

SENATE BILL No. 1010

June 1, 2016, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
(MCL 700.1101 to 700.8206) by adding section 1511a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1511A. (1) IT IS PRESUMED THAT A SETTLOR INTENDED TO
2 CREATE AN ILIT TO ACQUIRE OR RECEIVE 1 OR MORE LIFE INSURANCE
3 POLICIES IF EITHER OF THE FOLLOWING APPLY:

4 (A) A TRUSTEE ACQUIRES, BY PURCHASE OR GIFT, A LIFE INSURANCE
5 POLICY WITHIN 6 MONTHS AFTER THE ILIT'S CREATION.

6 (B) FOR THE ENTIRE PERIOD BEFORE THE ACQUISITION OF THE LIFE
7 INSURANCE POLICY THE ONLY TRUST ASSETS ARE CASH, CASH EQUIVALENTS,
8 OR A LIFE INSURANCE POLICY.

9 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THE MICHIGAN

1 PRUDENT INVESTOR RULE AND, EXCEPT AS OTHERWISE REQUIRED IN THE
2 TERMS OF THE TRUST, A TRUSTEE WHO IS NOT A SETTLOR OF THE ILIT,
3 WITH RESPECT TO THE ACQUISITION, RETENTION, OR OWNERSHIP OF A LIFE
4 INSURANCE POLICY AS A TRUST ASSET, DOES NOT HAVE A DUTY TO DO ANY
5 OF THE FOLLOWING:

6 (A) DETERMINE IF THE TRUSTEE OR AN ILIT BENEFICIARY HAS AN
7 INSURABLE INTEREST IN THE INSURED UNDER SECTION 7114.

8 (B) DETERMINE IF THE LIFE INSURANCE POLICY IS OR REMAINS A
9 PROPER TRUST INVESTMENT.

10 (C) INVESTIGATE THE FINANCIAL STRENGTH OR CHANGES IN THE
11 FINANCIAL STRENGTH OF THE LIFE INSURANCE COMPANY ISSUING OR
12 MAINTAINING THE LIFE INSURANCE POLICY.

13 (D) INQUIRE ABOUT CHANGES IN THE HEALTH OR FINANCIAL CONDITION
14 OF THE INSURED.

15 (E) DIVERSIFY THE INVESTMENT IN THE LIFE INSURANCE POLICY
16 RELATIVE TO ANY OTHER LIFE INSURANCE POLICY OR ANY OTHER TRUST
17 ASSET.

18 (F) PAY POLICY PREMIUMS UNLESS THERE IS SUFFICIENT CASH OR
19 OTHER READILY MARKETABLE ASSETS HELD BY THE TRUST THAT WERE
20 DESIGNATED FOR THIS PURPOSE BY THE SETTLOR OR A THIRD PARTY.

21 (G) EXERCISE OR NOT EXERCISE AN OPTION AVAILABLE UNDER THE
22 LIFE INSURANCE POLICY REGARDLESS OF WHETHER THE EXERCISE OR
23 NONEXERCISE RESULTS IN THE LAPSE OR TERMINATION OF THE LIFE
24 INSURANCE POLICY.

25 (3) A TRUSTEE OTHER THAN A SETTLOR OF THE ILIT IS NOT LIABLE
26 TO A BENEFICIARY OF THE ILIT OR ANY OTHER PERSON FOR A LOSS
27 SUSTAINED WITH RESPECT TO A LIFE INSURANCE POLICY TO WHICH THIS

1 SECTION APPLIES.

2 (4) UNLESS OTHERWISE PROVIDED IN THE TERMS OF THE TRUST, THIS
3 SECTION DOES NOT APPLY TO A TRUSTEE OR AN AFFILIATE OF A TRUSTEE
4 WHO RECEIVED A COMMISSION OR OTHER PAYMENT FROM THE ISSUER OF A
5 LIFE INSURANCE POLICY ISSUED TO THE ILIT.

6 (5) A TRUSTEE OTHER THAN A SETTLOR OF AN ILIT, AN ATTORNEY WHO
7 DRAFTED THE TERMS OF AN ILIT, OR ANY PERSON WHO WAS CONSULTED WITH
8 REGARD TO THE CREATION OF AN ILIT, IN THE ABSENCE OF FRAUD, IS NOT
9 LIABLE TO A BENEFICIARY OF THE ILIT OR TO ANY OTHER PERSON FOR A
10 LOSS ARISING FROM OR ATTRIBUTABLE TO THE ABSENCE OF A DUTY UNDER
11 SUBSECTION (2).

12 (6) EXCEPT AS OTHERWISE PROVIDED IN THE TERMS OF THE TRUST,
13 THIS SECTION APPLIES TO AN ILIT ESTABLISHED BEFORE, ON, OR AFTER
14 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
15 AND TO A LIFE INSURANCE POLICY ACQUIRED, RETAINED, OR OWNED BY A
16 TRUSTEE OF THE ILIT BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THE
17 AMENDATORY ACT THAT ADDED THIS SECTION.

18 (7) AS USED IN THIS SECTION, "IRREVOCABLE LIFE INSURANCE
19 TRUST" OR "ILIT" MEANS A TRUST TO WHICH ALL OF THE FOLLOWING APPLY:

20 (A) THE TRUST IS NOT REVOCABLE. AS USED IN THIS SUBDIVISION,
21 "REVOCABLE" MEANS THAT TERM AS DEFINED IN SECTION 7103.

22 (B) A SETTLOR CREATED THE TRUST WITH THE INTENT THAT A TRUSTEE
23 ACQUIRE, BY PURCHASE OR GIFT, 1 OR MORE LIFE INSURANCE POLICIES AS
24 A TRUST ASSET.

25 (C) THE TRUST WAS NOT CREATED SOLELY TO ACCOMPLISH 1 OR MORE
26 OF THE CHARITABLE PURPOSES SET FORTH IN SECTION 7405(1).