

# HOUSE BILL No. 4331

February 18, 2009, Introduced by Reps. Cushingberry, Durhal and Sheltroun and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
by amending the title and section 1108 (MCL 700.1108), and by  
adding sections 5109 and 5110.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE  
2 An act to codify, revise, consolidate, and classify aspects of  
3 the law relating to wills and intestacy, relating to the  
4 administration and distribution of estates of certain individuals,  
5 relating to trusts, and relating to the affairs of certain  
6 individuals under legal incapacity; to provide for the powers and  
7 procedures of the court that has jurisdiction over these matters;  
8 to provide for the validity and effect of certain transfers,

1 contracts, and deposits that relate to death; to provide procedures  
2 to facilitate enforcement of certain trusts; **TO IMPOSE FEES; TO**  
3 **CREATE FUNDS; TO PROVIDE FOR THE POWERS AND DUTIES OF CERTAIN STATE**  
4 **AND LOCAL GOVERNMENTAL OFFICERS AND ENTITIES;** and to repeal acts  
5 and parts of acts.

6 Sec. 1108. As used in this act:

7 (A) "VULNERABLE ADULT" MEANS THAT TERM AS DEFINED IN SECTION  
8 145M OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M.

9 (B) ~~(a)~~—"Ward" means an individual for whom a guardian is  
10 appointed.

11 (C) ~~(b)~~—"Will" includes, but is not limited to, a codicil and  
12 a testamentary instrument that appoints a personal representative,  
13 revokes or revises another will, nominates a guardian, or expressly  
14 excludes or limits the right of an individual or class to succeed  
15 to the decedent's property that is passing by intestate succession.

16 SEC. 5109. (1) A POWER OF ATTORNEY MADE BY A PRINCIPAL WHO IS  
17 60 YEARS OF AGE OR OLDER OR WHO IS A VULNERABLE ADULT SHALL BE  
18 DEPOSITED BY THE PRINCIPAL, OR BY A PERSON FOR HIM OR HER, WITH THE  
19 COURT IN THE COUNTY WHERE THE PRINCIPAL RESIDES.

20 (2) A POWER OF ATTORNEY DEPOSITED UNDER THIS SECTION SHALL BE  
21 ENCLOSED IN A SEALED WRAPPER ON WHICH IS PRINTED ALL OF THE  
22 FOLLOWING:

23 (A) THE PRINCIPAL'S NAME, PLACE OF RESIDENCE, AND SOCIAL  
24 SECURITY NUMBER OR STATE OF MICHIGAN DRIVER LICENSE NUMBER.

25 (B) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON  
26 DESIGNATED AS AGENT IN THE POWER OF ATTORNEY.

27 (C) THE DAY ON WHICH AND THE NAME OF THE PERSON BY WHOM IT IS

1 DELIVERED.

2 (3) A COURT SHALL RECEIVE AND SAFELY KEEP A POWER OF ATTORNEY  
3 DELIVERED UNDER THIS SECTION AND SHALL GIVE A CERTIFICATE OF THE  
4 DEPOSIT. FOR THIS SERVICE, THE COURT SHALL CHARGE AND COLLECT A FEE  
5 OF \$35.00, WHICH SHALL BE DEPOSITED IN THE VULNERABLE ADULT  
6 PROTECTION FUND CREATED IN SECTION 5110.

7 (4) EXCEPT AS ORDERED BY THE COURT, A POWER OF ATTORNEY  
8 DEPOSITED UNDER THIS SECTION IS A NONPUBLIC RECORD AND SHALL BE  
9 DELIVERED ONLY TO THE PRINCIPAL OR THE AGENT, OR TO SOME PERSON  
10 AUTHORIZED BY THE PRINCIPAL OR AGENT IN WRITING THAT IS PROVED BY  
11 THE OATH OF A SUBSCRIBING WITNESS.

12 SEC. 5110. (1) THE VULNERABLE ADULT PROTECTION FUND IS CREATED  
13 WITHIN THE STATE TREASURY.

14 (2) THE STATE TREASURER MAY RECEIVE FEES COLLECTED UNDER  
15 SECTION 5109 AND MONEY OR OTHER ASSETS FROM ANY OTHER SOURCE FOR  
16 DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT THE  
17 INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE  
18 FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

19 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
20 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

21 (4) THE DEPARTMENT OF TREASURY SHALL BE THE ADMINISTRATOR OF  
22 THE FUND FOR AUDITING PURPOSES.

23 (5) THE DEPARTMENT OF TREASURY SHALL EXPEND MONEY FROM THE  
24 FUND, UPON APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING  
25 PURPOSES:

26 (A) INVESTIGATION AND PROSECUTION OF OFFENSES UNDER CHAPTER  
27 XXA OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M TO

1 750.145R.

2 (B) ADMINISTRATION OF SECTION 5109 AND THIS SECTION BY THE  
3 COURTS AND THE DEPARTMENT OF TREASURY.