

SECOND REGULAR SESSION

HOUSE BILL NO. 1844

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORNEJO.

5583H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 456.985, 456.1035, and 456.1080, RSMo, and to enact in lieu thereof three new sections relating to powers of appointment.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 456.985, 456.1035, and 456.1080, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 456.985, 456.1035, and 456.1080, to read as follows:

456.985. 1. Except as otherwise provided in the terms of an instrument creating or exercising a power of appointment, sections 456.970 to 456.1135 govern powers of appointment.

2. The terms of an instrument creating or exercising a power of appointment prevail over any provisions of sections 456.970 to 456.1135 except:

(1) **The requisites for the creation of a power of appointment under subsections 1 to 4 of section 456.990;**

(2) The transferability of a power of appointment by a powerholder under subsection 1 of section 456.995;

~~(2)~~ (3) The limitations on the authority of a donor to extend a general power of appointment beyond the death of a powerholder under subsection 3 of section 456.995;

~~(3)~~ (4) The power is exclusionary if the permissible appointees of a power of appointment are not defined and limited under subsection 3 of section 456.1005;

~~(4)~~ (5) The requisites for the exercise of a power of appointment under section 456.1015;

~~(5)~~ (6) The effect of an impermissible appointment under section 456.1045;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 ~~[(6)]~~ (7) A general power of appointment which is presently exercisable may be reached
17 by the creditors of the powerholder or the powerholder's estate under section 456.1100.

 456.1035. 1. A powerholder of a general power of appointment that permits
2 appointment to the powerholder or the powerholder's estate may make any appointment,
3 including an appointment in trust or creating a new power of appointment, that the powerholder
4 could make in disposing of the powerholder's own property.

5 2. A powerholder of a general power of appointment that permits appointment only to
6 the creditors of the powerholder or of the powerholder's estate may appoint only to those
7 creditors.

8 3. The powerholder of a nongeneral power may:

9 (1) Make an appointment in any form, including an appointment in trust, in favor of a
10 permissible appointee;

11 (2) Create a general power **or nongeneral power** in a permissible appointee; or

12 (3) Create a nongeneral power in any person to appoint to one or more of the permissible
13 appointees of the original nongeneral power.

 456.1080. As provided by sections 469.010 to ~~[469.210]~~ **469.120**, a powerholder may
2 disclaim all or part of a power of appointment, and a permissible appointee, appointee, or taker
3 in default of appointment may disclaim all or part of an interest in appointive property.

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