

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

556.122 Special power; passing on donee's default.

Sec. 12.

If the donee of a special power fails to exercise the power effectively or totally releases a releasable special power, the interests that might have been appointed under the power pass as follows:

(a) If the creating instrument contains an express gift in default, then in accordance with the terms of the gift.

(b) Except as provided in subdivision (d), if the creating instrument contains no express gift in default and does not clearly indicate that the permissible appointees are to take only if the donee exercises the power, then equally to the permissible appointees living at the time of the termination or release of the power, but if the power is to appoint among a class, such as "relatives", "issue" or "heirs", then to those persons in the closest degree of kinship or representing others in the same degree of kinship who would have taken had there been an express appointment per stirpes to the described class effective as of the termination or release of the power.

(c) Except as provided in subdivision (d), if the creating instrument contains no express gift in default and clearly indicates that the permissible appointees are to take only if the donee exercises the power, then by reversion to the donor or his or her estate. If the creating instrument expressly states that there is no reversion in the donor, then any language in the creating instrument indicating or stating that the permissible appointees are to take only if the donee exercises the power is to be disregarded and the interests shall pass under subdivision (b).

(d) If the power was created by the exercise of a discretionary power described in section 5a, then according to the provisions that governed the assets subject to the power under the first trust described in section 5a(1).

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