502.86 RIGHTS OF CREDITORS IN APPOINTIVE PROPERTY.

Subdivision 1. **Special power.** Property that is covered by either a special power of appointment or a general power of appointment that is exercisable solely for the support, maintenance, health, and education of the donee within the meaning of sections 2041 and 2514 of the Internal Revenue Code is not subject to the payment of the claims of creditors of the donee, the donee's estate, or the expenses of administering the donee's estate.

Subd. 2. **General power currently exercisable.** Property that is covered by a general power of appointment, other than one exercisable solely for the support, maintenance, health, and education of the donee within the meaning of sections 2041 and 2514 of the Internal Revenue Code, that is presently exercisable, or of a postponed power that has become exercisable, is subject to the payment of the claims of creditors of the donee, the donee's estate, and the expenses of administering the donee's estate, but only to the extent that other property available for the payment of the creditor's claim is insufficient for this payment. It is immaterial whether the donor of the power is the donee or some other person, or whether the donee has or has not purported to exercise the power.

Subd. 3. **Power subject to a condition.** A general power of appointment may be created subject to a condition precedent or subsequent, and, until the condition is fulfilled, it is not subject to the provisions of subdivision 2.

Subd. 4. **General power not presently exercisable.** Property that is covered by a general power of appointment which, when created, is not presently exercisable, is subject to the payment of the claims of creditors of the donee, the donee's estate, and the expenses of administering the donee's estate only if:

(1) the power was created by the donee in favor of the donee; or

(2) a postponed power becomes exercisable in accordance with the terms of the creating instrument, except in the case of a testamentary general power.

History: *2015 c 5 art 14 s 8*