

SENATE BILL NO. 134

March 06, 2025, Introduced by Senator SINGH and referred to Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
by amending the title and sections 2, 4, 5, 10, and 15 (MCL
445.902, 445.904, 445.905, 445.910, and 445.915), the title as
amended by 2022 PA 153, section 2 as amended by 2018 PA 189,
section 4 as amended by 2014 PA 251, and section 5 as amended by
2020 PA 296, and by adding sections 4a, 5a, 8a, and 21a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to prohibit certain methods, acts, and practices in

1 trade or commerce; to require the disclosure, maintenance, and
2 verification of certain information for consumer protection; to
3 prescribe certain powers and duties; to provide for certain
4 remedies, damages, **fin**es, and penalties; to provide for the
5 promulgation of rules; to provide for certain investigations; ~~and~~
6 to prescribe penalties; **and to create a fund.**

7 Sec. 2. (1) As used in this act:

8 (a) Subject to subsection (2), "business opportunity" means
9 the sale or lease of any products, equipment, supplies, or services
10 for the purpose of enabling the purchaser to start a business, and
11 in which the seller represents 1 or more of the following:

12 (i) That the seller will provide locations or assist the
13 purchaser in finding locations for the use or operation of vending
14 machines, racks, display cases, or other similar devices, or
15 currency operated amusement machines or devices, on premises
16 ~~neither~~**that are not** owned ~~nor~~**or** leased by the purchaser or
17 seller.

18 (ii) That the seller may, in the ordinary course of business,
19 purchase any or all products made, produced, fabricated, grown,
20 bred, or modified by the purchaser using **in** whole or in part the
21 supplies, services, or chattels sold to the purchaser.

22 (iii) The seller guarantees that the purchaser will derive
23 income from the business opportunity that exceeds the price paid
24 for the business opportunity; or that the seller will refund all or
25 part of the price paid for the business opportunity, or repurchase
26 any of the products, equipment, supplies, or chattels supplied by
27 the seller, if the purchaser is unsatisfied with the business
28 opportunity. As used in this subparagraph, "guarantee" means a
29 written or oral representation that would cause a reasonable person

1 in the purchaser's position to believe that income is assured.

2 (iv) That the seller will provide a sales program or marketing
3 program ~~which~~**that** will enable the purchaser to derive income from
4 the business opportunity that exceeds the price paid for the
5 business opportunity. This subparagraph does not apply to the sale
6 of a marketing program made in conjunction with the licensing of a
7 federally registered trademark or a federally registered service
8 mark, or to the sale of a business opportunity for which the
9 purchaser pays less than \$500.00 in total for the business
10 opportunity from any time before the date of sale to any time
11 within 6 months after the date of sale.

12 (b) "Documentary material" includes the original or copy of a
13 book, record, report, memorandum, paper, communication, tabulation,
14 map, chart, photograph, mechanical transcription, or other tangible
15 document or recording, wherever situated.

16 (c) **"Elder" means an individual who is 80 years of age or**
17 **older.**

18 (d) **"Nonprofit organization" means an entity incorporated to**
19 **carry out any lawful purpose that does not involve pecuniary profit**
20 **or gain for the entity's directors, officers, shareholders, or**
21 **members.**

22 (e) ~~(e)~~—"Performing group" means a vocal or instrumental group
23 seeking to use the name of another group that has previously
24 released a commercial sound recording under that name.

25 (f) ~~(d)~~—"Person" means an individual, corporation, limited
26 liability company, trust, partnership, incorporated or
27 unincorporated association, or other legal entity.

28 (g) ~~(e)~~—"Recording group" means a vocal or instrumental group
29 that meets both of the following:

1 (i) At least 1 of the members of the group has previously
2 released a commercial sound recording under the group's name.

3 (ii) At least 1 of the members of the group has a legal right
4 to use the group's name, by virtue of use or operation under the
5 group's name without abandoning the name of or affiliation with the
6 group.

7 (h) **"Small business" means a business concern incorporated or**
8 **doing business in this state, including an affiliate of the**
9 **business concern, that is independently owned and operated and that**
10 **either employs fewer than 250 full-time employees or that has gross**
11 **annual sales of less than \$6,000,000.00.**

12 (i) ~~(f)~~—"Sound recording" means a work that results from the
13 fixation on a material object of a series of musical, spoken, or
14 other sounds regardless of the nature of the material object, such
15 as a disk, tape, or other phono-record, in which the sounds are
16 embodied.

17 (j) ~~(g)~~—"Trade or commerce" means the conduct of a business
18 providing, **directly or indirectly**, goods, property, or ~~service~~
19 **services that are** primarily **used** for personal, family, ~~or~~
20 household, **nonprofit organization, or small business** purposes. ~~and~~
21 **Trade or commerce** includes the advertising, solicitation, offering
22 for sale or rent, sale, lease, or distribution of a service or
23 property, tangible or intangible, real, personal, or mixed, or any
24 other article, or a business opportunity, **and includes the**
25 **provision of goods, property, or services for the purpose of**
26 **enhancing an individual's education, income, or employability.**

27 ~~"Trade or commerce"~~ **Trade or commerce** does not include the purchase
28 or sale of a franchise, as **that term is** defined in section 2 of the
29 franchise investment law, 1974 PA 269, MCL 445.1502, but does

include a pyramid promotional scheme as **that term is** defined in section 2 of the pyramid promotional scheme act, **2018 PA 186**, MCL 445.2582.

(k) "Vulnerable adult" means any of the following:

(i) An individual who is 18 years of age or older and who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skills required to live independently, whether or not the individual has been determined by a court to be incapacitated.

(ii) An adult as that term is defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(iii) An adult as that term is defined in section 11 of the social welfare act, 1939 PA 280, MCL 400.11.

(2) As used in this act, "business opportunity" does not include a sale of a franchise as **that term is** defined in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502, or the sale of an ongoing business if the owner of the business sells and intends to sell only that single business opportunity.

Sec. 4. (1) This act does not apply to either of the following:

(a) ~~A transaction or conduct specifically~~ **specific method, act, or practice that is expressly** authorized under ~~the laws administered by a regulatory board or officer acting under statutory authority of this state or the United States~~ **or by an agency, board, or officer administering the laws of this state or the United States. This subdivision does not exempt a method, act, or practice from this act solely because either of the following applies:**

1 (i) The method, act, or practice is a part of a general
2 transaction that is specifically authorized under the laws of this
3 state or the United States.

4 (ii) The method, act, or practice, or the general transaction
5 of which the method, act, or practice is a part, is subject to
6 governmental regulation.

7 (b) An act done by the publisher, owner, agent, or employee of
8 a newspaper, periodical, directory, radio or television station, or
9 other communications medium in the publication or dissemination of
10 an advertisement unless the publisher, owner, agent, or employee
11 knows or, under the circumstances, reasonably should know of the
12 false, misleading, or deceptive character of the advertisement or
13 has a direct financial interest in the sale or distribution of the
14 advertised goods, property, or service.

15 (2) Except for the purposes of an action filed by a person
16 under section 11, this act does not apply to or create a cause of
17 action for an unfair, unconscionable, or deceptive method, act, or
18 practice that is made unlawful by any of the following:

19 (a) The banking code of 1999, 1999 PA 276, MCL 487.11101 to
20 487.15105.

21 (b) 1939 PA 3, MCL 460.1 to 460.11.

22 (c) The motor carrier act, 1933 PA 254, MCL 475.1 to
23 ~~479.43.~~ **479.42.**

24 (d) The savings bank act, 1996 PA 354, MCL 487.3101 to
25 487.3804.

26 (e) The credit union act, 2003 PA 215, MCL 490.101 to 490.601.

27 (3) This act does not apply to or create a cause of action for
28 an unfair, unconscionable, or deceptive method, act, or practice
29 that is made unlawful by chapter 20 of the insurance code of 1956,

1 1956 PA 218, MCL 500.2001 to 500.2093, if either of the following
2 is met:

3 (a) The method, act, or practice occurred on or after March
4 28, 2001.

5 (b) The method, act, or practice occurred before March 28,
6 2001. However, this subdivision does not apply to or limit a cause
7 of action filed with a court concerning a method, act, or practice
8 if the cause of action was filed in a court of competent
9 jurisdiction on or before June 5, 2014.

10 (4) The burden of proving an exemption from this act is ~~upon~~
11 **on** the person claiming the exemption.

12 **Sec. 4a. This act must be liberally construed to effectuate**
13 **the act's purpose, and the remedies provided under this act are in**
14 **addition to any other remedy provided by law.**

15 Sec. 5. (1) If the attorney general has probable cause to
16 believe that a person has engaged, is engaging, or is about to
17 engage in a method, act, or practice that is unlawful under section
18 3, and gives notice ~~pursuant to~~ **required by** this section, the
19 attorney general may bring an action in accordance with principles
20 of equity to restrain the defendant by temporary or permanent
21 injunction from engaging in the method, act, or practice. ~~The~~

22 **(2) An action under this section** may be brought in the circuit
23 court of the county where the defendant is established or conducts
24 business or, if the defendant is not established in this state, in
25 the circuit court of Ingham County.

26 **(3) The court may award costs to the prevailing party in an**
27 **action under this section.**

28 **(4) ~~Except as otherwise provided in this section,~~ Subject to**
29 **subsection (5), for each** persistent and knowing violation of

section 3, the court **in an action under this section** may assess the defendant a civil fine of not more than \$25,000.00. ~~For a violation of section 3(1) (kk), each performance or production is a separate violation. For a violation of section 3l, the court may assess the defendant a civil fine of not more than \$1,000.00 per violation. Each day a violation of section 3l occurs counts as a separate violation.~~

(5) For a violation of section 3 by a person, each of the following are considered a separate violation:

(a) Each person solicited by the person alleged to have violated section 3.

(b) Each advertisement distributed by the person.

(c) Each misrepresentation or deceptive statement contained in a solicitation.

(d) Each time that an advertisement was received or was published, broadcast, or otherwise disseminated by the person.

(6) ~~(2)~~ Unless waived by the court on good cause shown not less than 10 days before the commencement of an action under this section, the attorney general shall notify the person of ~~his or her~~ **the** intended action and give the person an opportunity to cease and desist from the alleged unlawful method, act, or practice or to confer with the attorney general in person, by counsel, or by other representative as to the proposed action before the proposed filing date.

(7) The notice **required under subsection (6)** may be given to the person by mail, postage prepaid, to ~~his or her~~ **the person's** usual place of business or, if the person does not have a usual place of business, to ~~his or her~~ **the person's** last known address, or, if the person is a corporation, only to a resident agent who is

1 designated to receive service of process or to an officer of the
2 corporation.

3 **(8) ~~(3)~~** A prosecuting attorney or law enforcement officer
4 receiving notice of an alleged violation of this act, or of a
5 violation of an injunction, order, decree, or judgment issued in an
6 action brought ~~pursuant to~~ **under** this section, or of an assurance
7 under this act, shall immediately forward written notice of the
8 violation together with any information ~~he or she may have~~ **that the**
9 **prosecuting attorney or law enforcement officer has** to the office
10 of the attorney general.

11 **(9) ~~(4)~~** A person ~~who~~ **that** knowingly violates the terms of an
12 injunction, order, decree, or judgment issued under this section
13 ~~shall~~ **must** forfeit and pay to the state a civil fine of not more
14 than \$5,000.00 for each violation.

15 **(10)** For the purposes of this section, the court issuing an
16 injunction, order, decree, or judgment shall retain jurisdiction,
17 the cause ~~shall be~~ **is** continued, and the attorney general may
18 petition for recovery of a civil fine as provided by this section.

19 **Sec. 5a. (1) Subject to subsections (2), (3), and (4), a**
20 **person that uses or has used a method, act, or practice that**
21 **targets an elder or vulnerable adult in violation of this act is**
22 **subject to a civil fine of not more than \$25,000.00 for each**
23 **violation, unless the violation that targets an elder or vulnerable**
24 **adult is persistent and knowing, in which case the person is**
25 **subject to a civil fine of not more than \$50,000.00 for each**
26 **violation.**

27 **(2) For a violation of this act by a person that uses a**
28 **method, act, or practice that targets an elder or vulnerable adult,**
29 **each of the following are considered a separate violation:**

1 (a) Each elder or vulnerable adult solicited by the person.

2 (b) Each advertisement distributed by the person.

3 (c) Each misrepresentation or deceptive statement contained in
4 a solicitation.

5 (d) Each time that the advertisement was received or was
6 published, broadcast, or otherwise disseminated by the person.

7 (3) In determining the amount of the civil fine under
8 subsection (1), the court may consider any of the following:

9 (a) Whether the violation was made in good or bad faith.

10 (b) The injury to the public.

11 (c) The person's ability to pay.

12 (d) The public's interest in eliminating the benefits to the
13 person that were derived from the violation.

14 (e) The necessity of vindicating the authority of this state
15 and the strong need to deter any future violation.

16 (4) The civil fine described in subsection (1) is in addition
17 to any other civil fine or relief available under this act or any
18 other law of this state.

19 Sec. 8a. (1) If the attorney general or a prosecuting attorney
20 has reason to believe that a person has information or is in
21 possession, custody, or control of any documentary material or
22 tangible object that is relevant to an investigation of a violation
23 of this act, the attorney general, or a prosecuting attorney with
24 the permission of or at the request of the attorney general, may,
25 before bringing an action under this act, serve the person with a
26 written demand to do 1 or more of the following:

27 (a) Appear and be examined under oath.

28 (b) Answer interrogatories.

29 (c) Produce any documentary material or tangible object for

1 inspection and copying.

2 (2) A written demand must contain all of the following:

3 (a) A description of the nature of the conduct constituting
4 the violation of this act that is under investigation.

5 (b) If the demand requires the appearance of the person, a
6 reasonable time and place for the appearance.

7 (c) If the demand requires written interrogatories, both of
8 the following:

9 (i) A copy of the written interrogatories.

10 (ii) A reasonable time within which the person must answer the
11 written interrogatories.

12 (d) If the demand requires the production of any documentary
13 material or tangible object, all of the following:

14 (i) A description of the documentary material or tangible
15 object with sufficient definiteness to permit the documentary
16 material or tangible object to be fairly identified by the person.

17 (ii) A reasonable time and place for production of the
18 documentary material or tangible object.

19 (iii) The name of the person that will be the custodian of the
20 documentary material or tangible object.

21 (e) A notice that the person may file an objection to or
22 reason for not complying with the written demand with the serving
23 entity on or before the return date.

24 (f) A summary of subsections (3) and (4).

25 (3) At any time before the return date or not later than 10
26 days after receiving the written demand, whichever is earlier, a
27 person subject to the written demand may petition the circuit court
28 of Ingham County for a protective order, stating good cause, to do
29 any of the following:

1 (a) Extend the return date for a reasonable time.

2 (b) Modify the demand.

3 (c) Set aside the demand.

4 (4) If a person files a petition under subsection (3), the
5 person must give the serving entity not less than 10 days' notice
6 of a hearing on the petition and the serving entity must be given
7 an opportunity to respond to the petition.

8 (5) If a person does not secure a protective order under
9 subsection (3) and the person does not comply with the written
10 demand by the return date, the serving entity, on notice to the
11 person, may apply to a court for an order compelling the person's
12 compliance with the written demand.

13 (6) If a court contemplating the order under subsection (5)
14 finds there is reasonable cause to believe that this act is being,
15 has been, or is about to be violated, that the person that is
16 committing, has committed, or is about to commit the violation
17 possesses information, documentary material, or a tangible object
18 that is relevant to the investigation by the attorney general or
19 prosecuting attorney, that the person has left this state or is
20 about to leave this state, and that an order is necessary for the
21 enforcement of this act, the court may do either or both of the
22 following:

23 (a) Require the person to comply with the written demand.

24 (b) Forbid the removal, concealment, withholding, destruction,
25 mutilation, falsification, or alteration of any documentary
26 material or tangible object identified under subsection (2)(d) that
27 is in the possession, custody, or control of the person.

28 (7) A person subject to a written demand or a court order
29 under this section that, with the intent to avoid, evade, or

1 prevent compliance, in whole or in part, removes, conceals,
2 withholds, destroys, mutilates, falsifies, or by any other means
3 alters any documentary material or tangible object identified under
4 subsection (2)(d) in the possession, custody, or control of the
5 person is subject to a civil fine of not more than \$10,000.00 per
6 violation.

7 (8) Except as provided in subsection (9), any testimony,
8 answer, documentary material, or tangible object received by the
9 attorney general or a prosecuting attorney in accordance with a
10 written demand or order under this section is confidential until
11 the time that an enforcement action is brought by the attorney
12 general or prosecuting attorney under this act.

13 (9) The attorney general or a prosecuting attorney may
14 disclose any testimony, answer, documentary material, or tangible
15 object described in subsection (8) in any of the following
16 circumstances:

17 (a) If the disclosure is to a law enforcement official.

18 (b) If the attorney general or prosecuting attorney considers
19 the disclosure necessary to enforce this act.

20 (c) If disclosure is ordered by a court.

21 (d) If the disclosure is after confidentiality is waived by
22 the person subject to the written demand and the person that has
23 testified, answered interrogatories, or produced material.

24 (10) As used in this section:

25 (a) "Return date" means the date specified in subsection
26 (2)(b), (c)(ii), or (d)(ii), as applicable.

27 (b) "Serving entity" means the attorney general or prosecuting
28 attorney that served the written demand.

29 (c) "Written demand" means a written demand under subsection

1 (1) .

2 Sec. 10. (1) The attorney general may bring a class action on
3 behalf of persons residing in or injured in this state ~~for the to~~
4 **recover** actual damages **or \$250.00, whichever is greater, for each**
5 **class member**, caused by any of the following:

6 (a) A method, act, or practice in trade or commerce defined as
7 unlawful under section 3.

8 (b) A method, act, or practice in trade or commerce declared
9 to be unlawful under section ~~3(1)~~ **3(1)** by a final judgment of the
10 circuit court or an appellate court of this state ~~which that~~ is
11 either reported officially or made available for public
12 dissemination ~~pursuant to under~~ section 9 by the attorney general
13 not less than 30 days before the method, act, or practice on which
14 the action is based occurs.

15 (c) A method, act, or practice in trade or commerce declared
16 by a ~~circuit court~~ **Circuit Court** of appeals ~~Appeals~~ or the ~~supreme~~
17 ~~court~~ **Supreme Court** of the United States to be an unfair or
18 deceptive act or practice within the meaning of section 5(a)(1) of
19 the federal trade commission act, ~~15 U.S.C. 45(a)(1),~~ **15 USC 45**, in
20 a decision ~~which that~~ affirms or directs the affirmance of a cease
21 and desist order issued by the ~~federal trade commission~~ **Federal**
22 **Trade Commission** if the order is final within the meaning of
23 section 5(g) of the federal trade commission act, ~~15 U.S.C. 45(g),~~
24 **15 USC 45**, and ~~which that~~ is officially reported not less than 30
25 days before the method, act, or practice on which the action is
26 based occurs. For purposes of this subdivision, a method, act, or
27 practice ~~shall is~~ not be deemed to be unfair or deceptive within
28 the meaning of section 5(a)(1) of the federal trade commission act
29 solely because the method, act, or practice is made unlawful by

another federal ~~statute-law~~ that refers to or incorporates section 5(a)(1) of the federal trade commission act, **15 USC 45**.

(2) On motion of the attorney general and without bond in an action under this section the court may make an appropriate order: to ~~reimburse~~ **do 1 or more of the following:**

(a) **Reimburse** persons ~~who-that~~ have suffered damages. ~~;-to~~ carry

(b) **Carry** out a transaction in accordance with the aggrieved persons' reasonable expectations. ~~;-to-strike~~

(c) **Strike** or limit the application of unconscionable clauses of contracts to avoid an unconscionable result. ~~;-or-to-grant~~

(d) **Grant** other appropriate relief.

(3) The court after a hearing **in an action under this section** may appoint a receiver or order sequestration of the defendant's assets if it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal, or dispose of ~~his-the~~ assets to the detriment of members of the class.

(4) ~~(3)-~~If at any stage of the proceedings **in an action under this section** the court requires that notice be sent to the class, the attorney general may petition the court to require the defendant to bear the cost of the notice. In determining whether to impose the cost on the defendant or the state, the court shall consider the probability that the attorney general will succeed on the merits of the action.

(5) ~~(4)-~~If the defendant **in an action under this section** shows by a preponderance of the evidence that a violation of this act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery ~~shall-must~~ be limited to actual damages.

1 (6) ~~(5) An action shall not be brought by the~~ **The** attorney
 2 general **shall not bring an action** under this section more than 6
 3 years after the occurrence of the method, act, or practice ~~which~~
 4 **that** is the subject of the action ~~nor or~~ more than 1 year after the
 5 last payment in a transaction involving the method, act, or
 6 practice ~~which~~ **that** is the subject of the action, whichever period
 7 of time ends on a later date.

8 Sec. 15. ~~A~~ **Except as otherwise provided in section 8a, a**
 9 prosecuting attorney may conduct an investigation ~~pursuant to~~ **under**
 10 this act and may institute and prosecute an action under this act
 11 in the same manner as the attorney general.

12 **Sec. 21a. (1) The consumer protection and antitrust revolving**
 13 **enforcement and education fund is created in the state treasury.**

14 **(2) The state treasurer shall deposit attorney fees, costs,**
 15 **and proceeds in accordance with subsection (3) and damages and**
 16 **refunds in accordance with subsection (4) in the fund and may**
 17 **deposit money or assets received from any other source in the fund.**

18 **(3) Except as otherwise directed by a court or agreed to by**
 19 **the parties, attorney fees, costs, and proceeds must be deposited**
 20 **into the fund as follows:**

21 **(a) If the amount of the attorney fees, costs, and proceeds is**
 22 **not more than \$500,000.00, 100% of the amount of attorney fees,**
 23 **costs, and proceeds must be deposited into the fund.**

24 **(b) If the amount of the attorney fees, costs, and proceeds is**
 25 **more than \$500,000.00 but not more than \$1,000,000.00, 100% of the**
 26 **first \$500,000.00 of attorney fees, costs, and proceeds and 50% of**
 27 **the remainder must be deposited into the fund.**

28 **(c) If the amount of the attorney fees, costs, and proceeds is**
 29 **more than \$1,000,000.00, 100% of the first \$500,000.00 of attorney**

1 fees, costs, and proceeds, 50% of the next \$500,000.00 of attorney
2 fees, costs, and proceeds, and 10% of the remainder must be
3 deposited into the fund.

4 (4) Except as otherwise directed by a court or agreed to by
5 the parties, the following damages or refunds must be deposited
6 into the fund:

7 (a) Any de minimus amount of damages or refunds.

8 (b) Any amount of the damages or refunds that relate to
9 persons that could not be identified by the department of attorney
10 general.

11 (5) The state treasurer shall direct the investment of money
12 in the fund and credit interest and earnings from the investments
13 to the fund.

14 (6) Money in the fund at the close of the fiscal year remains
15 in the fund and does not lapse to the general fund.

16 (7) The department of attorney general is the administrator of
17 the fund for audits of the fund.

18 (8) The department of attorney general shall expend money from
19 the fund on appropriation only for 1 or more of the following
20 purposes:

21 (a) To fund positions and pay expenses incurred by the
22 attorney general related to the enforcement of any of the
23 following:

24 (i) This act.

25 (ii) A law relating to anti-competitive conduct within trade or
26 commerce.

27 (iii) A law with a purpose of protecting charitable gifts or
28 charitable assets.

29 (b) At the attorney general's discretion, to educate the

1 public regarding consumer protection matters.

2 (9) As used in this section:

3 (a) "Attorney fees, costs, and proceeds" means attorney fees,
4 costs, and proceeds obtained by the department of attorney general
5 from a designated action.

6 (b) "Damages or refunds" means damages or refunds obtained by
7 the department of attorney general from a designated action.

8 (c) "Designated action" means a judgment, settlement,
9 compromise, or assurance of discontinuance or voluntary compliance,
10 or other agreement relating to any of the following:

11 (i) An alleged violation of this act or any other law with a
12 purpose of protecting persons against fraudulent or other unfair or
13 deceptive trade practices.

14 (ii) Any alleged anti-competitive conduct within trade or
15 commerce.

16 (iii) An alleged violation of law with a purpose of protecting
17 charitable gifts or charitable assets.