

HOUSE BILL No. 5638

May 11, 2016, Introduced by Rep. Lucido and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 2404 (MCL 700.2404), as amended by 2000 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2404. (1) The decedent's surviving spouse is also
2 entitled to household furniture, automobiles, furnishings,
3 appliances, and personal effects from the estate up to a value not
4 to exceed \$10,000.00 more than the amount of any security interests
5 to which the property is subject. ~~If~~**EXCEPT AS OTHERWISE PROVIDED**
6 **IN SUBSECTION (4), IF** there is no surviving spouse, the decedent's
7 children are entitled jointly to the same value.

8 (2) ~~If~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4), IF**
9 encumbered assets are selected and the value in excess of security

interests, plus that of other exempt property, is less than \$10,000.00, or if there is not \$10,000.00 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the \$10,000.00 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to assets to make up a deficiency of exempt property abates as necessary to permit payment of all of the following in the following order:

(a) Administration costs and expenses.

(b) Reasonable funeral and burial expenses.

(c) Homestead allowance.

(d) Family allowance.

(3) The rights under this section are in addition to a benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided, by intestate succession, or by elective share. The \$10,000.00 amount ~~expressed~~ **DESCRIBED** in this section ~~shall~~ **MUST** be adjusted as provided in section 1210.

(4) A DECEDENT BY WILL OR OTHER SIGNED WRITING MAY EXPRESSLY EXCLUDE OR LIMIT THE RIGHT OF A CHILD WHO IS NOT A MINOR OR DEPENDENT CHILD TO MAKE A CLAIM THAT THE CHILD IS OTHERWISE ENTITLED TO UNDER THIS SECTION. THE EXCLUSION OR LIMITATION DESCRIBED IN THIS SUBSECTION MUST BE EXPRESSLY STATED BY THE DECEDENT, AND MUST SPECIFICALLY REFERENCE THE ALLOWANCE DESCRIBED IN THIS SECTION IN A MANNER SUFFICIENT TO EXPRESS THE DECEDENT'S INTENT. AN EXCLUSION OR LIMITATION STATED BY A DECEDENT BY WILL

1 UNDER SECTION 2101, WITHOUT ADDITIONAL LANGUAGE SPECIFICALLY
2 STATING AN INTENT TO EXCLUDE OR LIMIT A RIGHT PROVIDED UNDER THIS
3 SECTION, IS NOT CONSIDERED SUFFICIENT LANGUAGE TO EXCLUDE OR LIMIT
4 A RIGHT PROVIDED IN THIS SECTION.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.