

SENATE BILL NO. 656

November 09, 2023, Introduced by Senators JOHNSON, RUNESTAD and BELLINO and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending section 5423 (MCL 700.5423), as amended by 2012 PA 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5423. (1) Subject to a limitation imposed under section
2 5427, a conservator has all of the powers conferred in this section
3 and the additional powers conferred by law on trustees in this
4 state. In addition, a conservator of the estate of an unmarried
5 minor, as to whom no one has parental rights, has the powers,
6 responsibilities, and duties of a guardian described in section
7 5215 until the individual is no longer a minor or marries. The

1 parental rights conferred on a conservator by this section do not
2 preclude a guardian's appointment as provided in part 2 **of this**
3 **article.**

4 (2) Acting reasonably in an effort to accomplish the purpose
5 of the appointment and without court authorization or confirmation,
6 a conservator may do any of the following:

7 (a) Collect, hold, or retain estate property, including land
8 in another state, until the conservator determines that disposition
9 of the property should be made. Property may be retained even
10 though it includes property in which the conservator is personally
11 interested.

12 (b) Receive an addition to the estate.

13 (c) Continue or participate in the operation of a business or
14 other enterprise.

15 (d) Acquire an undivided interest in estate property in which
16 the conservator, in a fiduciary capacity, holds an undivided
17 interest.

18 (e) Invest or reinvest estate property. If the conservator
19 exercises the power conferred by this subdivision, the conservator
20 must ~~invest~~ **do both of the following:**

21 (i) **Invest** or reinvest the property in accordance with the
22 Michigan prudent investor rule.

23 (ii) **If the conservator invests estate property in securities,**
24 **invest only with a brokerage firm that is insured by the United**
25 **States Securities Protection Corporation.**

26 (f) Deposit estate money in a state or federally insured
27 financial institution including one operated by the conservator.

28 (g) Except as provided in subsection (3), acquire or dispose
29 of estate property, including land in another state, for cash or on

1 credit, at public or private sale, or manage, develop, improve,
2 exchange, partition, change the character of, or abandon estate
3 property.

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

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

12 (j) Enter for any purpose into a lease as lessor or lessee
13 with or without option to purchase or renew for a term within or
14 extending beyond the term of the conservatorship.

15 (k) Enter into a lease or arrangement for exploration and
16 removal of a mineral or other natural resource or enter into a
17 pooling or unitization agreement.

18 (l) Grant an option involving disposition of estate property or
19 take an option for the acquisition of property.

20 (m) Vote a security, in person or by general or limited proxy.

21 (n) Pay a call, assessment, or other amount chargeable or
22 accruing against or on account of a security.

23 (o) Sell or exercise stock subscription or conversion rights.

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

27 (q) Hold a security in the name of a nominee or in other form
28 without disclosure of the conservatorship so that title to the
29 security may pass by delivery. However, the conservator is liable

1 for an act of the nominee in connection with the stock so held.

2 (r) Insure the estate property against damage or loss or the
3 conservator against liability with respect to third persons.

4 (s) Borrow money to be repaid from estate property or
5 otherwise.

6 (t) Advance money for the protection of the estate or the
7 protected individual, and for all expense, loss, or liability
8 sustained in the estate's administration or because of the holding
9 or ownership of estate property. The conservator has a lien on the
10 estate as against the protected individual for such an advance.

11 (u) Pay or contest a claim; settle a claim by or against the
12 estate or the protected individual by compromise, arbitration, or
13 otherwise; and release, in whole or in part, a claim belonging to
14 the estate to the extent that the claim is uncollectible.

15 (v) Pay a tax, assessment, conservator's compensation, or
16 other expense incurred in the estate's collection, care,
17 administration, and protection.

18 (w) Allocate an item of income or expense to either estate
19 income or principal, as provided by law, including creation of a
20 reserve out of income for depreciation, obsolescence, or
21 amortization, or for depletion in mineral or timber property.

22 (x) Pay money distributable to a protected individual or the
23 protected individual's dependent by paying the money to the
24 distributee or by paying the money for the use of the distributee
25 to the distributee's guardian, or if none, to a relative or other
26 person having custody of the distributee.

27 (y) Employ a person, including an auditor, investment advisor,
28 or agent, even though the person is associated with the
29 conservator, to advise or assist in the performance of an

1 administrative duty; act upon the person's recommendation without
2 independent investigation; and, instead of acting personally,
3 employ an agent to perform an act of administration, whether or not
4 discretionary.

5 (z) Employ an attorney to perform necessary legal services or
6 to advise or assist the conservator in the performance of the
7 conservator's administrative duties, even if the attorney is
8 associated with the conservator, and act without independent
9 investigation upon the attorney's recommendation. An attorney
10 employed under this subdivision ~~shall~~**must** receive reasonable
11 compensation for ~~his or her~~**the attorney's** employment.

12 (aa) Prosecute or defend an action, claim, or proceeding in
13 any jurisdiction for the protection of estate property and of the
14 conservator in the performance of a fiduciary duty.

15 (bb) Execute and deliver an instrument that will accomplish or
16 facilitate the exercise of a power vested in the conservator.

17 (cc) Respond to an environmental concern or hazard affecting
18 property as provided in section 5424.

19 (3) A conservator shall not sell or otherwise dispose of the
20 protected individual's principal dwelling, real property, or
21 interest in real property or mortgage, pledge, or cause a lien to
22 be placed on any such property without approval of the court. The
23 court shall only approve the sale, disposal, mortgage, or pledge of
24 or lien against the principal dwelling, real property, or interest
25 in real property if, after a hearing with notice to interested
26 persons as specified in the Michigan court rules, the court
27 considers evidence of the value of the property and otherwise
28 determines that the sale, disposal, mortgage, pledge, or lien is in
29 the protected individual's best interest.

1 (4) A conservator shall not invest estate property in
2 cryptocurrency.