

By: Representative Blackmon

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 468

1 AN ACT TO CREATE THE UNIFORM POWER OF ATTORNEY ACT; TO DEFINE
2 CERTAIN TERMS; TO PROVIDE FOR THE APPLICABILITY OF THIS ACT; TO
3 PROVIDE FOR THE EXECUTION, VALIDITY AND MEANING OF A POWER OF
4 ATTORNEY; TO PROVIDE FOR THE NOMINATION OF CONSERVATORS OR
5 GUARDIANS; TO PROVIDE FOR WHEN A POWER OF ATTORNEY IS EFFECTIVE;
6 TO PROVIDE FOR THE TERMINATION OF A POWER OF ATTORNEY OR AN
7 AGENT'S AUTHORITY; TO PROVIDE THE DUTIES AND RESPONSIBILITIES OF
8 AGENTS; TO PROVIDE FOR THE EXONERATION OF AN AGENT; TO PROVIDE FOR
9 JUDICIAL RELIEF; TO PROVIDE FOR THE RESIGNATION OF AGENTS AND
10 NOTICE THEREOF; TO PROVIDE FOR ACCEPTANCE AND RELIANCE UPON AN
11 ACKNOWLEDGED POWER OF ATTORNEY; TO PROVIDE FOR LIABILITY FOR
12 REFUSAL TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY; TO PROVIDE
13 AUTHORITY THAT REQUIRES SPECIFIC GRANT; TO PROVIDE FOR THE
14 INCORPORATION AND CONSTRUCTION OF AUTHORITY; TO PROVIDE FOR THE
15 AUTHORITY OF AN AGENT AND THE USES THEREFOR; TO PROVIDE FORMS FOR
16 POWER OF ATTORNEY; TO PROVIDE FOR AN AGENT'S CERTIFICATION; TO
17 REPEAL SECTIONS 87-3-101, 87-3-103, 87-3-105, 87-3-107, 87-3-109,
18 87-3-111 AND 87-3-113, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE
19 UNIFORM DURABLE POWER OF ATTORNEY ACT; AND FOR RELATED PURPOSES.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 **SECTION 1.** The following shall be codified in Chapter 3 of
22 Title 87, Mississippi Code of 1972:

23 **ARTICLE 1**

24 Section 101. **Short title.** This act may be cited as the
25 Uniform Power of Attorney Act.

26 Section 102. **Definitions.** In this act:



27 (1) "Agent" means a person granted authority to act for
28 a principal under a power of attorney, whether denominated an
29 agent, attorney-in-fact, or otherwise. The term includes an
30 original agent, coagent, successor agent, and a person to which an
31 agent's authority is delegated.

32 (2) "Durable," with respect to a power of attorney,
33 means not terminated by the principal's incapacity.

34 (3) "Electronic" means relating to technology having
35 electrical, digital, magnetic, wireless, optical, electromagnetic,
36 or similar capabilities.

37 (4) "Good faith" means honesty in fact.

38 (5) "Incapacity" means inability of an individual to
39 manage property or business affairs because the individual:

40 (A) Has an impairment in the ability to receive
41 and evaluate information or make or communicate decisions even
42 with the use of technological assistance; or

43 (B) Is:

44 (i) Missing;

45 (ii) Detained, including incarcerated in a
46 penal system; or

47 (iii) Outside the United States and unable to
48 return.

49 (6) "Person" means an individual, corporation, business
50 trust, estate, trust, partnership, limited liability company,
51 association, joint venture, public corporation, government or



52 governmental subdivision, agency, or instrumentality, or any other
53 legal or commercial entity.

54 (7) "Power of attorney" means a writing or other record
55 that grants authority to an agent to act in the place of the
56 principal, whether or not the term power of attorney is used.

57 (8) "Presently exercisable general power of
58 appointment," with respect to property or a property interest
59 subject to a power of appointment, means power exercisable at the
60 time in question to vest absolute ownership in the principal
61 individually, the principal's estate, the principal's creditors,
62 or the creditors of the principal's estate. The term includes a
63 power of appointment not exercisable until the occurrence of a
64 specified event, the satisfaction of an ascertainable standard, or
65 the passage of a specified period only after the occurrence of the
66 specified event, the satisfaction of the ascertainable standard,
67 or the passage of the specified period. The term does not include
68 a power exercisable in a fiduciary capacity or only by will.

69 (9) "Principal" means an individual who grants
70 authority to an agent in a power of attorney.

71 (10) "Property" means anything that may be the subject
72 of ownership, whether real or personal, or legal or equitable, or
73 any interest or right therein.

74 (11) "Record" means information that is inscribed on a
75 tangible medium or that is stored in an electronic or other medium
76 and is retrievable in perceivable form.



77 (12) "Sign" means, with present intent to authenticate
78 or adopt a record:

79 (A) To execute or adopt a tangible symbol; or

80 (B) To attach to or logically associate with the
81 record an electronic sound, symbol, or process.

82 (13) "State" means a state of the United States, the
83 District of Columbia, Puerto Rico, the United States Virgin
84 Islands, or any territory or insular possession subject to the
85 jurisdiction of the United States.

86 (14) "Stocks and bonds" means stocks, bonds, mutual
87 funds, and all other types of securities and financial
88 instruments, whether held directly, indirectly, or in any other
89 manner. The term does not include commodity futures contracts and
90 call or put options on stocks or stock indexes.

91 Section 103. **Applicability.** This act applies to all powers
92 of attorney except:

93 (1) A power to the extent it is coupled with an
94 interest in the subject of the power, including a power given to
95 or for the benefit of a creditor in connection with a credit
96 transaction;

97 (2) A power to make health care decisions;

98 (3) A proxy or other delegation to exercise voting
99 rights or management rights with respect to an entity; and



100 (4) A power created on a form prescribed by a
101 government or governmental subdivision, agency, or instrumentality
102 for a governmental purpose.

103 Section 104. **Power of attorney is durable.** A power of
104 attorney created under this act is durable unless it expressly
105 provides that it is terminated by the incapacity of the principal.

106 Section 105. **Execution of power of attorney.** A power of
107 attorney must be signed by the principal or in the principal's
108 conscious presence by another individual directed by the principal
109 to sign the principal's name on the power of attorney. A
110 signature on a power of attorney is presumed to be genuine if the
111 principal acknowledges the signature before a notary public or
112 other individual authorized by law to take acknowledgments.

113 Section 106. **Validity of power of attorney.**

114 (a) A power of attorney executed in this state on or after
115 July 1, 2013, is valid if its execution complies with Section 105.

116 (b) A power of attorney executed in this state before July
117 1, 2013, is valid if its execution complied with the law of this
118 state as it existed at the time of execution.

119 (c) A power of attorney executed other than in this state is
120 valid in this state if, when the power of attorney was executed,
121 the execution complied with:

122 (1) The law of the jurisdiction that determines the
123 meaning and effect of the power of attorney pursuant to Section
124 107; or



125 (2) The requirements for a military power of attorney
126 pursuant to 10 USCS Section 1044b.

127 (d) Except as otherwise provided by statute other than this
128 act, a photocopy or electronically transmitted copy of an original
129 power of attorney has the same effect as the original.

130 Section 107. **Meaning and effect of power of attorney.**

131 The meaning and effect of a power of attorney is determined
132 by the law of the jurisdiction indicated in the power of attorney
133 and, in the absence of an indication of jurisdiction, by the law
134 of the jurisdiction in which the power of attorney was executed.

135 Section 108. **Nomination of conservator or guardian; relation
136 of agent to court-appointed fiduciary.**

137 (a) In a power of attorney, a principal may nominate a
138 conservator or guardian of the principal's estate or guardian of
139 the principal's person for consideration by the court if
140 protective proceedings for the principal's estate or person are
141 begun after the principal executes the power of attorney. Except
142 for good cause shown or disqualification, the court shall make its
143 appointment in accordance with the principal's most recent
144 nomination.

145 (b) If, after a principal executes a power of attorney, a
146 court appoints a conservator or guardian of the principal's estate
147 or other fiduciary charged with the management of some or all of
148 the principal's property, the agent is accountable to the
149 fiduciary as well as to the principal. The power of attorney is



150 not terminated and the agent's authority continues unless limited,
151 suspended, or terminated by the court.

152 Section 109. **When power of attorney is effective.**

153 (a) A power of attorney is effective when executed unless
154 the principal provides in the power of attorney that it becomes
155 effective at a future date or upon the occurrence of a future
156 event or contingency.

157 (b) If a power of attorney becomes effective upon the
158 occurrence of a future event or contingency, the principal, in the
159 power of attorney, may authorize one or more persons to determine
160 in a writing or other record that the event or contingency has
161 occurred.

162 (c) If a power of attorney becomes effective upon the
163 principal's incapacity and the principal has not authorized a
164 person to determine whether the principal is incapacitated, or the
165 person authorized is unable or unwilling to make the
166 determination, the power of attorney becomes effective upon a
167 determination in a writing or other record by:

168 (1) A physician or licensed psychologist that the
169 principal is incapacitated within the meaning of Section
170 102(5) (A); or

171 (2) An attorney at law, a judge, or an appropriate
172 governmental official that the principal is incapacitated within
173 the meaning of Section 102(5) (B).



174 (d) A person authorized by the principal in the power of
175 attorney to determine that the principal is incapacitated may act
176 as the principal's personal representative pursuant to the Health
177 Insurance Portability and Accountability Act, Sections 1171
178 through 1179 of the Social Security Act, 42 USCS Section 1320d and
179 applicable regulations, to obtain access to the principal's
180 health-care information and communicate with the principal's
181 health-care provider.

182 Section 110. **Termination of power of attorney or agent's**
183 **authority.**

184 (a) A power of attorney terminates when:

185 (1) The principal dies;

186 (2) The principal becomes incapacitated, if the power
187 of attorney is not durable;

188 (3) The principal revokes the power of attorney;

189 (4) The power of attorney provides that it terminates;

190 (5) The purpose of the power of attorney is
191 accomplished; or

192 (6) The principal revokes the agent's authority or the
193 agent dies, becomes incapacitated, or resigns, and the power of
194 attorney does not provide for another agent to act under the power
195 of attorney.

196 (b) An agent's authority terminates when:

197 (1) The principal revokes the authority;

198 (2) The agent dies, becomes incapacitated, or resigns;



199 (3) An action is filed for the dissolution or annulment
200 of the agent's marriage to the principal or their legal
201 separation, unless the power of attorney otherwise provides; or

202 (4) The power of attorney terminates.

203 (c) Unless the power of attorney otherwise provides, an
204 agent's authority is exercisable until the authority terminates
205 under subsection (b), notwithstanding a lapse of time since the
206 execution of the power of attorney.

207 (d) Termination of an agent's authority or of a power of
208 attorney is not effective as to the agent or another person that,
209 without actual knowledge of the termination, acts in good faith
210 under the power of attorney. An act so performed, unless
211 otherwise invalid or unenforceable, binds the principal and the
212 principal's successors in interest.

213 (e) Incapacity of the principal of a power of attorney that
214 is not durable does not revoke or terminate the power of attorney
215 as to an agent or other person that, without actual knowledge of
216 the incapacity, acts in good faith under the power of attorney.
217 An act so performed, unless otherwise invalid or unenforceable,
218 binds the principal and the principal's successors in interest.

219 (f) The execution of a power of attorney does not revoke a
220 power of attorney previously executed by the principal unless the
221 subsequent power of attorney provides that the previous power of
222 attorney is revoked or that all other powers of attorney are
223 revoked.



224 Section 111. Coagents and successor agents.

225 (a) A principal may designate two or more persons to act as
226 coagents. Unless the power of attorney otherwise provides, each
227 coagent may exercise its authority independently.

228 (b) A principal may designate one or more successor agents
229 to act if an agent resigns, dies, becomes incapacitated, is not
230 qualified to serve, or declines to serve. A principal may grant
231 authority to designate one or more successor agents to an agent or
232 other person designated by name, office, or function. Unless the
233 power of attorney otherwise provides, a successor agent:

234 (1) Has the same authority as that granted to the
235 original agent; and

236 (2) May not act until all predecessor agents have
237 resigned, died, become incapacitated, are no longer qualified to
238 serve, or have declined to serve.

239 (c) Except as otherwise provided in the power of attorney
240 and subsection (d), an agent that does not participate in or
241 conceal a breach of fiduciary duty committed by another agent,
242 including a predecessor agent, is not liable for the actions of
243 the other agent.

244 (d) An agent that has actual knowledge of a breach or
245 imminent breach of fiduciary duty by another agent shall notify
246 the principal and, if the principal is incapacitated, take any
247 action reasonably appropriate in the circumstances to safeguard
248 the principal's best interest. An agent that fails to notify the



249 principal or take action as required by this subsection is liable
250 for the reasonably foreseeable damages that could have been
251 avoided if the agent had notified the principal or taken such
252 action.

253 Section 112. **Reimbursement and compensation of agent.**

254 Unless the power of attorney otherwise provides, an agent is
255 entitled to reimbursement of expenses reasonably incurred on
256 behalf of the principal and to compensation that is reasonable
257 under the circumstances.

258 Section 113. **Agent's acceptance.** Except as otherwise
259 provided in the power of attorney, a person accepts appointment as
260 an agent under a power of attorney by exercising authority or
261 performing duties as an agent or by any other assertion or conduct
262 indicating acceptance.

263 Section 114. **Agent's duties.**

264 (a) Notwithstanding provisions in the power of attorney, an
265 agent that has accepted appointment shall:

266 (1) Act in accordance with the principal's reasonable
267 expectations to the extent actually known by the agent and,
268 otherwise, in the principal's best interest;

269 (2) Act in good faith; and

270 (3) Act only within the scope of authority granted in
271 the power of attorney.

272 (b) Except as otherwise provided in the power of attorney,
273 an agent that has accepted appointment shall:



- 274 (1) Act loyally for the principal's benefit;
- 275 (2) Act so as not to create a conflict of interest that
276 impairs the agent's ability to act impartially in the principal's
277 best interest;
- 278 (3) Act with the care, competence, and diligence
279 ordinarily exercised by agents in similar circumstances;
- 280 (4) Keep a record of all receipts, disbursements, and
281 transactions made on behalf of the principal;
- 282 (5) Cooperate with a person that has authority to make
283 health-care decisions for the principal to carry out the
284 principal's reasonable expectations to the extent actually known
285 by the agent and, otherwise, act in the principal's best interest;
286 and
- 287 (6) Attempt to preserve the principal's estate plan, to
288 the extent actually known by the agent, if preserving the plan is
289 consistent with the principal's best interest based on all
290 relevant factors, including:
- 291 (A) The value and nature of the principal's
292 property;
- 293 (B) The principal's foreseeable obligations and
294 need for maintenance;
- 295 (C) Minimization of taxes, including income,
296 estate, inheritance, generation-skipping transfer, and gift taxes;
297 and



298 (D) Eligibility for a benefit, a program, or
299 assistance under a statute or regulation.

300 (c) An agent that acts in good faith is not liable to any
301 beneficiary of the principal's estate plan for failure to preserve
302 the plan.

303 (d) An agent that acts with care, competence, and diligence
304 for the best interest of the principal is not liable solely
305 because the agent also benefits from the act or has an individual
306 or conflicting interest in relation to the property or affairs of
307 the principal.

308 (e) If an agent is selected by the principal because of
309 special skills or expertise possessed by the agent or in reliance
310 on the agent's representation that the agent has special skills or
311 expertise, the special skills or expertise must be considered in
312 determining whether the agent has acted with care, competence, and
313 diligence under the circumstances.

314 (f) Absent a breach of duty to the principal, an agent is
315 not liable if the value of the principal's property declines.

316 (g) An agent that exercises authority to delegate to another
317 person the authority granted by the principal or that engages
318 another person on behalf of the principal is not liable for an
319 act, error of judgment, or default of that person if the agent
320 exercises care, competence, and diligence in selecting and
321 monitoring the person.



322 (h) Except as otherwise provided in the power of attorney,
323 an agent is not required to disclose receipts, disbursements, or
324 transactions conducted on behalf of the principal unless ordered
325 by a court or requested by the principal, a guardian, a
326 conservator, another fiduciary acting for the principal, a
327 governmental agency having authority to protect the welfare of the
328 principal, or, upon the death of the principal, by the personal
329 representative or successor in interest of the principal's estate.
330 If so requested, within thirty (30) days the agent shall comply
331 with the request or provide a writing or other record
332 substantiating why additional time is needed and shall comply with
333 the request within an additional thirty (30) days.

334 Section 115. **Exoneration of agent.** A provision in a power
335 of attorney relieving an agent of liability for breach of duty is
336 binding on the principal and the principal's successors in
337 interest except to the extent the provision:

338 (1) Relieves the agent of liability for breach of duty
339 committed dishonestly, with an improper motive, or with reckless
340 indifference to the purposes of the power of attorney or the best
341 interest of the principal; or

342 (2) Was inserted as a result of an abuse of a
343 confidential or fiduciary relationship with the principal.

344 Section 116. **Judicial relief.**



345 (a) The following persons may petition a court to construe a
346 power of attorney or review the agent's conduct, and grant
347 appropriate relief:

348 (1) The principal or the agent;

349 (2) A guardian, conservator, or other fiduciary acting
350 for the principal;

351 (3) A person authorized to make health-care decisions
352 for the principal;

353 (4) The principal's spouse, parent, or descendant;

354 (5) An individual who would qualify as a presumptive
355 heir of the principal;

356 (6) A person named as a beneficiary to receive any
357 property, benefit, or contractual right on the principal's death
358 or as a beneficiary of a trust created by or for the principal
359 that has a financial interest in the principal's estate;

360 (7) A governmental agency having regulatory authority
361 to protect the welfare of the principal;

362 (8) The principal's caregiver or another person that
363 demonstrates sufficient interest in the principal's welfare; and

364 (9) A person asked to accept the power of attorney.

365 (b) Upon motion by the principal, the court shall dismiss a
366 petition filed under this section, unless the court finds that the
367 principal lacks capacity to revoke the agent's authority or the
368 power of attorney.



369 Section 117. **Agent's liability.** An agent that violates this
370 act is liable to the principal or the principal's successors in
371 interest for the amount required to:

372 (1) Restore the value of the principal's property to
373 what it would have been had the violation not occurred; and

374 (2) Reimburse the principal or the principal's
375 successors in interest for the attorney's fees and costs paid on
376 the agent's behalf.

377 Section 118. **Agent's resignation; notice.** Unless the power
378 of attorney provides a different method for an agent's
379 resignation, an agent may resign by giving notice to the principal
380 and, if the principal is incapacitated:

381 (1) To the conservator or guardian, if one has been
382 appointed for the principal, and a coagent or successor agent; or

383 (2) If there is no person described in paragraph (1),
384 to:

385 (A) The principal's caregiver;

386 (B) Another person reasonably believed by the agent
387 to have sufficient interest in the principal's welfare; or

388 (C) A governmental agency having authority to
389 protect the welfare of the principal.

390 Section 119. **Acceptance of and reliance upon acknowledged**
391 **power of attorney.**



392 (a) For purposes of this section and Section 120,
393 "acknowledged" means purportedly verified before a notary public
394 or other individual authorized to take acknowledgements.

395 (b) A person that in good faith accepts an acknowledged
396 power of attorney without actual knowledge that the signature is
397 not genuine may rely upon the presumption under Section 105 that
398 the signature is genuine.

399 (c) A person that in good faith accepts an acknowledged
400 power of attorney without actual knowledge that the power of
401 attorney is void, invalid, or terminated, that the purported
402 agent's authority is void, invalid, or terminated, or that the
403 agent is exceeding or improperly exercising the agent's authority
404 may rely upon the power of attorney as if the power of attorney
405 were genuine, valid and still in effect, the agent's authority
406 were genuine, valid and still in effect, and the agent had not
407 exceeded and had properly exercised the authority.

408 (d) A person that is asked to accept an acknowledged power
409 of attorney may request, and rely upon, without further
410 investigation:

411 (1) An agent's certification under penalty of perjury
412 of any factual matter concerning the principal, agent, or power of
413 attorney;

414 (2) An English translation of the power of attorney if
415 the power of attorney contains, in whole or in part, language
416 other than English; and



417 (3) An opinion of counsel as to any matter of law
418 concerning the power of attorney if the person making the request
419 provides in a writing or other record the reason for the request.

420 (e) An English translation or an opinion of counsel
421 requested under this section must be provided at the principal's
422 expense unless the request is made more than seven (7) business
423 days after the power of attorney is presented for acceptance.

424 (f) For purposes of this section and Section 120, a person
425 that conducts activities through employees is without actual
426 knowledge of a fact relating to a power of attorney, a principal,
427 or an agent if the employee conducting the transaction involving
428 the power of attorney is without actual knowledge of the fact.

429 Section 120. **Liability for refusal to accept acknowledged**
430 **power of attorney.**

431 (a) Except as otherwise provided in subsection (b):

432 (1) A person shall either accept an acknowledged power
433 of attorney or request a certification, a translation, or an
434 opinion of counsel under Section 119(d) no later than seven (7)
435 business days after presentation of the power of attorney for
436 acceptance;

437 (2) If a person requests a certification, a
438 translation, or an opinion of counsel under Section 119(d), the
439 person shall accept the power of attorney no later than five (5)
440 business days after receipt of the certification, translation, or
441 opinion of counsel; and



442 (3) A person may not require an additional or different
443 form of power of attorney for authority granted in the power of
444 attorney presented.

445 (b) A person is not required to accept an acknowledged power
446 of attorney if:

447 (1) The person is not otherwise required to engage in a
448 transaction with the principal in the same circumstances;

449 (2) Engaging in a transaction with the agent or the
450 principal in the same circumstances would be inconsistent with
451 federal law;

452 (3) The person has actual knowledge of the termination
453 of the agent's authority or of the power of attorney before
454 exercise of the power;

455 (4) A request for a certification, a translation, or an
456 opinion of counsel under Section 119(d) is refused;

457 (5) The person in good faith believes that the power is
458 not valid or that the agent does not have the authority to perform
459 the act requested, whether or not a certification, a translation,
460 or an opinion of counsel under Section 119(d) has been requested
461 or provided; or

462 (6) The person makes, or has actual knowledge that
463 another person has made, a report to the Department of Human
464 Services stating a good faith belief that the principal may be
465 subject to physical or financial abuse, neglect, exploitation, or
466 abandonment by the agent or a person acting for or with the agent.



467 (c) A person that refuses in violation of this section to
468 accept an acknowledged power of attorney is subject to:

469 (1) A court order mandating acceptance of the power of
470 attorney; and

471 (2) Liability for reasonable attorney's fees and costs
472 incurred in any action or proceeding that confirms the validity of
473 the power of attorney or mandates acceptance of the power of
474 attorney.

475 Section 121. **Principles of law and equity.** Unless displaced
476 by a provision of this act, the principles of law and equity
477 supplement this act.

478 Section 122. **Laws applicable to financial institutions and**
479 **entities.** This act does not supersede any other law applicable to
480 financial institutions or other entities, and the other law
481 controls if inconsistent with this act.

482 Section 123. **Remedies under other law.** The remedies under
483 this act are not exclusive and do not abrogate any right or remedy
484 under the law of this state other than this act.

485 **ARTICLE 2**

486 **AUTHORITY**

487 Section 201. **Authority that requires specific grant; grant**
488 **of general authority.**

489 (a) An agent under a power of attorney may do the following
490 on behalf of the principal or with the principal's property only
491 if the power of attorney expressly grants the agent the authority



492 and exercise of the authority is not otherwise prohibited by
493 another agreement or instrument to which the authority or property
494 is subject:

495 (1) Create, amend, revoke, or terminate an inter vivos
496 trust;

497 (2) Make a gift;

498 (3) Create or change rights of survivorship;

499 (4) Create or change a beneficiary designation;

500 (5) Delegate authority granted under the power of
501 attorney;

502 (6) Waive the principal's right to be a beneficiary of
503 a joint and survivor annuity, including a survivor benefit under a
504 retirement plan;

505 (7) Exercise fiduciary powers that the principal has
506 authority to delegate; or

507 (8) Disclaim property, including a power of
508 appointment.

509 (b) Notwithstanding a grant of authority to do an act
510 described in subsection (a), unless the power of attorney
511 otherwise provides, an agent that is not an ancestor, spouse, or
512 descendant of the principal, may not exercise authority under a
513 power of attorney to create in the agent, or in an individual to
514 whom the agent owes a legal obligation of support, an interest in
515 the principal's property, whether by gift, right of survivorship,
516 beneficiary designation, disclaimer, or otherwise.



517 (c) Subject to subsections (a), (b), (d), and (e), if a
518 power of attorney grants to an agent authority to do all acts that
519 a principal could do, the agent has the general authority
520 described in Sections 204 through 216.

521 (d) Unless the power of attorney otherwise provides, a grant
522 of authority to make a gift is subject to Section 217.

523 (e) Subject to subsections (a), (b), and (d), if the
524 subjects over which authority is granted in a power of attorney
525 are similar or overlap, the broadest authority controls.

526 (f) Authority granted in a power of attorney is exercisable
527 with respect to property that the principal has when the power of
528 attorney is executed or acquires later, whether or not the
529 property is located in this state and whether or not the authority
530 is exercised or the power of attorney is executed in this state.

531 (g) An act performed by an agent pursuant to a power of
532 attorney has the same effect and inures to the benefit of and
533 binds the principal and the principal's successors in interest as
534 if the principal had performed the act.

535 Section 202. **Incorporation of authority.**

536 (a) An agent has authority described in this act if the
537 power of attorney refers to general authority with respect to the
538 descriptive term for the subjects stated in Sections 204 through
539 217 or cites the section in which the authority is described.

540 (b) A reference in a power of attorney to general authority
541 with respect to the descriptive term for a subject in Sections 204



542 through 217 or a citation to a section of Sections 204 through 217
543 incorporates the entire section as if it were set out in full in
544 the power of attorney.

545 (c) A principal may modify authority incorporated by
546 reference.

547 Section 203. **Construction of authority generally.** Except as
548 otherwise provided in the power of attorney, by executing a power
549 of attorney that incorporates by reference a subject described in
550 Sections 204 through 217 or that grants to an agent authority to
551 do all acts that a principal could do pursuant to Section 201(c),
552 a principal authorizes the agent, with respect to that subject,
553 to:

554 (1) Demand, receive, and obtain by litigation or
555 otherwise, money or another thing of value to which the principal
556 is, may become, or claims to be entitled, and conserve, invest,
557 disburse, or use anything so received or obtained for the purposes
558 intended;

559 (2) Contract in any manner with any person, on terms
560 agreeable to the agent, to accomplish a purpose of a transaction
561 and perform, rescind, cancel, terminate, reform, restate, release,
562 or modify the contract or another contract made by or on behalf of
563 the principal;

564 (3) Execute, acknowledge, seal, deliver, file, or
565 record any instrument or communication the agent considers
566 desirable to accomplish a purpose of a transaction, including



567 creating at any time a schedule listing some or all of the
568 principal's property and attaching it to the power of attorney;

569 (4) Initiate, participate in, submit to alternative
570 dispute resolution, settle, oppose, or propose or accept a
571 compromise with respect to a claim existing in favor of or against
572 the principal or intervene in litigation relating to the claim;

573 (5) Seek on the principal's behalf the assistance of a
574 court or other governmental agency to carry out an act authorized
575 in the power of attorney;

576 (6) Engage, compensate, and discharge an attorney,
577 accountant, discretionary investment manager, expert witness, or
578 other advisor;

579 (7) Prepare, execute, and file a record, report, or
580 other document to safeguard or promote the principal's interest
581 under a statute or regulation;

582 (8) Communicate with any representative or employee of
583 a government or governmental subdivision, agency, or
584 instrumentality, on behalf of the principal;

585 (9) Access communications intended for, and communicate
586 on behalf of the principal, whether by mail, electronic
587 transmission, telephone, or other means; and

588 (10) Do any lawful act with respect to the subject and
589 all property related to the subject.

590 Section 204. **Real property.** Unless the power of attorney
591 otherwise provides, language in a power of attorney granting



592 general authority with respect to real property authorizes the
593 agent to:

594 (1) Demand, buy, lease, receive, accept as a gift or as
595 security for an extension of credit, or otherwise acquire or
596 reject an interest in real property or a right incident to real
597 property;

598 (2) Sell; exchange; convey with or without covenants,
599 representations, or warranties; quitclaim; release; surrender;
600 retain title for security; encumber; partition; consent to
601 partitioning; subject to an easement or covenant; subdivide; apply
602 for zoning or other governmental permits; plat or consent to
603 platting; develop; grant an option concerning; lease; sublease;
604 contribute to an entity in exchange for an interest in that
605 entity; or otherwise grant or dispose of an interest in real
606 property or a right incident to real property;

607 (3) Pledge or mortgage an interest in real property or
608 right incident to real property as security to borrow money or
609 pay, renew, or extend the time of payment of a debt of the
610 principal or a debt guaranteed by the principal;

611 (4) Release, assign, satisfy, or enforce by litigation
612 or otherwise a mortgage, deed of trust, conditional sale contract,
613 encumbrance, lien, or other claim to real property which exists or
614 is asserted;



615 (5) Manage or conserve an interest in real property or
616 a right incident to real property owned or claimed to be owned by
617 the principal, including:

618 (A) Insuring against liability or casualty or
619 other loss;

620 (B) Obtaining or regaining possession of or
621 protecting the interest or right by litigation or otherwise;

622 (C) Paying, assessing, compromising, or contesting
623 taxes or assessments or applying for and receiving refunds in
624 connection with them; and

625 (D) Purchasing supplies, hiring assistance or
626 labor, and making repairs or alterations to the real property;

627 (6) Use, develop, alter, replace, remove, erect, or
628 install structures or other improvements upon real property in or
629 incident to which the principal has, or claims to have, an
630 interest or right;

631 (7) Participate in a reorganization with respect to
632 real property or an entity that owns an interest in or right
633 incident to real property and receive, and hold, and act with
634 respect to stocks and bonds or other property received in a plan
635 of reorganization, including:

636 (A) Selling or otherwise disposing of them;

637 (B) Exercising or selling an option, right of
638 conversion, or similar right with respect to them; and



639 (C) Exercising any voting rights in person or by
640 proxy;

641 (8) Change the form of title of an interest in or right
642 incident to real property; and

643 (9) Dedicate to public use, with or without
644 consideration, easements or other real property in which the
645 principal has, or claims to have, an interest.

646 Section 205. **Tangible personal property.** Unless the power
647 of attorney otherwise provides, language in a power of attorney
648 granting general authority with respect to tangible personal
649 property authorizes the agent to:

650 (1) Demand, buy, receive, accept as a gift or as
651 security for an extension of credit, or otherwise acquire or
652 reject ownership or possession of tangible personal property or an
653 interest in tangible personal property;

654 (2) Sell; exchange; convey with or without covenants,
655 representations, or warranties; quitclaim; release; surrender;
656 create a security interest in; grant options concerning; lease;
657 sublease; or, otherwise dispose of tangible personal property or
658 an interest in tangible personal property;

659 (3) Grant a security interest in tangible personal
660 property or an interest in tangible personal property as security
661 to borrow money or pay, renew, or extend the time of payment of a
662 debt of the principal or a debt guaranteed by the principal;



663 (4) Release, assign, satisfy, or enforce by litigation
664 or otherwise, a security interest, lien, or other claim on behalf
665 of the principal, with respect to tangible personal property or an
666 interest in tangible personal property;

667 (5) Manage or conserve tangible personal property or an
668 interest in tangible personal property on behalf of the principal,
669 including:

670 (A) Insuring against liability or casualty or
671 other loss;

672 (B) Obtaining or regaining possession of or
673 protecting the property or interest, by litigation or otherwise;

674 (C) Paying, assessing, compromising, or contesting
675 taxes or assessments or applying for and receiving refunds in
676 connection with taxes or assessments;

677 (D) Moving the property from place to place;

678 (E) Storing the property for hire or on a
679 gratuitous bailment; and

680 (F) Using and making repairs, alterations, or
681 improvements to the property; and

682 (6) Change the form of title of an interest in tangible
683 personal property.

684 Section 206. **Stocks and bonds.** Unless the power of attorney
685 otherwise provides, language in a power of attorney granting
686 general authority with respect to stocks and bonds authorizes the
687 agent to:



- 688 (1) Buy, sell, and exchange stocks and bonds;
689 (2) Establish, continue, modify, or terminate an
690 account with respect to stocks and bonds;
691 (3) Pledge stocks and bonds as security to borrow, pay,
692 renew, or extend the time of payment of a debt of the principal;
693 (4) Receive certificates and other evidences of
694 ownership with respect to stocks and bonds; and
695 (5) Exercise voting rights with respect to stocks and
696 bonds in person or by proxy, enter into voting trusts, and consent
697 to limitations on the right to vote.

698 Section 207. **Commodities and options.** Unless the power of
699 attorney otherwise provides, language in a power of attorney
700 granting general authority with respect to commodities and options
701 authorizes the agent to:

- 702 (1) Buy, sell, exchange, assign, settle, and exercise
703 commodity futures contracts and call or put options on stocks or
704 stock indexes traded on a regulated option exchange; and
705 (2) Establish, continue, modify, and terminate option
706 accounts.

707 Section 208. **Banks and other financial institutions.** Unless
708 the power of attorney otherwise provides, language in a power of
709 attorney granting general authority with respect to banks and
710 other financial institutions authorizes the agent to:

- 711 (1) Continue, modify, and terminate an account or other
712 banking arrangement made by or on behalf of the principal;



713 (2) Establish, modify, and terminate an account or
714 other banking arrangement with a bank, trust company, savings and
715 loan association, credit union, thrift company, brokerage firm, or
716 other financial institution selected by the agent;

717 (3) Contract for services available from a financial
718 institution, including renting a safe deposit box or space in a
719 vault;

720 (4) Withdraw, by check, order, electronic funds
721 transfer, or otherwise, money or property of the principal
722 deposited with or left in the custody of a financial institution;

723 (5) Receive statements of account, vouchers, notices,
724 and similar documents from a financial institution and act with
725 respect to them;

726 (6) Enter a safe deposit box or vault and withdraw or
727 add to the contents;

728 (7) Borrow money and pledge as security personal
729 property of the principal necessary to borrow money or pay, renew,
730 or extend the time of payment of a debt of the principal or a debt
731 guaranteed by the principal;

732 (8) Make, assign, draw, endorse, discount, guarantee,
733 and negotiate promissory notes, checks, drafts, and other
734 negotiable or nonnegotiable paper of the principal or payable to
735 the principal or the principal's order, transfer money, receive
736 the cash or other proceeds of those transactions, and accept a
737 draft drawn by a person upon the principal and pay it when due;



738 (9) Receive for the principal and act upon a sight
739 draft, warehouse receipt, or other document of title whether
740 tangible or electronic, or other negotiable or nonnegotiable
741 instrument;

742 (10) Apply for, receive, and use letters of credit,
743 credit and debit cards, electronic transaction authorizations, and
744 traveler's checks from a financial institution and give an
745 indemnity or other agreement in connection with letters of credit;
746 and

747 (11) Consent to an extension of the time of payment
748 with respect to commercial paper or a financial transaction with a
749 financial institution.

750 Section 209. **Operation of entity or business.** Subject to
751 the terms of a document or an agreement governing an entity or an
752 entity ownership interest, and unless the power of attorney
753 otherwise provides, language in a power of attorney granting
754 general authority with respect to operation of an entity or
755 business authorizes the agent to:

756 (1) Operate, buy, sell, enlarge, reduce, or terminate
757 an ownership interest;

758 (2) Perform a duty or discharge a liability and
759 exercise in person or by proxy a right, power, privilege, or
760 option that the principal has, may have, or claims to have;

761 (3) Enforce the terms of an ownership agreement;



762 (4) Initiate, participate in, submit to alternative
763 dispute resolution, settle, oppose, or propose or accept a
764 compromise with respect to litigation to which the principal is a
765 party because of an ownership interest;

766 (5) Exercise in person or by proxy, or enforce by
767 litigation or otherwise, a right, power, privilege, or option the
768 principal has or claims to have as the holder of stocks and bonds;

769 (6) Initiate, participate in, submit to alternative
770 dispute resolution, settle, oppose, or propose or accept a
771 compromise with respect to litigation to which the principal is a
772 party concerning stocks and bonds;

773 (7) With respect to an entity or business owned solely
774 by the principal:

775 (A) Continue, modify, renegotiate, extend, and
776 terminate a contract made by or on behalf of the principal with
777 respect to the entity or business before execution of the power of
778 attorney;

779 (B) Determine:

780 (i) The location of its operation;

781 (ii) The nature and extent of its business;

782 (iii) The methods of manufacturing, selling,
783 merchandising, financing, accounting, and advertising employed in
784 its operation;

785 (iv) The amount and types of insurance
786 carried; and



787 (v) The mode of engaging, compensating, and
788 dealing with its employees and accountants, attorneys, or other
789 advisors;

790 (C) Change the name or form of organization under
791 which the entity or business is operated and enter into an
792 ownership agreement with other persons to take over all or part of
793 the operation of the entity or business; and

794 (D) Demand and receive money due or claimed by the
795 principal or on the principal's behalf in the operation of the
796 entity or business and control and disburse the money in the
797 operation of the entity or business;

798 (8) Put additional capital into an entity or business
799 in which the principal has an interest;

800 (9) Join in a plan of reorganization, consolidation,
801 conversion, domestication, or merger of the entity or business;

802 (10) Sell or liquidate all or part of an entity or
803 business;

804 (11) Establish the value of an entity or business under
805 a buy-out agreement to which the principal is a party;

806 (12) Prepare, sign, file, and deliver reports,
807 compilations of information, returns, or other papers with respect
808 to an entity or business and make related payments; and

809 (13) Pay, compromise, or contest taxes, assessments,
810 fines, or penalties and perform any other act to protect the
811 principal from illegal or unnecessary taxation, assessments,



812 fines, or penalties, with respect to an entity or business,
813 including attempts to recover, in any manner permitted by law,
814 money paid before or after the execution of the power of attorney.

815 Section 210. **Insurance and annuities.** Unless the power of
816 attorney otherwise provides, language in a power of attorney
817 granting general authority with respect to insurance and annuities
818 authorizes the agent to:

819 (1) Continue, pay the premium or make a contribution
820 on, modify, exchange, rescind, release, or terminate a contract
821 procured by or on behalf of the principal which insures or
822 provides an annuity to either the principal or another person,
823 whether or not the principal is a beneficiary under the contract;

824 (2) Procure new, different, and additional contracts of
825 insurance and annuities for the principal and the principal's
826 spouse, children, and other dependents, and select the amount,
827 type of insurance or annuity, and mode of payment;

828 (3) Pay the premium or make a contribution on, modify,
829 exchange, rescind, release, or terminate a contract of insurance
830 or annuity procured by the agent;

831 (4) Apply for and receive a loan secured by a contract
832 of insurance or annuity;

833 (5) Surrender and receive the cash surrender value on a
834 contract of insurance or annuity;

835 (6) Exercise an election;



836 (7) Exercise investment powers available under a
837 contract of insurance or annuity;

838 (8) Change the manner of paying premiums on a contract
839 of insurance or annuity;

840 (9) Change or convert the type of insurance or annuity
841 with respect to which the principal has or claims to have
842 authority described in this section;

843 (10) Apply for and procure a benefit or assistance
844 under a statute or regulation to guarantee or pay premiums of a
845 contract of insurance on the life of the principal;

846 (11) Collect, sell, assign, hypothecate, borrow
847 against, or pledge the interest of the principal in a contract of
848 insurance or annuity;

849 (12) Select the form and timing of the payment of
850 proceeds from a contract of insurance or annuity; and

851 (13) Pay, from proceeds or otherwise, compromise or
852 contest, and apply for refunds in connection with, a tax or
853 assessment levied by a taxing authority with respect to a contract
854 of insurance or annuity or its proceeds or liability accruing by
855 reason of the tax or assessment.

856 Section 211. Estates, trusts, and other beneficial
857 **interests.**

858 (a) In this section, "estate, trust, or other beneficial
859 interest" means a trust, probate estate, guardianship,
860 conservatorship, escrow, or custodianship or a fund from which the



861 principal is, may become, or claims to be, entitled to a share or
862 payment.

863 (b) Unless the power of attorney otherwise provides,
864 language in a power of attorney granting general authority with
865 respect to estates, trusts, and other beneficial interests
866 authorizes the agent to:

867 (1) Accept, receive, receipt for, sell, assign, pledge,
868 or exchange a share in or payment from an estate, trust, or other
869 beneficial interest;

870 (2) Demand or obtain money or another thing of value to
871 which the principal is, may become, or claims to be, entitled by
872 reason of an estate, trust, or other beneficial interest, by
873 litigation or otherwise;

874 (3) Exercise for the benefit of the principal a
875 presently exercisable general power of appointment held by the
876 principal;

877 (4) Initiate, participate in, submit to alternative
878 dispute resolution, settle, oppose, or propose or accept a
879 compromise with respect to litigation to ascertain the meaning,
880 validity, or effect of a deed, will, declaration of trust, or
881 other instrument or transaction affecting the interest of the
882 principal;

883 (5) Initiate, participate in, submit to alternative
884 dispute resolution, settle, oppose, or propose or accept a



885 compromise with respect to litigation to remove, substitute, or
886 surcharge a fiduciary;

887 (6) Conserve, invest, disburse, or use anything
888 received for an authorized purpose;

889 (7) Transfer an interest of the principal in real
890 property, stocks and bonds, accounts with financial institutions
891 or securities intermediaries, insurance, annuities, and other
892 property to the trustee of a revocable trust created by the
893 principal as settlor; and

894 (8) Reject, renounce, disclaim, release, or consent to
895 a reduction in or modification of a share in or payment from an
896 estate, trust, or other beneficial interest.

897 Section 212. **Claims and litigation.** Unless the power of
898 attorney otherwise provides, language in a power of attorney
899 granting general authority with respect to claims and litigation
900 authorizes the agent to:

901 (1) Assert and maintain before a court or
902 administrative agency a claim, claim for relief, cause of action,
903 counterclaim, offset, recoupment, or defense, including an action
904 to recover property or other thing of value, recover damages
905 sustained by the principal, eliminate or modify tax liability, or
906 seek an injunction, specific performance, or other relief;

907 (2) Bring an action to determine adverse claims or
908 intervene or otherwise participate in litigation;



909 (3) Seek an attachment, garnishment, order of arrest,
910 or other preliminary, provisional, or intermediate relief and use
911 an available procedure to effect or satisfy a judgment, order, or
912 decree;

913 (4) Make or accept a tender, offer of judgment, or
914 admission of facts, submit a controversy on an agreed statement of
915 facts, consent to examination, and bind the principal in
916 litigation;

917 (5) Submit to alternative dispute resolution, settle,
918 and propose or accept a compromise;

919 (6) Waive the issuance and service of process upon the
920 principal, accept service of process, appear for the principal,
921 designate persons upon which process directed to the principal may
922 be served, execute and file or deliver stipulations on the
923 principal's behalf, verify pleadings, seek appellate review,
924 procure and give surety and indemnity bonds, contract and pay for
925 the preparation and printing of records and briefs, receive,
926 execute, and file or deliver a consent, waiver, release,
927 confession of judgment, satisfaction of judgment, notice,
928 agreement, or other instrument in connection with the prosecution,
929 settlement, or defense of a claim or litigation;

930 (7) Act for the principal with respect to bankruptcy or
931 insolvency, whether voluntary or involuntary, concerning the
932 principal or some other person, or with respect to a
933 reorganization, receivership, or application for the appointment



934 of a receiver or trustee which affects an interest of the
935 principal in property or other thing of value;

936 (8) Pay a judgment, award, or order against the
937 principal or a settlement made in connection with a claim or
938 litigation; and

939 (9) Receive money or other thing of value paid in
940 settlement of or as proceeds of a claim or litigation.

941 Section 213. **Personal and family maintenance.**

942 (a) Unless the power of attorney otherwise provides,
943 language in a power of attorney granting general authority with
944 respect to personal and family maintenance authorizes the agent
945 to:

946 (1) Perform the acts necessary to maintain the
947 customary standard of living of the principal, the principal's
948 spouse, and the following individuals, whether living when the
949 power of attorney is executed or later born:

950 (A) The principal's children;

951 (B) Other individuals legally entitled to be
952 supported by the principal; and

953 (C) The individuals whom the principal has
954 customarily supported or indicated the intent to support;

955 (2) Make periodic payments of child support and other
956 family maintenance required by a court or governmental agency or
957 an agreement to which the principal is a party;



958 (3) Provide living quarters for the individuals
959 described in paragraph (1) by:

960 (A) Purchase, lease, or other contract; or
961 (B) Paying the operating costs, including
962 interest, amortization payments, repairs, improvements, and taxes,
963 for premises owned by the principal or occupied by those
964 individuals;

965 (4) Provide normal domestic help, usual vacations and
966 travel expenses, and funds for shelter, clothing, food,
967 appropriate education, including postsecondary and vocational
968 education, and other current living costs for the individuals
969 described in paragraph (1);

970 (5) Pay expenses for necessary health care and
971 custodial care on behalf of the individuals described in paragraph
972 (1);

973 (6) Act as the principal's personal representative
974 pursuant to the Health Insurance Portability and Accountability
975 Act, Sections 1171 through 1179 of the Social Security Act, 42
976 USCS Section 1320d, and applicable regulations, in making
977 decisions related to the past, present, or future payment for the
978 provision of health care consented to by the principal or anyone
979 authorized under the law of this state to consent to health care
980 on behalf of the principal;

981 (7) Continue any provision made by the principal for
982 automobiles or other means of transportation, including



983 registering, licensing, insuring, and replacing them, for the
984 individuals described in paragraph (1);

985 (8) Maintain credit and debit accounts for the
986 convenience of the individuals described in paragraph (1) and open
987 new accounts; and

988 (9) Continue payments incidental to the membership or
989 affiliation of the principal in a religious institution, club,
990 society, order, or other organization or to continue contributions
991 to those organizations.

992 (b) Authority with respect to personal and family
993 maintenance is neither dependent upon, nor limited by, authority
994 that an agent may or may not have with respect to gifts under this
995 act.

996 Section 214. **Benefits from governmental programs or civil or**
997 **military service.**

998 (a) In this section, "benefits from governmental programs or
999 civil or military service" means any benefit, program or
1000 assistance provided under a statute or regulation including social
1001 security, Medicare, and Medicaid.

1002 (b) Unless the power of attorney otherwise provides,
1003 language in a power of attorney granting general authority with
1004 respect to benefits from governmental programs or civil or
1005 military service authorizes the agent to:

1006 (1) Execute vouchers in the name of the principal for
1007 allowances and reimbursements payable by the United States or a



1008 foreign government or by a state or subdivision of a state to the
1009 principal, including allowances and reimbursements for
1010 transportation of the individuals described in Section 213(a)(1),
1011 and for shipment of their household effects;

1012 (2) Take possession and order the removal and shipment
1013 of property of the principal from a post, warehouse, depot, dock,
1014 or other place of storage or safekeeping, either governmental or
1015 private, and execute and deliver a release, voucher, receipt, bill
1016 of lading, shipping ticket, certificate, or other instrument for
1017 that purpose;

1018 (3) Enroll in, apply for, select, reject, change,
1019 amend, or discontinue, on the principal's behalf, a benefit or
1020 program;

1021 (4) Prepare, file, and maintain a claim of the
1022 principal for a benefit or assistance, financial or otherwise, to
1023 which the principal may be entitled under a statute or regulation;

1024 (5) Initiate, participate in, submit to alternative
1025 dispute resolution, settle, oppose, or propose or accept a
1026 compromise with respect to litigation concerning any benefit or
1027 assistance the principal may be entitled to receive under a
1028 statute or regulation; and

1029 (6) Receive the financial proceeds of a claim described
1030 in paragraph (4) and conserve, invest, disburse, or use for a
1031 lawful purpose anything so received.

1032 Section 215. **Retirement plans.**



1033 (a) In this section, "retirement plan" means a plan or
1034 account created by an employer, the principal, or another
1035 individual to provide retirement benefits or deferred compensation
1036 of which the principal is a participant, beneficiary, or owner,
1037 including a plan or account under the following sections of the
1038 Internal Revenue Code:

1039 (1) An individual retirement account under Internal
1040 Revenue Code Section 408, 26 USCS Section 408;

1041 (2) A Roth individual retirement account under Internal
1042 Revenue Code Section 408A, 26 USCS Section 408A;

1043 (3) A deemed individual retirement account under
1044 Internal Revenue Code Section 408(q), 26 USCS Section 408(q);

1045 (4) An annuity or mutual fund custodial account under
1046 Internal Revenue Code Section 403(b), 26 USCS Section 403(b);

1047 (5) A pension, profit-sharing, stock bonus, or other
1048 retirement plan qualified under Internal Revenue Code Section
1049 401(a), 26 USCS Section 401(a);

1050 (6) A plan under Internal Revenue Code Section 457(b),
1051 26 USCS Section 457(b); and

1052 (7) A nonqualified deferred compensation plan under
1053 Internal Revenue Code Section 409A, 26 USCS Section 409A.

1054 (b) Unless the power of attorney otherwise provides,
1055 language in a power of attorney granting general authority with
1056 respect to retirement plans authorizes the agent to:



- 1057 (1) Select the form and timing of payments under a
1058 retirement plan and withdraw benefits from a plan;
- 1059 (2) Make a rollover, including a direct
1060 trustee-to-trustee rollover, of benefits from one retirement plan
1061 to another;
- 1062 (3) Establish a retirement plan in the principal's
1063 name;
- 1064 (4) Make contributions to a retirement plan;
- 1065 (5) Exercise investment powers available under a
1066 retirement plan; and
- 1067 (6) Borrow from, sell assets to, or purchase assets
1068 from a retirement plan.

1069 Section 216. **Taxes.** Unless the power of attorney otherwise
1070 provides, language in a power of attorney granting general
1071 authority with respect to taxes authorizes the agent to:

- 1072 (1) Prepare, sign, and file federal, state, local, and
1073 foreign income, gift, payroll, property, Federal Insurance
1074 Contributions Act, and other tax returns, claims for refunds,
1075 requests for extension of time, petitions regarding tax matters,
1076 and any other tax-related documents, including receipts, offers,
1077 waivers, consents, including consents and agreements under
1078 Internal Revenue Code Section 2032A, 26 USCS Section 2032A,
1079 closing agreements, and any power of attorney required by the
1080 Internal Revenue Service or other taxing authority with respect to



1081 a tax year upon which the statute of limitations has not run and
1082 the following twenty-five (25) tax years;

1083 (2) Pay taxes due, collect refunds, post bonds, receive
1084 confidential information, and contest deficiencies determined by
1085 the Internal Revenue Service or other taxing authority;

1086 (3) Exercise any election available to the principal
1087 under federal, state, local, or foreign tax law; and

1088 (4) Act for the principal in all tax matters for all
1089 periods before the Internal Revenue Service, or other taxing
1090 authority.

1091 Section 217. **Gifts.**

1092 (a) In this section, a gift "for the benefit of" a person
1093 includes a gift to a trust, an account under the Uniform Transfers
1094 to Minors Act, and a tuition savings account or prepaid tuition
1095 plan as defined under Internal Revenue Code Section 529, 26 USCS
1096 Section 529.

1097 (b) Unless the power of attorney otherwise provides,
1098 language in a power of attorney granting general authority with
1099 respect to gifts authorizes the agent only to:

1100 (1) Make outright to, or for the benefit of, a person,
1101 a gift of any of the principal's property, including by the
1102 exercise of a presently exercisable general power of appointment
1103 held by the principal, in an amount per donee not to exceed the
1104 annual dollar limits of the federal gift tax exclusion under
1105 Internal Revenue Code Section 2503(b), 26 USCS Section 2503(b),



1106 without regard to whether the federal gift tax exclusion applies
1107 to the gift, or if the principal's spouse agrees to consent to a
1108 split gift pursuant to Internal Revenue Code Section 2513, 26 USCS
1109 2513, in an amount per donee not to exceed twice the annual
1110 federal gift tax exclusion limit; and

1111 (2) Consent, pursuant to Internal Revenue Code Section
1112 2513, 26 USCS Section 2513, [as amended,] to the splitting of a
1113 gift made by the principal's spouse in an amount per donee not to
1114 exceed the aggregate annual gift tax exclusions for both spouses.

1115 (c) An agent may make a gift of the principal's property
1116 only as the agent determines is consistent with the principal's
1117 objectives if actually known by the agent and, if unknown, as the
1118 agent determines is consistent with the principal's best interest
1119 based on all relevant factors, including:

1120 (1) The value and nature of the principal's property;

1121 (2) The principal's foreseeable obligations and need
1122 for maintenance;

1123 (3) Minimization of taxes, including income, estate,
1124 inheritance, generation-skipping transfer, and gift taxes;

1125 (4) Eligibility for a benefit, a program, or assistance
1126 under a statute or regulation; and

1127 (5) The principal's personal history of making or
1128 joining in making gifts.

1129 **ARTICLE 3**

1130 **STATUTORY FORMS**



1155 Instructions. Coagents are not required to act together unless
1156 you include that requirement in the Special Instructions.

1157 If your agent is unable or unwilling to act for you, your
1158 power of attorney will end unless you have named a successor
1159 agent. You may also name a second successor agent.

1160 This power of attorney becomes effective immediately unless
1161 you state otherwise in the Special Instructions.

1162 **If you have questions about the power of attorney**
1163 **or the authority you are granting to your agent, you**
1164 **should seek legal advice before signing this form.**

1165 **DESIGNATION OF AGENT**

1166 I _____
1167 name the following
1168 (Name of Principal)
1169 person as my agent:

1170 Name of Agent:
1171 _____

1172 Agent's Address:
1173 _____

1174 Agent's Telephone Number: _____

1175 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

1176 If my agent is unable or unwilling to act for me, I name as
1177 my successor agent:

1178 Name of Successor Agent:
1179 _____



1180 Successor Agent's Address:

1181 _____

1182 Successor Agent's Telephone Number:

1183 _____

1184 If my successor agent is unable or unwilling to act for me, I
1185 name as my second successor agent:

1186 _____

1187 Name of Second Successor Agent:

1188 _____

1189 Second Successor Agent's Address:

1190 _____

1191 Second Successor Agent's Telephone Number:

1192 _____

1193 **GRANT OF GENERAL AUTHORITY**

1194 I grant my agent and any successor agent general authority to
1195 act for me with respect to the following subjects as defined in
1196 the Uniform Power of Attorney Act [insert citation]:

1197 (INITIAL each subject you want to include in the agent's
1198 general authority. If you wish to grant general authority over
1199 all of the subjects you may initial "All Preceding Subjects"
1200 instead of initialing each subject.)

1201 (___) Real Property

1202 (___) Tangible Personal Property

1203 (___) Stocks and Bonds

1204 (___) Commodities and Options



- 1205 (___) Banks and Other Financial Institutions
1206 (___) Operation of Entity or Business
1207 (___) Insurance and Annuities
1208 (___) Estates, Trusts, and Other Beneficial Interests
1209 (___) Claims and Litigation
1210 (___) Personal and Family Maintenance
1211 (___) Benefits from Governmental Programs or Civil or Military
1212 Service
1213 (___) Retirement Plans
1214 (___) Taxes
1215 (___) All Preceding Subjects

1216 **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

1217 My agent MAY NOT do any of the following specific acts for me
1218 UNLESS I have INITIALED the specific authority listed below:

1219 **(CAUTION: Granting any of the following will give**
1220 **your agent the authority to take actions that could**
1221 **significantly reduce your property or change how your**
1222 **property is distributed at your death. INITIAL ONLY**
1223 **the specific authority you WANT to give your agent.)**

- 1224 (___) Create, amend, revoke, or terminate an inter vivos trust
1225 (___) Make a gift, subject to the limitations of the Uniform
1226 Power of Attorney Act [insert citation to Section 217 of the act]
1227 and any special instructions in this power of attorney
1228 (___) Create or change rights of survivorship
1229 (___) Create or change a beneficiary designation



1230 (___) Authorize another person to exercise the authority
1231 granted under this power of attorney

1232 (___) Waive the principal's right to be a beneficiary of a
1233 joint and survivor annuity, including a survivor benefit under a
1234 retirement plan

1235 (___) Exercise fiduciary powers that the principal has
1236 authority to delegate

1237 (___) Disclaim or refuse an interest in property, including a
1238 power of appointment]

1239 **LIMITATION ON AGENT'S AUTHORITY**

1240 An agent that is not my ancestor, spouse, or descendant MAY
1241 NOT use my property to benefit the agent or a person to whom the
1242 agent owes an obligation of support unless I have included that
1243 authority in the Special Instructions.

1244 **SPECIAL INSTRUCTIONS (OPTIONAL)**

1245 You may give special instructions on the following lines:

1246 _____
1247 _____
1248 _____
1249 _____
1250 _____
1251 _____
1252 _____
1253 _____

1254 **EFFECTIVE DATE**



1255 This power of attorney is effective immediately unless I have
1256 stated otherwise in the Special Instructions.

1257 **NOMINATION OF [CONSERVATOR OR GUARDIAN] (OPTIONAL)**

1258 If it becomes necessary for a court to appoint a [conservator
1259 or guardian] of my estate or [guardian] of my person, I nominate
1260 the following person(s) for appointment:

1261 Name of Nominee for [conservator or guardian] of my estate:

1262 _____

1263 Nominee's Address: _____

1264 Nominee's Telephone Number: _____

1265 Name of Nominee for [guardian] of my person:

1266 _____

1267 Nominee's Address: _____

1268 Nominee's Telephone Number: _____

1269 **RELIANCE ON THIS POWER OF ATTORNEY**

1270 Any person, including my agent, may rely upon the validity of
1271 this power of attorney or a copy of it unless that person knows it
1272 has terminated or is invalid.

1273 **SIGNATURE AND ACKNOWLEDGMENT**

1274 _____

1275 Your Signature

1276 _____

1277 Date

1278 _____

1279 Your Name Printed



1280 _____

1281 _____

1282 Your Address

1283 _____

1284 Your Telephone Number

1285 State of _____

1286 County of _____

1287 This document was acknowledged before me on _____, by _____

1288 (Date) (Name of Principal)

1289 _____ (Seal, if any)

1290 _____

1291 Signature of Notary

1292 My commission expires: _____

1293 This document prepared by: _____

1294 **IMPORTANT INFORMATION FOR AGENT**

1295 **Agent's Duties**

1296 When you accept the authority granted under this power of
1297 attorney, a special legal relationship is created between you and
1298 the principal. This relationship imposes upon you legal duties
1299 that continue until you resign or the power of attorney is
1300 terminated or revoked. You must:

1301 (1) Do what you know the principal reasonably expects you to
1302 do with the principal's property or, if you do not know the
1303 principal's expectations, act in the principal's best interest;

1304 (2) Act in good faith;



1305 (3) Do nothing beyond the authority granted in this power of
1306 attorney; and

1307 (4) Disclose your identity as an agent whenever you act for
1308 the principal by writing or printing the name of the principal and
1309 signing your own name as "agent" in the following manner:

1310 _____
1311 (Principal's Name) by (Your Signature) as Agent

1312 Unless the special instructions in this power of attorney
1313 state otherwise, you must also:

1314 (1) Act loyally for the principal's benefit;

1315 (2) Avoid conflicts that would impair your ability to act in
1316 the principal's best interest;

1317 (3) Act with care, competence, and diligence;

1318 (4) Keep a record of all receipts, disbursements, and
1319 transactions made on behalf of the principal;

1320 (5) Cooperate with any person that has authority to make
1321 health care decisions for the principal to do what you know the
1322 principal reasonably expects or, if you do not know the
1323 principal's expectations, to act in the principal's best interest;
1324 and

1325 (6) Attempt to preserve the principal's estate plan if you
1326 know the plan and preserving the plan is consistent with the
1327 principal's best interest.

1328 **Termination of Agent's Authority**



1354 Section 302. Agent's certification. The following optional
1355 form may be used by an agent to certify facts concerning a power
1356 of attorney.

1357 **AGENT'S CERTIFICATION AS TO THE VALIDITY**
1358 **OF POWER OF ATTORNEY AND AGENT'S AUTHORITY**

1359 State of _____

1360 County of _____

1361 I, _____ (Name of

1362 Agent), certify under penalty of perjury that _____

1363 _____ (Name of Principal)

1364 granted me authority as an agent or successor agent in a power of

1365 attorney dated _____.

1366 I further certify that to my knowledge:

1367 (1) The principal is alive and has not revoked the power of
1368 attorney or my authority to act under the power of attorney and
1369 the power of attorney and my authority to act under the power of
1370 attorney have not terminated;

1371 (2) If the power of attorney was drafted to become effective
1372 upon the happening of an event or contingency, the event or
1373 contingency has occurred;

1374 (3) If I was named as a successor agent, the prior agent is
1375 no longer able or willing to serve; and

1376 (4) (Insert other relevant statements)

1377 _____

1378 _____



1403 given to the need to promote uniformity of the law with respect to
1404 its subject matter among the states that enact it.

1405 Section 402. **Relation to Electronic Signatures in Global and**
1406 **National Commerce Act.** This act modifies, limits, and supersedes
1407 the federal Electronic Signatures in Global and National Commerce
1408 Act, 15 USCS Section 7001 et seq., but does not modify, limit, or
1409 supersede Section 101(c) of that act, 15 USCS Section 7001(c), or
1410 authorize electronic delivery of any of the notices described in
1411 Section 103(b) of that act, 15 USCS Section 7003(b).

1412 Section 403. **Effect of existing powers of attorney.** Except
1413 as otherwise provided in this act, on July 1, 2013:

1414 (1) This act applies to a power of attorney created
1415 before, on, or after July 1, 2013;

1416 (2) This act applies to a judicial proceeding
1417 concerning a power of attorney commenced on or after July 1, 2013;

1418 (3) This act applies to a judicial proceeding
1419 concerning a power of attorney commenced before July 1, 2013,
1420 unless the court finds that application of a provision of this act
1421 would substantially interfere with the effective conduct of the
1422 judicial proceeding or prejudice the rights of a party, in which
1423 case that provision does not apply and the superseded law applies;
1424 and

1425 (4) An act done before July 1, 2013, is not affected by
1426 this act.



1427 **SECTION 2.** Sections 87-3-101 through 87-3-113, which
1428 constitute the Uniform Durable Power of Attorney Act, are
1429 repealed.

1430 **SECTION 3.** This act shall take effect and be in force from
1431 and after July 1, 2013.

