



**Senate Fiscal Agency**  
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BILL ANALYSIS



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Senate Bill 490 (as reported without amendment)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

### **CONTENT**

The bill would amend the Revised Probate Code to provide that the actions of a person acting under a durable or nondurable power of attorney would bind the principal and his or her heirs and personal representative, if the person acted without actual knowledge of the principal's death. The bill also would revise provisions pertaining to claims against a decedent's estate, including requiring a personal representative to send notice to creditors of whom the personal representative had actual notice or whose existence was reasonably ascertainable.

The Code provides that the death, disability, or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency of the attorney in fact or other person who, without actual knowledge of the principal's death, disability, or incompetence, acts in good faith. The bill provides, instead, that the death of a principal who had executed a power of attorney, durable or otherwise, would not revoke or terminate the agency of the attorney in fact or other person who acted in good faith without actual knowledge of the principal's death. The bill also specifies that the disability or incompetence of a principal would not revoke the agency of the attorney in fact or other person who acted in good faith without actual knowledge of the disability or incompetence. As current law provides, an action so taken would bind the principal and his or her heirs, devisees, and personal representative.

Under the Code, unless notice has already been given, a personal representative must publish a notice notifying creditors of the estate to present their claims within four months after the date of the publication. The representative also must send a copy of the notice to any known creditor. For purposes of the notice provision, a personal representative has knowledge of a creditor if he or she is aware that the creditor has demanded payment from the decedent or the decedent's estate. The bill, instead, provides that a creditor of the decedent would be known to the personal representative if he or she had actual notice of the creditor or the existence of the creditor were reasonably ascertainable by the personal representative. The bill also would delete a provision that the Code does not impose a duty on the personal representative to conduct a search for creditors.

MCL 700.497 et al.

Legislative Analyst: S. Margules

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 9-14-95

Fiscal Analyst: M. Bain

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.