



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3886

Introduced 2/26/2009, by Rep. Emily McAsey

#### SYNOPSIS AS INTRODUCED:

New Act

755 ILCS 45/Art. II rep.

755 ILCS 45/Art. III rep.

Creates the Uniform Power of Attorney Act. Provides that the Act applies to all powers of attorney except: (1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction; (2) a power to make health-care decisions; (3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity; and (4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose. Contains general provisions concerning powers of attorney, including when a power of attorney takes effect and the extent of an agent's duties. Contains provisions concerning an agent's authority, including with respect to real property, tangible personal property, operation of a business, insurance, estates and trusts, claims and litigation, and other matters. Also contains a statutory form power of attorney. Repeals provisions of the Illinois Power of Attorney Act concerning durable powers of attorney and a statutory short form power of attorney for property. Effective immediately.

LRB096 07356 DRJ 17442 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning powers of attorney.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 ARTICLE 1. GENERAL PROVISIONS

5 Section 101. Short title. This Act may be cited as the  
6 Uniform Power of Attorney Act.

7 Section 102. Definitions. In this Act:

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

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

15 (3) "Electronic" means relating to technology having  
16 electrical, digital, magnetic, wireless, optical,  
17 electromagnetic, or similar capabilities.

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

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

21 (A) has an impairment in the ability to receive and  
22 evaluate information or make or communicate decisions even

1 with the use of technological assistance; or

2 (B) is:

3 (i) missing;

4 (ii) detained, including incarcerated in a penal  
5 system; or

6 (iii) outside the United States and unable to  
7 return.

8 (6) "Person" means an individual, corporation, business  
9 trust, estate, trust, partnership, limited liability company,  
10 association, joint venture, public corporation, government or  
11 governmental subdivision, agency, or instrumentality, or any  
12 other legal or commercial entity.

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

16 (8) "Presently exercisable general power of appointment,"  
17 with respect to property or a property interest subject to a  
18 power of appointment, means power exercisable at the time in  
19 question to vest absolute ownership in the principal  
20 individually, the principal's estate, the principal's  
21 creditors, or the creditors of the principal's estate. The term  
22 includes a power of appointment not exercisable until the  
23 occurrence of a specified event, the satisfaction of an  
24 ascertainable standard, or the passage of a specified period  
25 only after the occurrence of the specified event, the  
26 satisfaction of the ascertainable standard, or the passage of

1 the specified period. The term does not include a power  
2 exercisable in a fiduciary capacity or only by will.

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

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

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

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

13 (A) to execute or adopt a tangible symbol; or

14 (B) to attach to or logically associate with the record  
15 an electronic sound, symbol, or process.

16 (13) "State" means a state of the United States, the  
17 District of Columbia, Puerto Rico, the United States Virgin  
18 Islands, or any territory or insular possession subject to the  
19 jurisdiction of the United States.

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

25 Section 103. Applicability. This Act applies to all powers

1 of attorney except:

2 (1) a power to the extent it is coupled with an interest in  
3 the subject of the power, including a power given to or for the  
4 benefit of a creditor in connection with a credit transaction;

5 (2) a power to make health-care decisions;

6 (3) a proxy or other delegation to exercise voting rights  
7 or management rights with respect to an entity; and

8 (4) a power created on a form prescribed by a government or  
9 governmental subdivision, agency, or instrumentality for a  
10 governmental purpose.

11 Section 104. Power of attorney is durable. A power of  
12 attorney created under this Act is durable unless it expressly  
13 provides that it is terminated by the incapacity of the  
14 principal.

15 Section 105. Execution of power of attorney. A power of  
16 attorney must be signed by the principal or in the principal's  
17 conscious presence by another individual directed by the  
18 principal to sign the principal's name on the power of  
19 attorney. A signature on a power of attorney is presumed to be  
20 genuine if the principal acknowledges the signature before a  
21 notary public or other individual authorized by law to take  
22 acknowledgments.

23 Section 106. Validity of power of attorney.

1 (a) A power of attorney executed in this state on or after  
2 the effective date of this Act is valid if its execution  
3 complies with Section 105.

4 (b) A power of attorney executed in this state before the  
5 effective date of this Act is valid if its execution complied  
6 with the law of this state as it existed at the time of  
7 execution.

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

11 (1) the law of the jurisdiction that determines the  
12 meaning and effect of the power of attorney pursuant to  
13 Section 107; or

14 (2) the requirements for a military power of attorney  
15 pursuant to 10 U.S.C. Section 1044b, as amended.

16 (d) Except as otherwise provided by statute other than this  
17 Act, a photocopy or electronically transmitted copy of an  
18 original power of attorney has the same effect as the original.

19 Section 107. Meaning and effect of power of attorney. The  
20 meaning and effect of a power of attorney is determined by the  
21 law of the jurisdiction indicated in the power of attorney and,  
22 in the absence of an indication of jurisdiction, by the law of  
23 the jurisdiction in which the power of attorney was executed.

24 Section 108. Nomination of conservator or guardian;

1 relation of agent to court-appointed fiduciary.

2 (a) In a power of attorney, a principal may nominate a  
3 conservator or guardian of the principal's estate or guardian  
4 of the principal's person for consideration by the court if  
5 protective proceedings for the principal's estate or person are  
6 begun after the principal executes the power of attorney.  
7 Except for good cause shown or disqualification, the court  
8 shall make its appointment in accordance with the principal's  
9 most recent nomination.

10 (b) If, after a principal executes a power of attorney, a  
11 court appoints a conservator or guardian of the principal's  
12 estate or other fiduciary charged with the management of some  
13 or all of the principal's property, the agent is accountable to  
14 the fiduciary as well as to the principal. The power of  
15 attorney is not terminated and the agent's authority continues  
16 unless limited, suspended, or terminated by the court.

17 Section 109. When power of attorney effective.

18 (a) A power of attorney is effective when executed unless  
19 the principal provides in the power of attorney that it becomes  
20 effective at a future date or upon the occurrence of a future  
21 event or contingency.

22 (b) If a power of attorney becomes effective upon the  
23 occurrence of a future event or contingency, the principal, in  
24 the power of attorney, may authorize one or more persons to  
25 determine in a writing or other record that the event or

1 contingency has occurred.

2 (c) If a power of attorney becomes effective upon the  
3 principal's incapacity and the principal has not authorized a  
4 person to determine whether the principal is incapacitated, or  
5 the person authorized is unable or unwilling to make the  
6 determination, the power of attorney becomes effective upon a  
7 determination in a writing or other record by:

8 (1) a physician or licensed psychologist that the  
9 principal is incapacitated within the meaning of Section  
10 102(5) (A); or

11 (2) an attorney at law, a judge, or an appropriate  
12 governmental official that the principal is incapacitated  
13 within the meaning of Section 102(5) (B).

14 (d) A person authorized by the principal in the power of  
15 attorney to determine that the principal is incapacitated may  
16 act as the principal's personal representative pursuant to the  
17 Health Insurance Portability and Accountability Act, Sections  
18 1171 through 1179 of the Social Security Act, 42 U.S.C. Section  
19 1320d, as amended, and applicable regulations, to obtain access  
20 to the principal's health-care information and communicate  
21 with the principal's health-care provider.

22 Section 110. Termination of power of attorney or agent's  
23 authority.

24 (a) A power of attorney terminates when:

25 (1) the principal dies;



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

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

4           (4) the power of attorney provides that it terminates;

5           (5) the purpose of the power of attorney is  
6 accomplished; or

7           (6) the principal revokes the agent's authority or the  
8 agent dies, becomes incapacitated, or resigns, and the  
9 power of attorney does not provide for another agent to act  
10 under the power of attorney.

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

12           (1) the principal revokes the authority;

13           (2) the agent dies, becomes incapacitated, or resigns;

14           (3) an action is filed for the dissolution or annulment  
15 of the agent's marriage to the principal or their legal  
16 separation, unless the power of attorney otherwise  
17 provides; or

18           (4) the power of attorney terminates.

19         (c) Unless the power of attorney otherwise provides, an  
20 agent's authority is exercisable until the authority  
21 terminates under subsection (b), notwithstanding a lapse of  
22 time since the execution of the power of attorney.

23         (d) Termination of an agent's authority or of a power of  
24 attorney is not effective as to the agent or another person  
25 that, without actual knowledge of the termination, acts in good  
26 faith under the power of attorney. An act so performed, unless

1 otherwise invalid or unenforceable, binds the principal and the  
2 principal's successors in interest.

3 (e) Incapacity of the principal of a power of attorney that  
4 is not durable does not revoke or terminate the power of  
5 attorney as to an agent or other person that, without actual  
6 knowledge of the incapacity, acts in good faith under the power  
7 of attorney. An act so performed, unless otherwise invalid or  
8 unenforceable, binds the principal and the principal's  
9 successors in interest.

10 (f) The execution of a power of attorney does not revoke a  
11 power of attorney previously executed by the principal unless  
12 the subsequent power of attorney provides that the previous  
13 power of attorney is revoked or that all other powers of  
14 attorney are revoked.

15 Section 111. Coagents and successor agents.

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

19 (b) A principal may designate one or more successor agents  
20 to act if an agent resigns, dies, becomes incapacitated, is not  
21 qualified to serve, or declines to serve. A principal may grant  
22 authority to designate one or more successor agents to an agent  
23 or other person designated by name, office, or function. Unless  
24 the power of attorney otherwise provides, a successor agent:

25 (1) has the same authority as that granted to the

1 original agent; and

2 (2) may not act until all predecessor agents have  
3 resigned, died, become incapacitated, are no longer  
4 qualified to serve, or have declined to serve.

5 (c) Except as otherwise provided in the power of attorney  
6 and subsection (d), an agent that does not participate in or  
7 conceal a breach of fiduciary duty committed by another agent,  
8 including a predecessor agent, is not liable for the actions of  
9 the other agent.

10 (d) An agent that has actual knowledge of a breach or  
11 imminent breach of fiduciary duty by another agent shall notify  
12 the principal and, if the principal is incapacitated, take any  
13 action reasonably appropriate in the circumstances to  
14 safeguard the principal's best interest. An agent that fails to  
15 notify the principal or take action as required by this  
16 subsection is liable for the reasonably foreseeable damages  
17 that could have been avoided if the agent had notified the  
18 principal or taken such action.

19 Section 112. Reimbursement and compensation of agent.  
20 Unless the power of attorney otherwise provides, an agent is  
21 entitled to reimbursement of expenses reasonably incurred on  
22 behalf of the principal and to compensation that is reasonable  
23 under the circumstances.

24 Section 113. Agent's acceptance. Except as otherwise

1 provided in the power of attorney, a person accepts appointment  
2 as an agent under a power of attorney by exercising authority  
3 or performing duties as an agent or by any other assertion or  
4 conduct indicating acceptance.

5 Section 114. Agent's duties.

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

8 (1) act in accordance with the principal's reasonable  
9 expectations to the extent actually known by the agent and,  
10 otherwise, in the principal's best interest;

11 (2) act in good faith; and

12 (3) act only within the scope of authority granted in  
13 the power of attorney.

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

16 (1) act loyally for the principal's benefit;

17 (2) act so as not to create a conflict of interest that  
18 impairs the agent's ability to act impartially in the  
19 principal's best interest;

20 (3) act with the care, competence, and diligence  
21 ordinarily exercised by agents in similar circumstances;

22 (4) keep a record of all receipts, disbursements, and  
23 transactions made on behalf of the principal;

24 (5) cooperate with a person that has authority to make  
25 health-care decisions for the principal to carry out the

1 principal's reasonable expectations to the extent actually  
2 known by the agent and, otherwise, act in the principal's  
3 best interest; and

4 (6) attempt to preserve the principal's estate plan, to  
5 the extent actually known by the agent, if preserving the  
6 plan is consistent with the principal's best interest based  
7 on all relevant factors, including:

8 (A) the value and nature of the principal's  
9 property;

10 (B) the principal's foreseeable obligations and  
11 need for maintenance;

12 (C) minimization of taxes, including income,  
13 estate, inheritance, generation-skipping transfer, and  
14 gift taxes; and

15 (D) eligibility for a benefit, a program, or  
16 assistance under a statute or regulation.

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

20 (d) An agent that acts with care, competence, and diligence  
21 for the best interest of the principal is not liable solely  
22 because the agent also benefits from the act or has an  
23 individual or conflicting interest in relation to the property  
24 or affairs of the principal.

25 (e) If an agent is selected by the principal because of  
26 special skills or expertise possessed by the agent or in

1 reliance on the agent's representation that the agent has  
2 special skills or expertise, the special skills or expertise  
3 must be considered in determining whether the agent has acted  
4 with care, competence, and diligence under the circumstances.

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

7 (g) An agent that exercises authority to delegate to  
8 another person the authority granted by the principal or that  
9 engages another person on behalf of the principal is not liable  
10 for an act, error of judgment, or default of that person if the  
11 agent exercises care, competence, and diligence in selecting  
12 and monitoring the person.

13 (h) Except as otherwise provided in the power of attorney,  
14 an agent is not required to disclose receipts, disbursements,  
15 or transactions conducted on behalf of the principal unless  
16 ordered by a court or requested by the principal, a guardian, a  
17 conservator, another fiduciary acting for the principal, a  
18 governmental agency having authority to protect the welfare of  
19 the principal, or, upon the death of the principal, by the  
20 personal representative or successor in interest of the  
21 principal's estate. If so requested, within 30 days the agent  
22 shall comply with the request or provide a writing or other  
23 record substantiating why additional time is needed and shall  
24 comply with the request within an additional 30 days.

25 Section 115. Exoneration of agent. A provision in a power

1 of attorney relieving an agent of liability for breach of duty  
2 is binding on the principal and the principal's successors in  
3 interest except to the extent the provision:

4 (1) relieves the agent of liability for breach of duty  
5 committed dishonestly, with an improper motive, or with  
6 reckless indifference to the purposes of the power of attorney  
7 or the best interest of the principal; or

8 (2) was inserted as a result of an abuse of a confidential  
9 or fiduciary relationship with the principal.

10 Section 116. Judicial relief.

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

14 (1) the principal or the agent;

15 (2) a guardian, conservator, or other fiduciary acting  
16 for the principal;

17 (3) a person authorized to make health-care decisions  
18 for the principal;

19 (4) the principal's spouse, parent, or descendant;

20 (5) an individual who would qualify as a presumptive  
21 heir of the principal;

22 (6) a person named as a beneficiary to receive any  
23 property, benefit, or contractual right on the principal's  
24 death or as a beneficiary of a trust created by or for the  
25 principal that has a financial interest in the principal's

1 estate;

2 (7) a governmental agency having regulatory authority  
3 to protect the welfare of the principal;

4 (8) the principal's caregiver or another person that  
5 demonstrates sufficient interest in the principal's  
6 welfare; and

7 (9) a person asked to accept the power of attorney.

8 (b) Upon motion by the principal, the court shall dismiss a  
9 petition filed under this Section, unless the court finds that  
10 the principal lacks capacity to revoke the agent's authority or  
11 the power of attorney.

12 Section 117. Agent's liability. An agent that violates this  
13 Act is liable to the principal or the principal's successors in  
14 interest for the amount required to:

15 (1) restore the value of the principal's property to what  
16 it would have been had the violation not occurred; and

17 (2) reimburse the principal or the principal's successors  
18 in interest for the attorney's fees and costs paid on the  
19 agent's behalf.

20 Section 118. Agent's resignation; notice. Unless the power  
21 of attorney provides a different method for an agent's  
22 resignation, an agent may resign by giving notice to the  
23 principal and, if the principal is incapacitated:

24 (1) to the conservator or guardian, if one has been



1 appointed for the principal, and a coagent or successor agent;  
2 or

3 (2) if there is no person described in paragraph (1), to:

4 (A) the principal's caregiver;

5 (B) another person reasonably believed by the agent to  
6 have sufficient interest in the principal's welfare; or

7 (C) a governmental agency having authority to protect  
8 the welfare of the principal.

9 Section 119. Acceptance of and reliance upon acknowledged  
10 power of attorney.

11 (a) For purposes of this Section and Section 120,  
12 "acknowledged" means purportedly verified before a notary  
13 public or other individual authorized to take  
14 acknowledgements.

15 (b) A person that in good faith accepts an acknowledged  
16 power of attorney without actual knowledge that the signature  
17 is not genuine may rely upon the presumption under Section 105  
18 that the signature is genuine.

19 (c) A person that in good faith accepts an acknowledged  
20 power of attorney without actual knowledge that the power of  
21 attorney is void, invalid, or terminated, that the purported  
22 agent's authority is void, invalid, or terminated, or that the  
23 agent is exceeding or improperly exercising the agent's  
24 authority may rely upon the power of attorney as if the power  
25 of attorney were genuine, valid and still in effect, the

1 agent's authority were genuine, valid and still in effect, and  
2 the agent had not exceeded and had properly exercised the  
3 authority.

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

7 (1) an agent's certification under penalty of perjury  
8 of any factual matter concerning the principal, agent, or  
9 power of attorney;

10 (2) an English translation of the power of attorney if  
11 the power of attorney contains, in whole or in part,  
12 language other than English; and

13 (3) an opinion of counsel as to any matter of law  
14 concerning the power of attorney if the person making the  
15 request provides in a writing or other record the reason  
16 for the request.

17 (e) An English translation or an opinion of counsel  
18 requested under this Section must be provided at the  
19 principal's expense unless the request is made more than seven  
20 business days after the power of attorney is presented for  
21 acceptance.

22 (f) For purposes of this Section and Section 120, a person  
23 that conducts activities through employees is without actual  
24 knowledge of a fact relating to a power of attorney, a  
25 principal, or an agent if the employee conducting the  
26 transaction involving the power of attorney is without actual

1 knowledge of the fact.

2 Section 120. Liability for and refusal to accept  
3 acknowledged power of attorney.

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

5 (1) a person shall either accept an acknowledged power  
6 of attorney or request a certification, a translation, or  
7 an opinion of counsel under Section 119(d) no later than  
8 seven business days after presentation of the power of  
9 attorney for acceptance;

10 (2) if a person requests a certification, a  
11 translation, or an opinion of counsel under Section 119(d),  
12 the person shall accept the power of attorney no later than  
13 five business days after receipt of the certification,  
14 translation, or opinion of counsel; and

15 (3) a person may not require an additional or different  
16 form of power of attorney for authority granted in the  
17 power of attorney presented.

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

20 (1) the person is not otherwise required to engage in a  
21 transaction with the principal in the same circumstances;

22 (2) engaging in a transaction with the agent or the  
23 principal in the same circumstances would be inconsistent  
24 with federal law;

25 (3) the person has actual knowledge of the termination

1 of the agent's authority or of the power of attorney before  
2 exercise of the power;

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

5 (5) the person in good faith believes that the power is  
6 not valid or that the agent does not have the authority to  
7 perform the act requested, whether or not a certification,  
8 a translation, or an opinion of counsel under Section  
9 119(d) has been requested or provided; or

10 (6) the person makes, or has actual knowledge that  
11 another person has made, a report to an adult protective  
12 services agency or office, including, without limitation,  
13 a provider agency as defined in Section 2 of the Elder  
14 Abuse and Neglect Act, the Office of the State Long Term  
15 Care Ombudsman, or the Office of the Inspector General for  
16 the Department of Human Services, stating a good faith  
17 belief that the principal may be subject to physical or  
18 financial abuse, neglect, exploitation, or abandonment by  
19 the agent or a person acting for or with the agent.

20 (c) A person that refuses in violation of this Section to  
21 accept an acknowledged power of attorney is subject to:

22 (1) a court order mandating acceptance of the power of  
23 attorney; and

24 (2) liability for reasonable attorney's fees and costs  
25 incurred in any action or proceeding that confirms the  
26 validity of the power of attorney or mandates acceptance of

1 the power of attorney.

2 Section 121. Principles of law and equity. Unless displaced  
3 by a provision of this Act, the principles of law and equity  
4 supplement this Act.

5 Section 122. Laws applicable to financial institutions and  
6 entities. This Act does not supersede any other law applicable  
7 to financial institutions or other entities, and the other law  
8 controls if inconsistent with this Act.

9 Section 123. Remedies under the law. The remedies under  
10 this Act are not exclusive and do not abrogate any right or  
11 remedy under the law of this state other than this Act.

12 ARTICLE 2. AUTHORITY

13 Section 201. Authority that requires specific grant; grant  
14 of general authority.

15 (a) An agent under a power of attorney may do the following  
16 on behalf of the principal or with the principal's property  
17 only if the power of attorney expressly grants the agent the  
18 authority and exercise of the authority is not otherwise  
19 prohibited by another agreement or instrument to which the  
20 authority or property is subject:

21 (1) create, amend, revoke, or terminate an inter vivos

1 trust;

2 (2) make a gift;

3 (3) create or change rights of survivorship;

4 (4) create or change a beneficiary designation;

5 (5) delegate authority granted under the power of  
6 attorney;

7 (6) waive the principal's right to be a beneficiary of  
8 a joint and survivor annuity, including a survivor benefit  
9 under a retirement plan;

10 (7) exercise fiduciary powers that the principal has  
11 authority to delegate; or

12 (8) disclaim property, including a power of  
13 appointment.

14 (b) Notwithstanding a grant of authority to do an act  
15 described in subsection (a), unless the power of attorney  
16 otherwise provides, an agent that is not an ancestor, spouse,  
17 or descendant of the principal, may not exercise authority  
18 under a power of attorney to create in the agent, or in an  
19 individual to whom the agent owes a legal obligation of  
20 support, an interest in the principal's property, whether by  
21 gift, right of survivorship, beneficiary designation,  
22 disclaimer, or otherwise.

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

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

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

6 (f) Authority granted in a power of attorney is exercisable  
7 with respect to property that the principal has when the power  
8 of attorney is executed or acquires later, whether or not the  
9 property is located in this state and whether or not the  
10 authority is exercised or the power of attorney is executed in  
11 this state.

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

16 Section 202. Incorporation of authority.

17 (a) An agent has authority described in this Article if the  
18 power of attorney refers to general authority with respect to  
19 the descriptive term for the subjects stated in Sections 204  
20 through 217 or cites the Section in which the authority is  
21 described.

22 (b) A reference in a power of attorney to general authority  
23 with respect to the descriptive term for a subject in Sections  
24 204 through 217 or a citation to a Section of Sections 204  
25 through 217 incorporates the entire Section as if it were set

1 out in full in the power of attorney.

2 (c) A principal may modify authority incorporated by  
3 reference.

4 Section 203. Construction of authority generally. Except  
5 as otherwise provided in the power of attorney, by executing a  
6 power of attorney that incorporates by reference a subject  
7 described in Sections 204 through 217 or that grants to an  
8 agent authority to do all acts that a principal could do  
9 pursuant to Section 201(c), a principal authorizes the agent,  
10 with respect to that subject, to:

11 (1) demand, receive, and obtain by litigation or otherwise,  
12 money or another thing of value to which the principal is, may  
13 become, or claims to be entitled, and conserve, invest,  
14 disburse, or use anything so received or obtained for the  
15 purposes intended;

16 (2) contract in any manner with any person, on terms  
17 agreeable to the agent, to accomplish a purpose of a  
18 transaction and perform, rescind, cancel, terminate, reform,  
19 restate, release, or modify the contract or another contract  
20 made by or on behalf of the principal;

21 (3) execute, acknowledge, seal, deliver, file, or record  
22 any instrument or communication the agent considers desirable  
23 to accomplish a purpose of a transaction, including creating at  
24 any time a schedule listing some or all of the principal's  
25 property and attaching it to the power of attorney;



1           (4) initiate, participate in, submit to alternative  
2 dispute resolution, settle, oppose, or propose or accept a  
3 compromise with respect to a claim existing in favor of or  
4 against the principal or intervene in litigation relating to  
5 the claim;

6           (5) seek on the principal's behalf the assistance of a  
7 court or other governmental agency to carry out an act  
8 authorized in the power of attorney;

9           (6) engage, compensate, and discharge an attorney,  
10 accountant, discretionary investment manager, expert witness,  
11 or other advisor;

12           (7) prepare, execute, and file a record, report, or other  
13 document to safeguard or promote the principal's interest under  
14 a statute or regulation;

15           (8) communicate with any representative or employee of a  
16 government or governmental subdivision, agency, or  
17 instrumentality, on behalf of the principal;

18           (9) access communications intended for, and communicate on  
19 behalf of the principal, whether by mail, electronic  
20 transmission, telephone, or other means; and

21           (10) do any lawful act with respect to the subject and all  
22 property related to the subject.

23           Section 204. Real property. Unless the power of attorney  
24 otherwise provides, language in a power of attorney granting  
25 general authority with respect to real property authorizes the

1 agent to:

2 (1) demand, buy, lease, receive, accept as a gift or as  
3 security for an extension of credit, or otherwise acquire or  
4 reject an interest in real property or a right incident to real  
5 property;

6 (2) sell; exchange; convey with or without covenants,  
7 representations, or warranties; quitclaim; release; surrender;  
8 retain title for security; encumber; partition; consent to  
9 partitioning; subject to an easement or covenant; subdivide;  
10 apply for zoning or other governmental permits; plat or consent  
11 to platting; develop; grant an option concerning; lease;  
12 sublease; contribute to an entity in exchange for an interest  
13 in that entity; or otherwise grant or dispose of an interest in  
14 real property or a right incident to real property;

15 (3) pledge or mortgage an interest in real property or  
16 right incident to real property as security to borrow money or  
17 pay, renew, or extend the time of payment of a debt of the  
18 principal or a debt guaranteed by the principal;

19 (4) release, assign, satisfy, or enforce by litigation or  
20 otherwise a mortgage, deed of trust, conditional sale contract,  
21 encumbrance, lien, or other claim to real property which exists  
22 or is asserted;

23 (5) manage or conserve an interest in real property or a  
24 right incident to real property owned or claimed to be owned by  
25 the principal, including:

26 (A) insuring against liability or casualty or other

1           loss;

2           (B) obtaining or regaining possession of or protecting  
3           the interest or right by litigation or otherwise;

4           (C) paying, assessing, compromising, or contesting  
5           taxes or assessments or applying for and receiving refunds  
6           in connection with them; and

7           (D) purchasing supplies, hiring assistance or labor,  
8           and making repairs or alterations to the real property;

9           (6) use, develop, alter, replace, remove, erect, or install  
10          structures or other improvements upon real property in or  
11          incident to which the principal has, or claims to have, an  
12          interest or right;

13          (7) participate in a reorganization with respect to real  
14          property or an entity that owns an interest in or right  
15          incident to real property and receive, and hold, and act with  
16          respect to stocks and bonds or other property received in a  
17          plan of reorganization, including:

18                (A) selling or otherwise disposing of them;

19                (B) exercising or selling an option, right of  
20                conversion, or similar right with respect to them; and

21                (C) exercising any voting rights in person or by proxy;

22          (8) change the form of title of an interest in or right  
23          incident to real property; and

24          (9) dedicate to public use, with or without consideration,  
25          easements or other real property in which the principal has, or  
26          claims to have, an interest.

1           Section 205. Tangible personal property. Unless the power  
2 of attorney otherwise provides, language in a power of attorney  
3 granting general authority with respect to tangible personal  
4 property authorizes the agent to:

5           (1) demand, buy, receive, accept as a gift or as security  
6 for an extension of credit, or otherwise acquire or reject  
7 ownership or possession of tangible personal property or an  
8 interest in tangible personal property;

9           (2) sell; exchange; convey with or without covenants,  
10 representations, or warranties; quitclaim; release; surrender;  
11 create a security interest in; grant options concerning; lease;  
12 sublease; or, otherwise dispose of tangible personal property  
13 or an interest in tangible personal property;

14           (3) grant a security interest in tangible personal property  
15 or an interest in tangible personal property as security to  
16 borrow money or pay, renew, or extend the time of payment of a  
17 debt of the principal or a debt guaranteed by the principal;

18           (4) release, assign, satisfy, or enforce by litigation or  
19 otherwise, a security interest, lien, or other claim on behalf  
20 of the principal, with respect to tangible personal property or  
21 an interest in tangible personal property;

22           (5) manage or conserve tangible personal property or an  
23 interest in tangible personal property on behalf of the  
24 principal, including:

25           (A) insuring against liability or casualty or other

1           loss;

2           (B) obtaining or regaining possession of or protecting  
3           the property or interest, by litigation or otherwise;

4           (C) paying, assessing, compromising, or contesting  
5           taxes or assessments or applying for and receiving refunds  
6           in connection with taxes or assessments;

7           (D) moving the property from place to place;

8           (E) storing the property for hire or on a gratuitous  
9           bailment; and

10          (F) using and making repairs, alterations, or  
11          improvements to the property; and

12          (6) change the form of title of an interest in tangible  
13          personal property.

14          Section 206. Stocks and bonds. Unless the power of attorney  
15          otherwise provides, language in a power of attorney granting  
16          general authority with respect to stocks and bonds authorizes  
17          the agent to:

18               (1) buy, sell, and exchange stocks and bonds;

19               (2) establish, continue, modify, or terminate an account  
20          with respect to stocks and bonds;

21               (3) pledge stocks and bonds as security to borrow, pay,  
22          renew, or extend the time of payment of a debt of the  
23          principal;

24               (4) receive certificates and other evidences of ownership  
25          with respect to stocks and bonds; and

1           (5) exercise voting rights with respect to stocks and bonds  
2 in person or by proxy, enter into voting trusts, and consent to  
3 limitations on the right to vote.

4           Section 207. Commodities and options. Unless the power of  
5 attorney otherwise provides, language in a power of attorney  
6 granting general authority with respect to commodities and  
7 options authorizes the agent to:

8           (1) buy, sell, exchange, assign, settle, and exercise  
9 commodity futures contracts and call or put options on stocks  
10 or stock indexes traded on a regulated option exchange; and

11           (2) establish, continue, modify, and terminate option  
12 accounts.

13           Section 208. Banks and other financial institutions.  
14 Unless the power of attorney otherwise provides, language in a  
15 power of attorney granting general authority with respect to  
16 banks and other financial institutions authorizes the agent to:

17           (1) continue, modify, and terminate an account or other  
18 banking arrangement made by or on behalf of the principal;

19           (2) establish, modify, and terminate an account or other  
20 banking arrangement with a bank, trust company, savings and  
21 loan association, credit union, thrift company, brokerage  
22 firm, or other financial institution selected by the agent;

23           (3) contract for services available from a financial  
24 institution, including renting a safe deposit box or space in a

1 vault;

2 (4) withdraw, by check, order, electronic funds transfer,  
3 or otherwise, money or property of the principal deposited with  
4 or left in the custody of a financial institution;

5 (5) receive statements of account, vouchers, notices, and  
6 similar documents from a financial institution and act with  
7 respect to them;

8 (6) enter a safe deposit box or vault and withdraw or add  
9 to the contents;

10 (7) borrow money and pledge as security personal property  
11 of the principal necessary to borrow money or pay, renew, or  
12 extend the time of payment of a debt of the principal or a debt  
13 guaranteed by the principal;

14 (8) make, assign, draw, endorse, discount, guarantee, and  
15 negotiate promissory notes, checks, drafts, and other  
16 negotiable or nonnegotiable paper of the principal or payable  
17 to the principal or the principal's order, transfer money,  
18 receive the cash or other proceeds of those transactions, and  
19 accept a draft drawn by a person upon the principal and pay it  
20 when due;

21 (9) receive for the principal and act upon a sight draft,  
22 warehouse receipt, or other document of title whether tangible  
23 or electronic, or other negotiable or nonnegotiable  
24 instrument;

25 (10) apply for, receive, and use letters of credit, credit  
26 and debit cards, electronic transaction authorizations, and

1 traveler's checks from a financial institution and give an  
2 indemnity or other agreement in connection with letters of  
3 credit; and

4 (11) consent to an extension of the time of payment with  
5 respect to commercial paper or a financial transaction with a  
6 financial institution.

7 Section 209. Operation of entity or business. Subject to  
8 the terms of a document or an agreement governing an entity or  
9 an entity ownership interest, and unless the power of attorney  
10 otherwise provides, language in a power of attorney granting  
11 general authority with respect to operation of an entity or  
12 business authorizes the agent to:

13 (1) operate, buy, sell, enlarge, reduce, or terminate an  
14 ownership interest;

15 (2) perform a duty or discharge a liability and exercise in  
16 person or by proxy a right, power, privilege, or option that  
17 the principal has, may have, or claims to have;

18 (3) enforce the terms of an ownership agreement;

19 (4) initiate, participate in, submit to alternative  
20 dispute resolution, settle, oppose, or propose or accept a  
21 compromise with respect to litigation to which the principal is  
22 a party because of an ownership interest;

23 (5) exercise in person or by proxy, or enforce by  
24 litigation or otherwise, a right, power, privilege, or option  
25 the principal has or claims to have as the holder of stocks and



1 bonds;

2 (6) initiate, participate in, submit to alternative  
3 dispute resolution, settle, oppose, or propose or accept a  
4 compromise with respect to litigation to which the principal is  
5 a party concerning stocks and bonds;

6 (7) with respect to an entity or business owned solely by  
7 the principal:

8 (A) continue, modify, renegotiate, extend, and  
9 terminate a contract made by or on behalf of the principal  
10 with respect to the entity or business before execution of  
11 the power of attorney;

12 (B) determine:

13 (i) the location of its operation;

14 (ii) the nature and extent of its business;

15 (iii) the methods of manufacturing, selling,  
16 merchandising, financing, accounting, and advertising  
17 employed in its operation;

18 (iv) the amount and types of insurance carried; and

19 (v) the mode of engaging, compensating, and  
20 dealing with its employees and accountants, attorneys,  
21 or other advisors;

22 (C) change the name or form of organization under which  
23 the entity or business is operated and enter into an  
24 ownership agreement with other persons to take over all or  
25 part of the operation of the entity or business; and

26 (D) demand and receive money due or claimed by the

1 principal or on the principal's behalf in the operation of  
2 the entity or business and control and disburse the money  
3 in the operation of the entity or business;

4 (8) put additional capital into an entity or business in  
5 which the principal has an interest;

6 (9) join in a plan of reorganization, consolidation,  
7 conversion, domestication, or merger of the entity or business;

8 (10) sell or liquidate all or part of an entity or  
9 business;

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

12 (12) prepare, sign, file, and deliver reports,  
13 compilations of information, returns, or other papers with  
14 respect to an entity or business and make related payments; and

15 (13) pay, compromise, or contest taxes, assessments,  
16 fines, or penalties and perform any other act to protect the  
17 principal from illegal or unnecessary taxation, assessments,  
18 fines, or penalties, with respect to an entity or business,  
19 including attempts to recover, in any manner permitted by law,  
20 money paid before or after the execution of the power of  
21 attorney.

22 Section 210. Insurance and annuities. Unless the power of  
23 attorney otherwise provides, language in a power of attorney  
24 granting general authority with respect to insurance and  
25 annuities authorizes the agent to:

1           (1) continue, pay the premium or make a contribution on,  
2 modify, exchange, rescind, release, or terminate a contract  
3 procured by or on behalf of the principal which insures or  
4 provides an annuity to either the principal or another person,  
5 whether or not the principal is a beneficiary under the  
6 contract;

7           (2) procure new, different, and additional contracts of  
8 insurance and annuities for the principal and the principal's  
9 spouse, children, and other dependents, and select the amount,  
10 type of insurance or annuity, and mode of payment;

11           (3) pay the premium or make a contribution on, modify,  
12 exchange, rescind, release, or terminate a contract of  
13 insurance or annuity procured by the agent;

14           (4) apply for and receive a loan secured by a contract of  
15 insurance or annuity;

16           (5) surrender and receive the cash surrender value on a  
17 contract of insurance or annuity;

18           (6) exercise an election;

19           (7) exercise investment powers available under a contract  
20 of insurance or annuity;

21           (8) change the manner of paying premiums on a contract of  
22 insurance or annuity;

23           (9) change or convert the type of insurance or annuity with  
24 respect to which the principal has or claims to have authority  
25 described in this Section;

26           (10) apply for and procure a benefit or assistance under a

1 statute or regulation to guarantee or pay premiums of a  
2 contract of insurance on the life of the principal;

3 (11) collect, sell, assign, hypothecate, borrow against,  
4 or pledge the interest of the principal in a contract of  
5 insurance or annuity;

6 (12) select the form and timing of the payment of proceeds  
7 from a contract of insurance or annuity; and

8 (13) pay, from proceeds or otherwise, compromise or  
9 contest, and apply for refunds in connection with, a tax or  
10 assessment levied by a taxing authority with respect to a  
11 contract of insurance or annuity or its proceeds or liability  
12 accruing by reason of the tax or assessment.

13 Section 211. Estates, trusts, and other beneficial  
14 interests.

15 (a) In this Section, "estate, trust, or other beneficial  
16 interest" means a trust, probate estate, guardianship,  
17 conservatorship, escrow, or custodianship or a fund from which  
18 the principal is, may become, or claims to be, entitled to a  
19 share or payment.

20 (b) Unless the power of attorney otherwise provides,  
21 language in a power of attorney granting general authority with  
22 respect to estates, trusts, and other beneficial interests  
23 authorizes the agent to:

24 (1) accept, receive, receipt for, sell, assign,  
25 pledge, or exchange a share in or payment from an estate,

1 trust, or other beneficial interest;

2 (2) demand or obtain money or another thing of value to  
3 which the principal is, may become, or claims to be,  
4 entitled by reason of an estate, trust, or other beneficial  
5 interest, by litigation or otherwise;

6 (3) exercise for the benefit of the principal a  
7 presently exercisable general power of appointment held by  
8 the principal;

9 (4) initiate, participate in, submit to alternative  
10 dispute resolution, settle, oppose, or propose or accept a  
11 compromise with respect to litigation to ascertain the  
12 meaning, validity, or effect of a deed, will, declaration  
13 of trust, or other instrument or transaction affecting the  
14 interest of the principal;

15 (5) initiate, participate in, submit to alternative  
16 dispute resolution, settle, oppose, or propose or accept a  
17 compromise with respect to litigation to remove,  
18 substitute, or surcharge a fiduciary;

19 (6) conserve, invest, disburse, or use anything  
20 received for an authorized purpose; and

21 (7) transfer an interest of the principal in real  
22 property, stocks and bonds, accounts with financial  
23 institutions or securities intermediaries, insurance,  
24 annuities, and other property to the trustee of a revocable  
25 trust created by the principal as settlor.

1           Section 212. Claims and litigation. Unless the power of  
2 attorney otherwise provides, language in a power of attorney  
3 granting general authority with respect to claims and  
4 litigation authorizes the agent to:

5           (1) assert and maintain before a court or administrative  
6 agency a claim, claim for relief, cause of action,  
7 counterclaim, offset, recoupment, or defense, including an  
8 action to recover property or other thing of value, recover  
9 damages sustained by the principal, eliminate or modify tax  
10 liability, or seek an injunction, specific performance, or  
11 other relief;

12           (2) bring an action to determine adverse claims or  
13 intervene or otherwise participate in litigation;

14           (3) seek an attachment, garnishment, order of arrest, or  
15 other preliminary, provisional, or intermediate relief and use  
16 an available procedure to effect or satisfy a judgment, order,  
17 or decree;

18           (4) make or accept a tender, offer of judgment, or  
19 admission of facts, submit a controversy on an agreed statement  
20 of facts, consent to examination, and bind the principal in  
21 litigation;

22           (5) submit to alternative dispute resolution, settle, and  
23 propose or accept a compromise;

24           (6) waive the issuance and service of process upon the  
25 principal, accept service of process, appear for the principal,  
26 designate persons upon which process directed to the principal

1 may be served, execute and file or deliver stipulations on the  
2 principal's behalf, verify pleadings, seek appellate review,  
3 procure and give surety and indemnity bonds, contract and pay  
4 for the preparation and printing of records and briefs,  
5 receive, execute, and file or deliver a consent, waiver,  
6 release, confession of judgment, satisfaction of judgment,  
7 notice, agreement, or other instrument in connection with the  
8 prosecution, settlement, or defense of a claim or litigation;

9 (7) act for the principal with respect to bankruptcy or  
10 insolvency, whether voluntary or involuntary, concerning the  
11 principal or some other person, or with respect to a  
12 reorganization, receivership, or application for the  
13 appointment of a receiver or trustee which affects an interest  
14 of the principal in property or other thing of value;

15 (8) pay a judgment, award, or order against the principal  
16 or a settlement made in connection with a claim or litigation;  
17 and

18 (9) receive money or other thing of value paid in  
19 settlement of or as proceeds of a claim or litigation.

20 Section 213. Personal and family maintenance.

21 (a) Unless the power of attorney otherwise provides,  
22 language in a power of attorney granting general authority with  
23 respect to personal and family maintenance authorizes the agent  
24 to:

25 (1) perform the acts necessary to maintain the

1 customary standard of living of the principal, the  
2 principal's spouse, and the following individuals, whether  
3 living when the power of attorney is executed or later  
4 born:

5 (A) the principal's children;

6 (B) other individuals legally entitled to be  
7 supported by the principal; and

8 (C) the individuals whom the principal has  
9 customarily supported or indicated the intent to  
10 support;

11 (2) make periodic payments of child support and other  
12 family maintenance required by a court or governmental  
13 agency or an agreement to which the principal is a party;

14 (3) provide living quarters for the individuals  
15 described in paragraph (1) by:

16 (A) purchase, lease, or other contract; or

17 (B) paying the operating costs, including  
18 interest, amortization payments, repairs,  
19 improvements, and taxes, for premises owned by the  
20 principal or occupied by those individuals;

21 (4) provide normal domestic help, usual vacations and  
22 travel expenses, and funds for shelter, clothing, food,  
23 appropriate education, including postsecondary and  
24 vocational education, and other current living costs for  
25 the individuals described in paragraph (1);

26 (5) pay expenses for necessary health care and



1           custodial care on behalf of the individuals described in  
2           paragraph (1);

3           (6) act as the principal's personal representative  
4           pursuant to the Health Insurance Portability and  
5           Accountability Act, Sections 1171 through 1179 of the  
6           Social Security Act, 42 U.S.C. Section 1320d, as amended,  
7           and applicable regulations, in making decisions related to  
8           the past, present, or future payment for the provision of  
9           health care consented to by the principal or anyone  
10          authorized under the law of this state to consent to health  
11          care on behalf of the principal;

12          (7) continue any provision made by the principal for  
13          automobiles or other means of transportation, including  
14          registering, licensing, insuring, and replacing them, for  
15          the individuals described in paragraph (1);

16          (8) maintain credit and debit accounts for the  
17          convenience of the individuals described in paragraph (1)  
18          and open new accounts; and

19          (9) continue payments incidental to the membership or  
20          affiliation of the principal in a religious institution,  
21          club, society, order, or other organization or to continue  
22          contributions to those organizations.

23          (b) Authority with respect to personal and family  
24          maintenance is neither dependent upon, nor limited by,  
25          authority that an agent may or may not have with respect to  
26          gifts under this Act.

1           Section 214. Benefits from governmental programs or civil  
2 or military service.

3           (a) In this Section, "benefits from governmental programs  
4 or civil or military service" means any benefit, program or  
5 assistance provided under a statute or regulation including  
6 Social Security, Medicare, and Medicaid.

7           (b) Unless the power of attorney otherwise provides,  
8 language in a power of attorney granting general authority with  
9 respect to benefits from governmental programs or civil or  
10 military service authorizes the agent to:

11           (1) execute vouchers in the name of the principal for  
12 allowances and reimbursements payable by the United States  
13 or a foreign government or by a state or subdivision of a  
14 state to the principal, including allowances and  
15 reimbursements for transportation of the individuals  
16 described in Section 213(a)(1), and for shipment of their  
17 household effects;

18           (2) take possession and order the removal and shipment  
19 of property of the principal from a post, warehouse, depot,  
20 dock, or other place of storage or safekeeping, either  
21 governmental or private, and execute and deliver a release,  
22 voucher, receipt, bill of lading, shipping ticket,  
23 certificate, or other instrument for that purpose;

24           (3) enroll in, apply for, select, reject, change,  
25 amend, or discontinue, on the principal's behalf, a benefit

1 or program;

2 (4) prepare, file, and maintain a claim of the  
3 principal for a benefit or assistance, financial or  
4 otherwise, to which the principal may be entitled under a  
5 statute or regulation;

6 (5) initiate, participate in, submit to alternative  
7 dispute resolution, settle, oppose, or propose or accept a  
8 compromise with respect to litigation concerning any  
9 benefit or assistance the principal may be entitled to  
10 receive under a statute or regulation; and

11 (6) receive the financial proceeds of a claim described  
12 in paragraph (4) and conserve, invest, disburse, or use for  
13 a lawful purpose anything so received.

14 Section 215. Retirement plans.

15 (a) In this Section, "retirement plan" means a plan or  
16 account created by an employer, the principal, or another  
17 individual to provide retirement benefits or deferred  
18 compensation of which the principal is a participant,  
19 beneficiary, or owner, including a plan or account under the  
20 following Sections of the Internal Revenue Code:

21 (1) an individual retirement account under Internal  
22 Revenue Code Section 408, 26 U.S.C. Section 408, as  
23 amended;

24 (2) a Roth individual retirement account under  
25 Internal Revenue Code Section 408A, 26 U.S.C. Section 408A,

1 as amended;

2 (3) a deemed individual retirement account under  
3 Internal Revenue Code Section 408(q), 26 U.S.C. Section  
4 408(q), as amended;

5 (4) an annuity or mutual fund custodial account under  
6 Internal Revenue Code Section 403(b), 26 U.S.C. Section  
7 403(b), as amended;

8 (5) a pension, profit-sharing, stock bonus, or other  
9 retirement plan qualified under Internal Revenue Code  
10 Section 401(a), 26 U.S.C. Section 401(a), as amended;

11 (6) a plan under Internal Revenue Code Section 457(b),  
12 26 U.S.C. Section 457(b), as amended; and

13 (7) a nonqualified deferred compensation plan under  
14 Internal Revenue Code Section 409A, 26 U.S.C. Section 409A,  
15 as amended.

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

19 (1) select the form and timing of payments under a  
20 retirement plan and withdraw benefits from a plan;

21 (2) make a rollover, including a direct  
22 trustee-to-trustee rollover, of benefits from one  
23 retirement plan to another;

24 (3) establish a retirement plan in the principal's  
25 name;

26 (4) make contributions to a retirement plan;

1           (5) exercise investment powers available under a  
2 retirement plan; and

3           (6) borrow from, sell assets to, or purchase assets  
4 from a retirement plan.

5           Section 216. Taxes. Unless the power of attorney otherwise  
6 provides, language in a power of attorney granting general  
7 authority with respect to taxes authorizes the agent to:

8           (1) prepare, sign, and file federal, state, local, and  
9 foreign income, gift, payroll, property, Federal Insurance  
10 Contributions Act, and other tax returns, claims for refunds,  
11 requests for extension of time, petitions regarding tax  
12 matters, and any other tax-related documents, including  
13 receipts, offers, waivers, consents, including consents and  
14 agreements under Internal Revenue Code Section 2032A, 26 U.S.C.  
15 Section 2032A, as amended, closing agreements, and any power of  
16 attorney required by the Internal Revenue Service or other  
17 taxing authority with respect to a tax year upon which the  
18 statute of limitations has not run and the following 25 tax  
19 years;

20           (2) pay taxes due, collect refunds, post bonds, receive  
21 confidential information, and contest deficiencies determined  
22 by the Internal Revenue Service or other taxing authority;

23           (3) exercise any election available to the principal under  
24 federal, state, local, or foreign tax law; and

25           (4) act for the principal in all tax matters for all

1 periods before the Internal Revenue Service, or other taxing  
2 authority.

3 Section 217. Gifts.

4 (a) In this Section, a gift "for the benefit of" a person  
5 includes a gift to a trust, an account under the Uniform  
6 Transfers to Minors Act, and a tuition savings account or  
7 prepaid tuition plan as defined under Internal Revenue Code  
8 Section 529, 26 U.S.C. Section 529, as amended.

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

12 (1) make outright to, or for the benefit of, a person,  
13 a gift of any of the principal's property, including by the  
14 exercise of a presently exercisable general power of  
15 appointment held by the principal, in an amount per donee  
16 not to exceed the annual dollar limits of the federal gift  
17 tax exclusion under Internal Revenue Code Section 2503(b),  
18 26 U.S.C. Section 2503(b), as amended, without regard to  
19 whether the federal gift tax exclusion applies to the gift,  
20 or if the principal's spouse agrees to consent to a split  
21 gift pursuant to Internal Revenue Code Section 2513, 26  
22 U.S.C. 2513, as amended, in an amount per donee not to  
23 exceed twice the annual federal gift tax exclusion limit;  
24 and

25 (2) consent, pursuant to Internal Revenue Code Section



1

## ILLINOIS

2

## STATUTORY FORM POWER OF ATTORNEY

3

## IMPORTANT INFORMATION

4 This power of attorney authorizes another person (your agent)  
5 to make decisions concerning your property for you (the  
6 principal). Your agent will be able to make decisions and act  
7 with respect to your property (including your money) whether or  
8 not you are able to act for yourself. The meaning of authority  
9 over subjects listed on this form is explained in the Uniform  
10 Power of Attorney Act [ insert citation] .

11 This power of attorney does not authorize the agent to make  
12 health-care decisions for you.

13 You should select someone you trust to serve as your agent.  
14 Unless you specify otherwise, generally the agent's authority  
15 will continue until you die or revoke the power of attorney or  
16 the agent resigns or is unable to act for you.

17 Your agent is entitled to reasonable compensation unless you  
18 state otherwise in the Special Instructions.

19 This form provides for designation of one agent. If you wish to



1 name more than one agent you may name a coagent in the Special  
2 Instructions. Coagents are not required to act together unless  
3 you include that requirement in the Special Instructions.

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

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

9 If you have questions about the power of attorney or the  
10 authority you are granting to your agent, you should seek legal  
11 advice before signing this form.

12 DESIGNATION OF AGENT

13 I.. (Name of Principal) name the following person as my agent:

14 Name of Agent: .....

15 Agent's Address: .....

16 Agent's Telephone Number: .....

17 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

18 If my agent is unable or unwilling to act for me, I name as my

1 successor agent:

2 Name of Successor Agent: .....

3 Successor Agent's Address: .....

4 Successor Agent's Telephone Number: .....

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

7 Name of Second Successor Agent: .....

8 Second Successor Agent's Address: .....

9 Second Successor Agent's Telephone Number: .....

10 GRANT OF GENERAL AUTHORITY

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

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

18 (...) Real Property

19 (...) Tangible Personal Property

- 1 (... ) Stocks and Bonds
- 2 (... ) Commodities and Options
- 3 (... ) Banks and Other Financial Institutions
- 4 (... ) Operation of Entity or Business
- 5 (... ) Insurance and Annuities
- 6 (... ) Estates, Trusts, and Other Beneficial Interests
- 7 (... ) Claims and Litigation
- 8 (... ) Personal and Family Maintenance
- 9 (... ) Benefits from Governmental Programs or Civil or Military
- 10 Service
- 11 (... ) Retirement Plans
- 12 (... ) Taxes
- 13 (... ) All Preceding Subjects

14 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

17 (CAUTION: Granting any of the following will give your agent  
18 the authority to take actions that could significantly reduce  
19 your property or change how your property is distributed at  
20 your death. INITIAL ONLY the specific authority you WANT to  
21 give your agent.)

22 (... ) Create, amend, revoke, or terminate an inter vivos trust

- 1 (... ) Make a gift, subject to the limitations of the Uniform
- 2 Power of Attorney Act [insert citation to Section 217 of the
- 3 act] and any special instructions in this power of attorney
- 4 (... ) Create or change rights of survivorship
- 5 (... ) Create or change a beneficiary designation
- 6 (... ) Authorize another person to exercise the authority
- 7 granted under this power of attorney
- 8 (... ) Waive the principal's right to be a beneficiary of a
- 9 joint and survivor annuity, including a survivor benefit under
- 10 a retirement plan
- 11 (... ) Exercise fiduciary powers that the principal has
- 12 authority to delegate
- 13 (... ) Disclaim or refuse an interest in property, including a
- 14 power of appointment

15 LIMITATION ON AGENT'S AUTHORITY

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

20 SPECIAL INSTRUCTIONS (OPTIONAL)

21 You may give special instructions on the following lines:  
22 .....

1 .....  
 2 .....  
 3 .....

EFFECTIVE DATE

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

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

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

Name of Nominee for conservator or guardian of my estate:  
 .....  
 Nominee's Address: .....  
 Nominee's Telephone Number: .....  
 Name of Nominee for guardian of my person: .....  
 Nominee's Address: .....  
 Nominee's Telephone Number: .....

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of

1 this power of attorney or a copy of it unless that person knows  
2 it has terminated or is invalid.

3 SIGNATURE AND ACKNOWLEDGMENT

4 ..... ..

5 Your Signature Date

6 .....

7 Your Name Printed

8 .....

9 .....

10 Your Address

11 .....

12 Your Telephone Number

13 State of .....

14 County of .....

15 This document was acknowledged before me on ....., (Date)

16 by ..... (Name of Principal)

17 ..... (Seal, if any)

18 Signature of Notary

19 My commission expires: .....

20 This document prepared by:

21 .....

22 .....

1                                    IMPORTANT INFORMATION FOR AGENT

2        Agent's Duties

3        When you accept the authority granted under this power of  
4        attorney, a special legal relationship is created between you  
5        and the principal. This relationship imposes upon you legal  
6        duties that continue until you resign or the power of attorney  
7        is terminated or revoked. You must:

8            (1) do what you know the principal reasonably expects you to do  
9            with the principal's property or, if you do not know the  
10           principal's expectations, act in the principal's best  
11           interest;

12           (2) act in good faith;

13           (3) do nothing beyond the authority granted in this power of  
14           attorney; and

15           (4) disclose your identity as an agent whenever you act for the  
16           principal by writing or printing the name of the principal and  
17           signing your own name as "agent" in the following manner:

18           (Principal's Name) by (Your Signature) as Agent

19        Unless the Special Instructions in this power of attorney state  
20        otherwise, you must also:

- 1 (1) act loyally for the principal's benefit;
- 2 (2) avoid conflicts that would impair your ability to act in  
3 the principal's best interest;
- 4 (3) act with care, competence, and diligence;
- 5 (4) keep a record of all receipts, disbursements, and  
6 transactions made on behalf of the principal;
- 7 (5) cooperate with any person that has authority to make  
8 health-care decisions for the principal to do what you know the  
9 principal reasonably expects or, if you do not know the  
10 principal's expectations, to act in the principal's best  
11 interest; and
- 12 (6) attempt to preserve the principal's estate plan if you know  
13 the plan and preserving the plan is consistent with the  
14 principal's best interest.

#### 15 Termination of Agent's Authority

16 You must stop acting on behalf of the principal if you learn of  
17 any event that terminates this power of attorney or your  
18 authority under this power of attorney. Events that terminate a  
19 power of attorney or your authority to act under a power of  
20 attorney include:

- 21 (1) death of the principal;
- 22 (2) the principal's revocation of the power of attorney or your



1 authority;

2 (3) the occurrence of a termination event stated in the power  
3 of attorney;

4 (4) the purpose of the power of attorney is fully accomplished;  
5 or

6 (5) if you are married to the principal, a legal action is  
7 filed with a court to end your marriage, or for your legal  
8 separation, unless the Special Instructions in this power of  
9 attorney state that such an action will not terminate your  
10 authority.

#### 11 Liability of Agent

12 The meaning of the authority granted to you is defined in the  
13 Uniform Power of Attorney Act [insert citation]. If you violate  
14 the Uniform Power of Attorney Act [insert citation] or act  
15 outside the authority granted, you may be liable for any  
16 damages caused by your violation.

17 If there is anything about this document or your duties that  
18 you do not understand, you should seek legal advice.

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

1 AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY  
2 AND AGENT'S AUTHORITY

3 State of .....

4 County of .....

5 I, .... (Name of Agent), certify under penalty of perjury that  
6 ..... (Name of Principal) granted me authority as an agent or  
7 successor agent in a power of attorney dated.....

8 I further certify that to my knowledge:

9 (1) the Principal is alive and has not revoked the Power of  
10 Attorney or my authority to act under the Power of Attorney and  
11 the Power of Attorney and my authority to act under the Power  
12 of Attorney have not terminated;

13 (2) if the Power of Attorney was drafted to become  
14 effective upon the happening of an event or contingency, the  
15 event or contingency has occurred;

16 (3) if I was named as a successor agent, the prior agent is  
17 no longer able or willing to serve; and

18 (4) .....  
19 .....  
20 .....

21 (Insert other relevant statements)

1 SIGNATURE AND ACKNOWLEDGMENT

2 ..... ..

3 Your Signature Date

4 .....

5 Agent's Name Printed

6 .....

7 .....

8 Agent's Address

9 .....

10 Agent's Telephone Number

11 This document was acknowledged before me on ..... , (Date)

12 by ..... (Name of Agent)

13 ..... (Seal, if any)

14 Signature of Notary

15 My commission expires: .....

16 This document prepared by:

17 .....

18 .....

19 ARTICLE 4. MISCELLANEOUS PROVISIONS

20 Section 401. Uniformity of application and construction.

21 In applying and construing this uniform act, consideration must

1 be given to the need to promote uniformity of the law with  
2 respect to its subject matter among the states that enact it.

3 Section 402. Relation to electronic signatures in Global  
4 and National Commerce Act. This Act modifies, limits, and  
5 supersedes the federal Electronic Signatures in Global and  
6 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does  
7 not modify, limit, or supersede Section 101(c) of that act, 15  
8 U.S.C. Section 7001(c), or authorize electronic delivery of any  
9 of the notices described in Section 103(b) of that act, 15  
10 U.S.C. Section 7003(b).

11 Section 403. Effect on existing powers of attorney. Except  
12 as otherwise provided in this Act, on the effective date of  
13 this Act:

14 (1) this Act applies to a power of attorney created before,  
15 on, or after the effective date of this Act;

16 (2) this Act applies to a judicial proceeding concerning a  
17 power of attorney commenced on or after the effective date of  
18 this Act;

19 (3) this Act applies to a judicial proceeding concerning a  
20 power of attorney commenced before the effective date of this  
21 Act unless the court finds that application of a provision of  
22 this Act would substantially interfere with the effective  
23 conduct of the judicial proceeding or prejudice the rights of a  
24 party, in which case that provision does not apply and the

1 superseded law applies; and

2 (4) an act done before the effective date of this Act is  
3 not affected by this Act.

4 (755 ILCS 45/Art. II rep.)

5 (755 ILCS 45/Art. III rep.)

6 Section 404. Repeal. The following are repealed:

7 Articles II and III of the Illinois Power of Attorney Act.

8 Section 405. Effective date. This Act takes effect upon  
9 becoming law.