE'S WRITTEN REQUEST UNDER THIS SUBSECTION MUST BE  
9 ACCOMPANIED BY A CERTIFIED COPY OF LETTERS ISSUED TO THE PERSONAL  
10 REPRESENTATIVE. IF THE DIGITAL CUSTODIAN FAILS TO COMPLY WITH THE  
11 REQUEST, THE PERSONAL REPRESENTATIVE MAY PETITION THE COURT FOR AN  
12 ORDER DIRECTING COMPLIANCE.

13 (2) A DIGITAL CUSTODIAN IS NOT LIABLE FOR AN ACTION DONE IN  
14 COMPLIANCE WITH SUBSECTION (1).

15 SEC. 3723. (1) A PERSON INTERESTED IN THE ESTATE MAY FILE A  
16 PETITION WITH THE COURT FOR AN ORDER TO LIMIT OR ELIMINATE A  
17 PERSONAL REPRESENTATIVE'S POWER OVER DIGITAL PROPERTY.

18 (2) ON RECEIPT OF A PETITION UNDER THIS SECTION, THE COURT  
19 SHALL SET A DATE FOR A HEARING ON THE PETITION. THE HEARING DATE  
20 SHALL BE NOT LESS THAN 14 DAYS AND NOT MORE THAN 56 DAYS AFTER THE  
21 DATE THE PETITION IS FILED.

22 Sec. 5407. (1) The court shall exercise the authority  
23 conferred in this part to encourage the development of maximum  
24 self-reliance and independence of a protected individual and shall  
25 make protective orders only to the extent necessitated by the  
26 protected individual's mental and adaptive limitations and other  
27 conditions warranting the procedure. Accordingly, the court may

1 authorize a protected individual to function without the consent or  
2 supervision of the individual's conservator in handling part of his  
3 or her money or property, including authorizing the individual to  
4 maintain an account with a financial institution. To the extent the  
5 individual is authorized to function autonomously, a person may  
6 deal with the individual as though the individual is mentally  
7 competent.

8 (2) The court has the following powers that may be exercised  
9 directly or through a conservator in respect to a protected  
10 individual's estate and business affairs:

11 (a) While a petition for a conservator's appointment or  
12 another protective order is pending and after preliminary hearing  
13 and without notice to others, the court has the power to preserve  
14 and apply property of the individual to be protected as may be  
15 required for the support of the individual or the individual's  
16 dependents.

17 (b) After hearing and upon determining that a basis for an  
18 appointment or other protective order exists with respect to a  
19 minor without other disability, the court has all those powers over  
20 the minor's estate and business affairs that are or may be  
21 necessary for the best interests of the minor and members of the  
22 minor's immediate family.

23 (c) After hearing and upon determining that a basis for an  
24 appointment or other protective order exists with respect to an  
25 individual for a reason other than minority, the court, for the  
26 benefit of the individual and members of the individual's immediate  
27 family, has all the powers over the estate and business affairs

1 that the individual could exercise if present and not under  
2 disability, except the power to make a will. Those powers include,  
3 but are not limited to, all of the following:

4 (i) To make gifts.

5 (ii) To convey or release a contingent or expectant interest in  
6 property including marital property rights and a right of  
7 survivorship incident to joint tenancy or tenancy by the entirety.

8 (iii) To exercise or release a power held by the protected  
9 individual as personal representative, custodian for a minor,  
10 conservator, or donee of a power of appointment.

11 (iv) To enter into a contract.

12 (v) To create a revocable or irrevocable trust of estate  
13 property that may extend beyond the disability or life of the  
14 protected individual.

15 (vi) To exercise an option of the protected individual to  
16 purchase securities or other property.

17 (vii) To exercise a right to elect an option and change a  
18 beneficiary under an insurance or annuity policy and to surrender  
19 the policy for its cash value.

20 (viii) To exercise a right to an elective share in the estate of  
21 the individual's deceased spouse.

22 (ix) To renounce or disclaim an interest by testate or  
23 intestate succession or by inter vivos transfer.

24 (x) **SUBJECT TO STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW,  
25 AND THE APPLICABLE TERMS-OF-SERVICE AGREEMENT:**

26 **(A) TO EXERCISE CONTROL OVER DIGITAL PROPERTY OF THE PROTECTED  
27 INDIVIDUAL.**



1           **(B) TO EXERCISE A RIGHT IN DIGITAL PROPERTY OF THE PROTECTED**  
2 **INDIVIDUAL.**

3           **(C) TO CHANGE A GOVERNING INSTRUMENT AFFECTING THE DIGITAL**  
4 **PROPERTY OF THE PROTECTED INDIVIDUAL.**

5           (3) The court may exercise or direct the exercise of the  
6 following powers only if satisfied, after the notice and hearing,  
7 that it is in the protected individual's best interests and that  
8 the individual either is incapable of consenting or has consented  
9 to the proposed exercise of the power:

10           (a) To exercise or release a power of appointment of which the  
11 protected individual is donee.

12           (b) To renounce or disclaim an interest.

13           (c) To make a gift in trust or otherwise exceeding 20% of a  
14 year's income of the estate.

15           (d) To change a beneficiary under an insurance and annuity  
16 policy.

17           (4) A determination that a basis for a conservator's  
18 appointment or another protective order exists has no effect on the  
19 protected individual's capacity.

20           **(5) TO THE EXTENT ORDERED BY THE COURT UNDER SUBSECTION (2),**  
21 **AND SUBJECT TO STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**  
22 **THE APPLICABLE LAW AND TERMS-OF-SERVICE AGREEMENT, WITH RESPECT TO**  
23 **THE PROTECTED INDIVIDUAL'S DIGITAL PROPERTY, A CONSERVATOR HAS THE**  
24 **LAWFUL CONSENT OF THE PROTECTED INDIVIDUAL AND IS AN AUTHORIZED**  
25 **USER UNDER ALL APPLICABLE STATE AND FEDERAL STATUTES.**

26           Sec. 5415. (1) A person interested in the welfare of an  
27 individual for whom a conservator is appointed may file a petition

1 in the appointing court for an order to do any of the following:

2 (a) Require bond or security or additional bond or security,  
3 or reduce bond.

4 (b) Require an accounting for the administration of the trust.

5 (c) Direct distribution.

6 (d) Remove the conservator and appoint a temporary or  
7 successor conservator.

8 (E) LIMIT OR ELIMINATE THE CONSERVATOR'S POWER OVER DIGITAL  
9 PROPERTY.

10 (F) ~~(e)~~ Grant other appropriate relief.

11 (2) ON RECEIPT OF A PETITION UNDER SUBSECTION (1)(E), THE  
12 COURT SHALL SET A DATE FOR A HEARING ON THE PETITION. THE HEARING  
13 DATE SHALL BE NOT LESS THAN 14 DAYS AND NOT MORE THAN 56 DAYS AFTER  
14 THE DATE THE PETITION IS FILED.

15 (3) ~~(2)~~ A conservator may petition the appointing court for  
16 instructions concerning fiduciary responsibility. Upon notice and  
17 hearing, the court may give appropriate instructions or make an  
18 appropriate order.

19 SEC. 5423A. (1) WITHIN 56 DAYS AFTER RECEIPT OF A  
20 CONSERVATOR'S WRITTEN REQUEST FOR ACCESS TO DIGITAL PROPERTY,  
21 OWNERSHIP OF DIGITAL PROPERTY, OR A COPY OF A DIGITAL ASSET, A  
22 DIGITAL CUSTODIAN SHALL PROVIDE THE CONSERVATOR WITH THE REQUESTED  
23 ACCESS, OWNERSHIP, OR COPY, AS APPLICABLE. A CONSERVATOR'S WRITTEN  
24 REQUEST UNDER THIS SUBSECTION MUST BE ACCOMPANIED BY A CERTIFIED  
25 COPY OF THE COURT ORDER THAT GIVES THE CONSERVATOR POWER OVER THE  
26 DIGITAL PROPERTY. IF THE DIGITAL CUSTODIAN FAILS TO COMPLY WITH THE  
27 REQUEST OR ORDER, THE CONSERVATOR MAY PETITION THE COURT FOR AN

1 ORDER DIRECTING COMPLIANCE.

2 (2) A DIGITAL CUSTODIAN IS NOT LIABLE FOR AN ACTION DONE IN  
3 COMPLIANCE WITH SUBSECTION (1).

4 Sec. 5501. (1) A durable power of attorney is a power of  
5 attorney by which a principal designates another as the principal's  
6 ~~attorney-in-fact~~ **ATTORNEY-IN-FACT** in a writing that contains the  
7 words "This power of attorney is not affected by the principal's  
8 subsequent disability or incapacity, or by the lapse of time", or  
9 "This power of attorney is effective upon the disability or  
10 incapacity of the principal", or similar words showing the  
11 principal's intent that the authority conferred is exercisable  
12 notwithstanding the principal's subsequent disability or incapacity  
13 and, unless the power states a termination time, notwithstanding  
14 the lapse of time since the execution of the instrument.

15 (2) A durable power of attorney under this section ~~shall~~ **MUST**  
16 be dated and signed voluntarily by the principal or signed by a  
17 notary public on the principal's behalf ~~pursuant to~~ **UNDER** section  
18 33 of the Michigan notary public act, 2003 PA 238, MCL 55.293. The  
19 durable power of attorney ~~shall~~ **MUST** be 1 or both of the following:

20 (a) Signed in the presence of 2 witnesses, neither of whom is  
21 the attorney-in-fact, and both of whom also sign the durable power  
22 of attorney.

23 (b) Acknowledged by the principal before a notary public, who  
24 endorses on the durable power of attorney a certificate of that  
25 acknowledgment and the true date of taking the acknowledgment.

26 (3) An attorney-in-fact designated and acting under a durable  
27 power of attorney has the authority, rights, responsibilities, and

1 limitations as provided by law with respect to a durable power of  
2 attorney, including, but not limited to, all of the following:

3 (a) Except as provided in the durable power of attorney, the  
4 attorney-in-fact shall act in accordance with the standards of care  
5 applicable to fiduciaries exercising powers under a durable power  
6 of attorney.

7 (b) The attorney-in-fact shall take reasonable steps to follow  
8 the instructions of the principal.

9 (c) Upon request of the principal, the attorney-in-fact shall  
10 keep the principal informed of the attorney-in-fact's actions. The  
11 attorney-in-fact shall provide an accounting to the principal upon  
12 request of the principal, to a conservator or guardian appointed on  
13 behalf of the principal upon request of the guardian or  
14 conservator, or pursuant to judicial order.

15 (d) The attorney-in-fact shall not make a gift of all or any  
16 part of the principal's assets, unless provided for in the durable  
17 power of attorney or by judicial order.

18 (e) Unless provided in the durable power of attorney or by  
19 judicial order, the attorney-in-fact, while acting as attorney-in-  
20 fact, shall not create an account or other asset in joint tenancy  
21 between the principal and the attorney-in-fact.

22 (F) UNLESS PROVIDED IN THE DURABLE POWER OF ATTORNEY OR BY  
23 JUDICIAL ORDER AND SUBJECT TO STATE AND FEDERAL LAW, INCLUDING  
24 COPYRIGHT LAW, AND THE APPLICABLE TERMS-OF-SERVICE AGREEMENT, THE  
25 ATTORNEY-IN-FACT, WHILE ACTING AS ATTORNEY-IN-FACT, SHALL NOT DO  
26 ANY OF THE FOLLOWING:

27 (i) EXERCISE CONTROL OVER DIGITAL PROPERTY.

1           (ii) EXERCISE A RIGHT IN DIGITAL PROPERTY.

2           (iii) CHANGE A GOVERNING INSTRUMENT AFFECTING THE DIGITAL  
3 PROPERTY.

4           (G) ~~(F)~~—The attorney-in-fact shall maintain records of the  
5 attorney-in-fact's actions on behalf of the principal, including  
6 transactions, receipts, disbursements, and investments.

7           (H) ~~(G)~~—The attorney-in-fact may be liable for any damage or  
8 loss to the principal, and may be subject to any other available  
9 remedy, for breach of fiduciary duty owed to the principal. In the  
10 durable power of attorney, the principal may exonerate the  
11 attorney-in-fact of any liability to the principal for breach of  
12 fiduciary duty except for actions committed by the attorney-in-fact  
13 in bad faith or with reckless indifference. An exoneration clause  
14 is not enforceable if inserted as the result of an abuse by the  
15 attorney-in-fact of a fiduciary or confidential relationship to the  
16 principal.

17           (I) ~~(H)~~—The attorney-in-fact may receive reasonable  
18 compensation for the attorney-in-fact's services if provided for in  
19 the durable power of attorney.

20           (4) Before exercising authority under a durable power of  
21 attorney, an attorney-in-fact shall execute an acknowledgment of  
22 the attorney-in-fact's responsibilities that contains all of the  
23 substantive statements in substantially the following form:

24           I, \_\_\_\_\_, have been appointed as attorney-in-  
25 fact for \_\_\_\_\_, the principal, under a durable  
26 power of attorney dated \_\_\_\_\_. By signing this document, I  
27 acknowledge that if and when I act as attorney-in-fact, all of the

1 following apply:

2 (a) Except as provided in the durable power of attorney, I  
3 must act in accordance with the standards of care applicable to  
4 fiduciaries acting under durable powers of attorney.

5 (b) I must take reasonable steps to follow the instructions of  
6 the principal.

7 (c) Upon request of the principal, I must keep the principal  
8 informed of my actions. I must provide an accounting to the  
9 principal upon request of the principal, to a guardian or  
10 conservator appointed on behalf of the principal upon the request  
11 of that guardian or conservator, or pursuant to judicial order.

12 (d) I cannot make a gift from the principal's property, unless  
13 provided for in the durable power of attorney or by judicial order.

14 (e) Unless provided in the durable power of attorney or by  
15 judicial order, I, while acting as attorney-in-fact, ~~shall not~~  
16 **CANNOT** create an account or other asset in joint tenancy between  
17 the principal and me.

18 **(F) UNLESS PROVIDED IN THE DURABLE POWER OF ATTORNEY OR BY**  
19 **JUDICIAL ORDER AND SUBJECT TO STATE AND FEDERAL LAW, INCLUDING**  
20 **COPYRIGHT LAW, AND THE APPLICABLE TERMS-OF-SERVICE AGREEMENT, I,**  
21 **WHILE ACTING AS ATTORNEY-IN-FACT, CANNOT DO ANY OF THE FOLLOWING:**

22 **(i) EXERCISE CONTROL OVER THE PRINCIPAL'S DIGITAL PROPERTY.**

23 **(ii) EXERCISE A RIGHT IN THE PRINCIPAL'S DIGITAL PROPERTY.**

24 **(iii) CHANGE A GOVERNING INSTRUMENT AFFECTING THE PRINCIPAL'S**  
25 **DIGITAL PROPERTY.**

26 **(G) ~~(f)~~—**I must maintain records of my transactions as  
27 attorney-in-fact, including receipts, disbursements, and

1 investments.

2 (H) ~~(g)~~—I may be liable for any damage or loss to the  
3 principal, and may be subject to any other available remedy, for  
4 breach of fiduciary duty owed to the principal. In the durable  
5 power of attorney, the principal may exonerate me of any liability  
6 to the principal for breach of fiduciary duty except for actions  
7 committed by me in bad faith or with reckless indifference. An  
8 exoneration clause is not enforceable if inserted as the result of  
9 my abuse of a fiduciary or confidential relationship to the  
10 principal.

11 (I) ~~(h)~~—I may be subject to civil or criminal penalties if I  
12 violate my duties to the principal.

13 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

14 (5) A third party is not liable to the principal or any other  
15 person because the third party has complied in good faith with  
16 instructions from an attorney-in-fact named in a durable power of  
17 attorney whether or not the attorney-in-fact has executed an  
18 acknowledgment that complies with subsection (4). A third party is  
19 not liable to the principal or any other person if the third party  
20 requires an attorney-in-fact named in a durable power of attorney  
21 to execute an acknowledgment that complies with subsection (4)  
22 before recognizing the durable power of attorney.

23 (6) An attorney-in-fact's failure to comply with subsection  
24 (4) does not affect the attorney-in-fact's authority to act for the  
25 principal as provided for in the durable power of attorney and does  
26 not affect the attorney-in-fact's responsibilities or potential  
27 liability to the principal.

1           (7) ~~Subsections~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**  
2 **SUBSECTION, SUBSECTIONS** (2) to (6) do not apply to any of the  
3 following:

4           (a) A durable power of attorney executed before October 1,  
5 2012. **SUBSECTIONS (3) (F) AND (4) (F) DO NOT APPLY TO A DURABLE POWER**  
6 **OF ATTORNEY EXECUTED BEFORE OCTOBER 1, 2015.**

7           (b) A delegation under section 5103 or a similar power of  
8 attorney created by a parent or guardian regarding the care,  
9 custody, or property of a minor child or ward.

10          (c) A patient advocate designation or a similar power of  
11 attorney relating to the principal's health care.

12          (d) A durable power of attorney that is coupled with an  
13 interest in the subject matter of the power.

14          (e) A durable power of attorney that is contained in or is  
15 part of a loan agreement, security agreement, pledge agreement,  
16 escrow agreement, or other similar transaction.

17          (f) A durable power of attorney in connection with a  
18 transaction with a joint venture, limited liability company,  
19 partnership, limited partnership, limited liability partnership,  
20 corporation, condominium, condominium association, condominium  
21 trust, or similar entity, including, without limitation, a voting  
22 agreement, voting trust, joint venture agreement, royalty  
23 agreement, license agreement, proxy, shareholder's agreement,  
24 operating agreement, partnership agreement, management agreement,  
25 subscription agreement, certification of incorporation, bylaws, or  
26 other agreement that primarily relates to such an entity.

27          (g) A power of attorney given primarily for a business or a



1 commercial purpose.

2 (h) A power of attorney created on a form prescribed by a  
3 government or a governmental subdivision, agency, or  
4 instrumentality for a governmental purpose.

5 SEC. 5501A. (1) WITHIN 56 DAYS AFTER RECEIPT OF AN ATTORNEY-  
6 IN-FACT'S WRITTEN REQUEST FOR ACCESS TO DIGITAL PROPERTY, OWNERSHIP  
7 OF DIGITAL PROPERTY, OR A COPY OF A DIGITAL ASSET, A DIGITAL  
8 CUSTODIAN SHALL PROVIDE THE ATTORNEY-IN-FACT WITH THE REQUESTED  
9 ACCESS, OWNERSHIP, OR COPY, AS APPLICABLE. AN ATTORNEY-IN-FACT'S  
10 WRITTEN REQUEST UNDER THIS SUBSECTION MUST BE ACCOMPANIED BY A COPY  
11 OF THE DURABLE POWER OF ATTORNEY GRANTING THE ATTORNEY-IN-FACT  
12 POWER OVER DIGITAL PROPERTY. IF THE DIGITAL CUSTODIAN FAILS TO  
13 COMPLY WITH THE REQUEST, THE ATTORNEY-IN-FACT MAY PETITION THE  
14 COURT FOR AN ORDER DIRECTING COMPLIANCE.

15 (2) A DIGITAL CUSTODIAN IS NOT LIABLE FOR AN ACTION DONE IN  
16 COMPLIANCE WITH SUBSECTION (1).

17 Sec. 7817. Without limiting the authority conferred by section  
18 7816, a trustee has all of the following powers:

19 (a) To take possession, custody, or control of property  
20 transferred to the trust and accept or reject additions to the  
21 trust.

22 (b) To retain property that the trustee receives, including  
23 property in which the trustee is personally interested, in  
24 accordance with the Michigan prudent investor rule.

25 (c) To receive property from a fiduciary or another source  
26 that is acceptable to the trustee.

27 (d) To perform, compromise, or refuse to perform a contract of

1 the settlor that is an obligation of the trust, as the trustee may  
2 determine under the circumstances. In performing an enforceable  
3 contract by the settlor to convey or lease land, if the contract  
4 for a conveyance requires the giving of a warranty, the deed or  
5 other instrument of conveyance to be given by the trustee shall  
6 contain the warranty required. The warranty is binding on the trust  
7 as though made by the settlor, but does not bind the trustee except  
8 in the trustee's fiduciary capacity. The trustee, among other  
9 possible courses of action, may do either of the following:

10 (i) Execute and deliver a deed of conveyance for cash payment  
11 of money remaining due or the purchaser's note for the money  
12 remaining due secured by a mortgage on the land.

13 (ii) Deliver a deed in escrow with directions that the  
14 proceeds, when paid in accordance with the escrow agreement, be  
15 paid to the trustee, as designated in the escrow agreement.

16 (e) To satisfy a settlor's written charitable pledge  
17 irrespective of whether the pledge constitutes a binding obligation  
18 of the settlor or was properly presented as a claim, if in the  
19 trustee's judgment the settlor would have wanted the pledge  
20 completed under the circumstances.

21 (f) To deposit trust property in a financial institution,  
22 including a financial institution operated by or affiliated with  
23 the trustee and to invest and reinvest trust property as would a  
24 prudent investor acting in accordance with the Michigan prudent  
25 investor rule and to deposit securities with a depository or other  
26 financial institution.

27 (g) To acquire property, including property in this or another

1 state or country, in any manner for cash or on credit, at public or  
2 private sale; and to manage, develop, improve, exchange, partition,  
3 or change the character of trust property.

4 (h) To make an ordinary or extraordinary repair or alteration  
5 in a building or another structure, to demolish an improvement, or  
6 to raze an existing or erect a new party wall or building.

7 (i) To subdivide, develop, or dedicate land to public use; to  
8 make or obtain the vacation of a plat or adjust a boundary; to  
9 adjust a difference in valuation on exchange or partition by giving  
10 or receiving consideration; or to dedicate an easement to public  
11 use without consideration.

12 (j) To enter for any purpose into a lease as lessor or lessee,  
13 with or without an option to purchase or renew, for a period within  
14 or extending beyond the duration of the trust.

15 (k) To enter into a lease or arrangement for exploration and  
16 removal of minerals or another natural resource or to enter into a  
17 pooling or unitization agreement for a period within or extending  
18 beyond the duration of the trust.

19 (l) To abandon or decline to administer property if, in the  
20 trustee's opinion, the property is valueless, or is so encumbered  
21 or in such a condition that it is of no benefit to the trust.

22 (m) To vote a stock or other security in person, by general or  
23 limited proxy, or in another manner provided by law, or enter into  
24 or continue a voting trust agreement.

25 (n) To pay a call, assessment, or other amount chargeable or  
26 accruing against or on account of a security, and sell or exercise  
27 stock subscription or conversion rights.

1           (o) To hold property in the name of a nominee or in another  
2 form without disclosure of the interest of the trust. However, the  
3 trustee is liable for an act of the nominee in connection with the  
4 property so held.

5           (p) To insure the trust property against damage, loss, or  
6 liability and to insure the trustee, the trustee's agents, and the  
7 trust beneficiaries against liability arising from the  
8 administration of the trust.

9           (q) To borrow property, with or without security, for any  
10 purpose from the trustee or others and to mortgage or pledge trust  
11 property for a period within or extending beyond the duration of  
12 the trust.

13           (r) To effect a fair and reasonable compromise with a debtor  
14 or obligor, or extend, renew, or in any manner modify the terms of  
15 an obligation owing to the trust. If the trustee holds a mortgage,  
16 pledge, or another lien on property of another person, the trustee  
17 may, instead of foreclosure, accept a conveyance or transfer of  
18 encumbered property from the property's owner in satisfaction of  
19 the indebtedness secured by a lien.

20           (s) To pay a tax, an assessment, the trustee's compensation,  
21 or another expense incident to the administration of the trust.

22           (t) To sell or exercise a subscription or conversion right or  
23 to consent, directly or through a committee or another agent, to  
24 the reorganization, consolidation, merger, dissolution, or  
25 liquidation of a business enterprise.

26           (u) To allocate an item of income or expense to either trust  
27 income or principal, as permitted or provided by law.

1 (v) To employ, and pay reasonable compensation for services  
2 performed by, a person, including an auditor, investment advisor,  
3 accountant, appraiser, broker, custodian, rental agent, realtor, or  
4 agent, even if the person is associated with the trustee, for the  
5 purpose of advising or assisting the trustee in the performance of  
6 an administrative duty; to act without independent investigation  
7 ~~upon~~ **ON** such a person's recommendation; and, instead of acting  
8 personally, to employ 1 or more agents to perform an act of  
9 administration, whether or not discretionary.

10 (w) To employ an attorney to perform necessary legal services  
11 or to advise or assist the trustee in the performance of the  
12 trustee's administrative duties, even if the attorney is associated  
13 with the trustee, and to act without independent investigation ~~upon~~  
14 **ON** the attorney's recommendation. An attorney employed under this  
15 subdivision shall receive reasonable compensation for his or her  
16 employment.

17 (x) To prosecute, defend, arbitrate, settle, release,  
18 compromise, or agree to indemnify an action, claim, or proceeding  
19 in any jurisdiction or under an alternative dispute resolution  
20 procedure. The trustee may act under this subdivision for the  
21 trustee's protection in the performance of the trustee's duties.

22 (y) To sell, exchange, partition, or otherwise dispose of, or  
23 grant an option with respect to, trust property for any purpose  
24 ~~upon~~ **ON** any terms or conditions for a period within or extending  
25 beyond the duration of the trust.

26 (z) To continue or participate in a business or enterprise in  
27 any manner, in any form, and for any length of time.

1           (aa) To change the form, in any manner, of a business or  
2 enterprise in which the settlor was engaged at the time of death.

3           (bb) To provide for exoneration of the trustee from personal  
4 liability in a contract entered into on behalf of the trust.

5           (cc) To respond to environmental concerns and hazards  
6 affecting trust property as provided in section 7818.

7           (dd) To collect, pay, contest, settle, release, agree to  
8 indemnify against, compromise, or abandon a claim of or against the  
9 trust, including a claim against the trust by the trustee.

10          (ee) To respond to a tax matter as provided in section 7819.

11          (ff) To make a payment of money, or other property instead of  
12 money, to or for a minor or incapacitated trust beneficiary as  
13 provided in section 7820.

14          (gg) To make a distribution or division of trust property in  
15 cash or in kind, or both; to allot a different kind or  
16 disproportionate portion of, or an undivided interest in, trust  
17 property among beneficiaries and determine the value of allotted  
18 trust property; or to distribute an unclaimed share in the same  
19 manner as described in section 3916.

20          (hh) To transfer the property of a trust to another  
21 jurisdiction and appoint, compensate, or remove a successor  
22 trustee, individual or corporate, for trust property in another  
23 jurisdiction, with any trust powers set out in this part that the  
24 trustee delegates to the successor trustee.

25          (ii) To execute and deliver an instrument that accomplishes or  
26 facilitates the exercise of a power vested in the trustee.

27          (jj) To select a mode of payment under any employee benefit or

1 retirement plan, annuity, or life insurance payable to the trustee,  
2 exercise rights thereunder, including exercise of the right to  
3 indemnification for expenses and against liabilities, and take  
4 appropriate action to collect the proceeds.

5 (kk) To make loans out of trust property, including loans to a  
6 trust beneficiary on terms and conditions the trustee considers to  
7 be fair and reasonable under the circumstances. The trustee has a  
8 lien on future distributions for repayment of loans made under this  
9 subdivision.

10 (ll) To pledge trust property to guarantee loans made by others  
11 to the trust beneficiary.

12 (mm) To resolve a dispute concerning the interpretation of the  
13 trust or its administration by mediation, arbitration, or other  
14 procedure for alternative dispute resolution.

15 (nn) On termination of the trust, to exercise the powers  
16 appropriate to wind up the administration of the trust and  
17 distribute the trust property to the persons entitled to it.

18 (oo) **SUBJECT TO STATE AND FEDERAL LAW, INCLUDING COPYRIGHT**  
19 **LAW, AND THE APPLICABLE TERMS-OF-SERVICE AGREEMENT, EXERCISE**  
20 **CONTROL OVER AND RIGHTS IN DIGITAL PROPERTY ACCORDING TO THE TERMS**  
21 **OF THE TRUST.**

22 **SEC. 7912A. (1) WITHIN 56 DAYS AFTER RECEIPT OF A TRUSTEE'S**  
23 **WRITTEN REQUEST FOR ACCESS TO DIGITAL PROPERTY, OWNERSHIP OF**  
24 **DIGITAL PROPERTY, OR A COPY OF A DIGITAL ASSET, A DIGITAL CUSTODIAN**  
25 **SHALL PROVIDE THE TRUSTEE WITH THE REQUESTED ACCESS, OWNERSHIP, OR**  
26 **COPY, AS APPLICABLE. A TRUSTEE'S WRITTEN REQUEST UNDER THIS**  
27 **SUBSECTION MUST BE ACCOMPANIED BY A CERTIFICATE OF TRUST. IF THE**

1 DIGITAL CUSTODIAN FAILS TO COMPLY WITH THE REQUEST, THE TRUSTEE MAY  
2 PETITION THE COURT FOR AN ORDER DIRECTING COMPLIANCE.

3 (2) A DIGITAL CUSTODIAN IS NOT LIABLE FOR AN ACTION DONE IN  
4 COMPLIANCE WITH SUBSECTION (1).