

390.320 Creditor claim – General power created by powerholder.

- (1) As used in this section, "power of appointment created by the powerholder" includes a power of appointment created in a transfer by another person to the extent the powerholder contributed value to the transfer.
- (2) Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in KRS Chapter 378A.
- (3) Subject to subsection (2) of this section, appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.
- (4) Subject to subsections (2) and (3) of this section, and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:
 - (a) The powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and
 - (b) The powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

Effective: July 15, 2020

History: Created 2020 Ky. Acts ch. 41, sec. 31, effective July 15, 2020.