

POWERS OF APPOINTMENT ACT OF 1967 (EXCERPT)
Act 224 of 1967

556.115 Methods by which powers may be exercised by donees.

Sec. 5.

(1) A power may be exercised by any donee capable of transferring the interest in property to which the power relates.

(2) A power may be exercised only by a written instrument that would be sufficient to pass the interest intended to be appointed if the donee were the owner of the interest. Unless otherwise contemplated in the creating instrument, a power may be exercised only by a written instrument that complies with the requirements, if any, of the creating instrument as to the manner, time, and conditions of the exercise of the power, except that a power exercisable only by deed is also exercisable by a written will executed as required by law.

(3) If the donor has authorized the power to be exercised by an instrument not sufficient in law to pass the appointive interest, the power is not void, but may be exercised by an instrument conforming to subsection (2).

(4) If consent of the donor or of any other person is required for the exercise of a power, the consent must be expressed in the instrument exercising the power or in a separate written instrument, signed in either case by the person whose consent is required. If any person whose consent is required dies or becomes legally incapable of consenting, the power may be exercised by the donee without the consent of that person unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.

(5) When a power is vested in 2 or more persons, all must unite in its exercise; but if 1 or more of the donees dies, becomes incapable of exercising the power, or releases the power, the power may be exercised by the others, unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.

(6) When a power is vested in 2 or more trustees, the trustees' coordination in the exercise of the power is governed by sections 7703 and 7815(3) of the MTC, MCL 700.7703 and 700.7815, unless the trust instrument manifests a contrary intent.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970 ;-- Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012