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HOUSE BILL 09-1198

BY REPRESENTATIVE(S) McGihon, Hullinghorst, Labuda, Ryden,  
Schafer S., Fischer;  
also SENATOR(S) Morse.

CONCERNING THE "UNIFORM POWER OF ATTORNEY ACT".

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 14 of title 15, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 7  
UNIFORM POWER OF ATTORNEY ACT

SUBPART 1  
GENERAL PROVISIONS

**15-14-701. Short title.** THIS PART 7 MAY BE CITED AS THE "UNIFORM POWER OF ATTORNEY ACT".

**15-14-702. Definitions.** EXCEPT AS OTHERWISE PROVIDED, IN THIS PART 7:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(1) "AGENT" MEANS A PERSON GRANTED AUTHORITY TO ACT FOR A PRINCIPAL UNDER A POWER OF ATTORNEY, WHETHER DENOMINATED AN AGENT, ATTORNEY-IN-FACT, OR OTHERWISE. THE TERM INCLUDES AN ORIGINAL AGENT, COAGENT, SUCCESSOR AGENT, AND A PERSON TO WHICH AN AGENT'S AUTHORITY IS DELEGATED.

(2) "DURABLE", WITH RESPECT TO A POWER OF ATTORNEY, MEANS NOT TERMINATED BY THE PRINCIPAL'S INCAPACITY.

(3) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(4) "GOOD FAITH" MEANS HONESTY IN FACT.

(5) "INCAPACITY" MEANS INABILITY OF AN INDIVIDUAL TO MANAGE PROPERTY OR BUSINESS AFFAIRS BECAUSE THE INDIVIDUAL:

(a) HAS AN IMPAIRMENT IN THE ABILITY TO RECEIVE AND EVALUATE INFORMATION OR MAKE OR COMMUNICATE DECISIONS EVEN WITH THE USE OF TECHNOLOGICAL ASSISTANCE; OR

(b) Is:

(I) MISSING;

(II) DETAINED, INCLUDING INCARCERATED IN A PENAL SYSTEM; OR

(III) OUTSIDE THE UNITED STATES AND UNABLE TO RETURN.

(6) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(7) "POWER OF ATTORNEY" MEANS A WRITING OR OTHER RECORD THAT GRANTS AUTHORITY TO AN AGENT TO ACT IN THE PLACE OF THE PRINCIPAL, WHETHER OR NOT THE TERM POWER OF ATTORNEY IS USED.

(8) "PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT", WITH RESPECT TO PROPERTY OR A PROPERTY INTEREST SUBJECT TO A POWER OF APPOINTMENT, MEANS POWER EXERCISABLE AT THE TIME IN QUESTION TO VEST ABSOLUTE OWNERSHIP IN THE PRINCIPAL INDIVIDUALLY, THE PRINCIPAL'S ESTATE, THE PRINCIPAL'S CREDITORS, OR THE CREDITORS OF THE PRINCIPAL'S ESTATE. THE TERM INCLUDES A POWER OF APPOINTMENT NOT EXERCISABLE UNTIL THE OCCURRENCE OF A SPECIFIED EVENT, THE SATISFACTION OF AN ASCERTAINABLE STANDARD, OR THE PASSAGE OF A SPECIFIED PERIOD ONLY AFTER THE OCCURRENCE OF THE SPECIFIED EVENT, THE SATISFACTION OF THE ASCERTAINABLE STANDARD, OR THE PASSAGE OF THE SPECIFIED PERIOD. THE TERM DOES NOT INCLUDE A POWER EXERCISABLE IN A FIDUCIARY CAPACITY OR ONLY BY WILL.

(9) "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT IN A POWER OF ATTORNEY.

(10) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP, WHETHER REAL OR PERSONAL, OR LEGAL OR EQUITABLE, OR ANY INTEREST OR RIGHT THEREIN.

(11) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(12) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD:

(a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

(b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND, SYMBOL, OR PROCESS.

(13) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(14) "STOCKS AND BONDS" MEANS STOCKS, BONDS, MUTUAL FUNDS, AND ALL OTHER TYPES OF SECURITIES AND FINANCIAL INSTRUMENTS, WHETHER HELD DIRECTLY, INDIRECTLY, OR IN ANY OTHER MANNER. THE

TERM DOES NOT INCLUDE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES.

**15-14-703. Applicability.** (1) THIS PART 7 APPLIES TO ALL POWERS OF ATTORNEY EXCEPT:

(a) 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;

(b) A POWER TO MAKE HEALTH CARE DECISIONS;

(c) A PROXY OR OTHER DELEGATION TO EXERCISE VOTING RIGHTS OR MANAGEMENT RIGHTS WITH RESPECT TO AN ENTITY; AND

(d) A POWER CREATED ON A FORM PRESCRIBED BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE.

**15-14-704. Power of attorney is durable.** (1) A POWER OF ATTORNEY CREATED ON AND AFTER JANUARY 1, 2010, IS DURABLE UNLESS IT EXPRESSLY PROVIDES THAT IT IS TERMINATED BY THE INCAPACITY OF THE PRINCIPAL.

(2) A POWER OF ATTORNEY EXISTING ON DECEMBER 31, 2009, IS DURABLE ONLY IF ON THAT DAY THE POWER OF ATTORNEY IS DURABLE UNDER SECTION 15-14-501 OR 15-14-745 (2).

**15-14-705. Execution of power of attorney.** A POWER OF ATTORNEY MUST BE SIGNED BY THE PRINCIPAL OR IN THE PRINCIPAL'S CONSCIOUS PRESENCE BY ANOTHER INDIVIDUAL DIRECTED BY THE PRINCIPAL TO SIGN THE PRINCIPAL'S NAME ON THE POWER OF ATTORNEY. A SIGNATURE ON A POWER OF ATTORNEY IS PRESUMED TO BE GENUINE IF THE PRINCIPAL ACKNOWLEDGES THE SIGNATURE BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS.

**15-14-706. Validity of power of attorney.** (1) A POWER OF ATTORNEY EXECUTED IN THIS STATE ON OR AFTER JANUARY 1, 2010, IS VALID IF ITS EXECUTION COMPLIES WITH SECTION 15-14-705.

(2) A POWER OF ATTORNEY EXECUTED IN THIS STATE BEFORE JANUARY 1, 2010, IS VALID IF ITS EXECUTION COMPLIED WITH THE LAW OF THIS STATE AS IT EXISTED AT THE TIME OF EXECUTION.

(2.5) IT SHALL NOT BE INFERRED FROM THE PORTION OF THE DEFINITION OF "INCAPACITY" IN SECTION 15-14-702 (5) (b) THAT AN INDIVIDUAL WHO IS EITHER INCARCERATED IN A PENAL SYSTEM OR OTHERWISE DETAINED OR OUTSIDE OF THE UNITED STATES AND UNABLE TO RETURN LACKS THE CAPACITY TO EXECUTE A POWER OF ATTORNEY AS A CONSEQUENCE OF SUCH DETENTION OR INABILITY TO RETURN.

(3) A POWER OF ATTORNEY EXECUTED OTHER THAN IN THIS STATE IS VALID IN THIS STATE IF, WHEN THE POWER OF ATTORNEY WAS EXECUTED, THE EXECUTION COMPLIED WITH:

(a) THE LAW OF THE JURISDICTION THAT DETERMINES THE MEANING AND EFFECT OF THE POWER OF ATTORNEY PURSUANT TO SECTION 15-14-707; OR

(b) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY PURSUANT TO 10 U.S.C. SEC. 1044b, AS AMENDED.

(4) EXCEPT AS OTHERWISE PROVIDED BY STATUTE OTHER THAN THIS PART 7, A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY HAS THE SAME EFFECT AS THE ORIGINAL. NOTHING IN THIS SUBSECTION (4) SHALL PRECLUDE A THIRD PARTY RELYING UPON A POWER OF ATTORNEY FROM REQUESTING THE ORIGINAL DOCUMENT.

**15-14-707. Meaning and effect of power of attorney.** THE MEANING AND EFFECT OF A POWER OF ATTORNEY IS DETERMINED BY THE LAW OF THE JURISDICTION INDICATED IN THE POWER OF ATTORNEY AND, IN THE ABSENCE OF AN INDICATION OF JURISDICTION, BY THE LAW OF THE JURISDICTION IN WHICH THE POWER OF ATTORNEY WAS EXECUTED.

**15-14-708. Nomination of conservator or guardian - relation of agent to court-appointed fiduciary.** (1) IN A POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A CONSERVATOR OF THE PRINCIPAL'S ESTATE OR GUARDIAN OF THE PRINCIPAL'S PERSON FOR CONSIDERATION BY THE COURT IF PROTECTIVE PROCEEDINGS FOR THE PRINCIPAL'S ESTATE OR PERSON ARE BEGUN AFTER THE PRINCIPAL EXECUTES THE POWER OF ATTORNEY. EXCEPT

FOR GOOD CAUSE SHOWN OR DISQUALIFICATION, THE COURT SHALL MAKE ITS APPOINTMENT IN ACCORDANCE WITH THE PRINCIPAL'S MOST RECENT NOMINATION.

(2) IF, AFTER A PRINCIPAL EXECUTES A POWER OF ATTORNEY, A COURT APPOINTS A CONSERVATOR OF THE PRINCIPAL'S ESTATE OR OTHER FIDUCIARY CHARGED WITH THE MANAGEMENT OF SOME OR ALL OF THE PRINCIPAL'S PROPERTY, THE AGENT IS ACCOUNTABLE TO THE FIDUCIARY AS WELL AS TO THE PRINCIPAL. THE POWER OF ATTORNEY IS NOT TERMINATED AND THE AGENT'S AUTHORITY CONTINUES UNLESS LIMITED, SUSPENDED, OR TERMINATED BY THE COURT.

**15-14-709. When power of attorney effective.** (1) A POWER OF ATTORNEY IS EFFECTIVE WHEN EXECUTED UNLESS THE PRINCIPAL PROVIDES IN THE POWER OF ATTORNEY THAT IT BECOMES EFFECTIVE AT A FUTURE DATE OR UPON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY.

(2) IF A POWER OF ATTORNEY BECOMES EFFECTIVE UPON THE OCCURRENCE OF A FUTURE EVENT OR CONTINGENCY, THE PRINCIPAL, IN THE POWER OF ATTORNEY, MAY AUTHORIZE ONE OR MORE PERSONS TO DETERMINE IN A WRITING OR OTHER RECORD THAT THE EVENT OR CONTINGENCY HAS OCCURRED.

(3) IF A POWER OF ATTORNEY BECOMES EFFECTIVE UPON THE PRINCIPAL'S INCAPACITY AND THE PRINCIPAL HAS NOT AUTHORIZED A PERSON TO DETERMINE WHETHER THE PRINCIPAL IS INCAPACITATED, OR THE PERSON AUTHORIZED IS UNABLE OR UNWILLING TO MAKE THE DETERMINATION, THE POWER OF ATTORNEY BECOMES EFFECTIVE UPON A DETERMINATION IN A WRITING OR OTHER RECORD BY:

(a) A PHYSICIAN OR LICENSED PSYCHOLOGIST THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF SECTION 15-14-702 (5) (a); OR

(b) AN ATTORNEY-AT-LAW, A JUDGE, OR AN APPROPRIATE GOVERNMENTAL OFFICIAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF SECTION 15-14-702 (5) (b).

(4) A PERSON AUTHORIZED BY THE PRINCIPAL IN THE POWER OF ATTORNEY TO DETERMINE THAT THE PRINCIPAL IS INCAPACITATED MAY ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE PURSUANT TO THE FEDERAL

"HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT", SECTIONS 1171 TO 1179 OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1320d, AS AMENDED, AND APPLICABLE REGULATIONS, TO OBTAIN ACCESS TO THE PRINCIPAL'S HEALTH CARE INFORMATION AND COMMUNICATE WITH THE PRINCIPAL'S HEALTH CARE PROVIDER.

**15-14-710. Termination of power of attorney or agent's authority.** (1) A POWER OF ATTORNEY TERMINATES WHEN:

- (a) THE PRINCIPAL DIES;
- (b) THE PRINCIPAL BECOMES INCAPACITATED, IF THE POWER OF ATTORNEY IS NOT DURABLE;
- (c) THE PRINCIPAL REVOKES THE POWER OF ATTORNEY;
- (d) THE POWER OF ATTORNEY PROVIDES THAT IT TERMINATES;
- (e) THE EXPRESS PURPOSE OF THE POWER OF ATTORNEY IS ACCOMPLISHED; OR
- (f) THE PRINCIPAL REVOKES THE AGENT'S AUTHORITY OR THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS, AND THE POWER OF ATTORNEY DOES NOT PROVIDE FOR ANOTHER AGENT TO ACT UNDER THE POWER OF ATTORNEY.

(1.5) IN THE CASE OF A POWER OF ATTORNEY IN EXISTENCE ON DECEMBER 31, 2009, "INCAPACITATED" SHALL MEAN AN INDIVIDUAL WITH AN INCAPACITY AS SPECIFIED IN SECTION 15-14-702 (5) (a) AND NOT AS SPECIFIED IN SECTION 15-14-702 (5) (b) UNLESS, ON THAT DATE, THIS PART 7 APPLIES TO THE POWER OF ATTORNEY AS PROVIDED IN SECTION 15-14-745 (2).

- (2) AN AGENT'S AUTHORITY TERMINATES WHEN:
  - (a) THE PRINCIPAL REVOKES THE AUTHORITY;
  - (b) THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS;
  - (c) AN ACTION IS FILED FOR THE DISSOLUTION OR ANNULMENT OF

THE AGENT'S MARRIAGE TO THE PRINCIPAL OR THEIR LEGAL SEPARATION, UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES; OR

(d) THE POWER OF ATTORNEY TERMINATES.

(3) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT'S AUTHORITY IS EXERCISABLE UNTIL THE AUTHORITY TERMINATES UNDER SUBSECTION (2) OF THIS SECTION, NOTWITHSTANDING A LAPSE OF TIME SINCE THE EXECUTION OF THE POWER OF ATTORNEY.

(4) TERMINATION OF AN AGENT'S AUTHORITY OR OF A POWER OF ATTORNEY IS NOT EFFECTIVE AS TO THE AGENT OR ANOTHER PERSON THAT, WITHOUT ACTUAL KNOWLEDGE OF THE TERMINATION, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY. AN ACT SO PERFORMED, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.

(5) INCAPACITY OF THE PRINCIPAL OF A POWER OF ATTORNEY THAT IS NOT DURABLE DOES NOT REVOKE OR TERMINATE THE POWER OF ATTORNEY AS TO AN AGENT OR OTHER PERSON THAT, WITHOUT ACTUAL KNOWLEDGE OF THE INCAPACITY, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY. AN ACT SO PERFORMED, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.

(6) THE EXECUTION OF A POWER OF ATTORNEY DOES NOT REVOKE A POWER OF ATTORNEY PREVIOUSLY EXECUTED BY THE PRINCIPAL UNLESS THE SUBSEQUENT POWER OF ATTORNEY PROVIDES THAT THE PREVIOUS POWER OF ATTORNEY IS REVOKED OR THAT ALL OTHER POWERS OF ATTORNEY ARE REVOKED.

**15-14-711. Coagents and successor agents.** (1) A PRINCIPAL MAY DESIGNATE TWO OR MORE PERSONS TO ACT AS COAGENTS. UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, EACH COAGENT MAY EXERCISE ITS AUTHORITY INDEPENDENTLY.

(2) A PRINCIPAL MAY DESIGNATE ONE OR MORE SUCCESSOR AGENTS TO ACT IF AN AGENT RESIGNS, DIES, BECOMES INCAPACITATED, IS NOT QUALIFIED TO SERVE, OR DECLINES TO SERVE. A PRINCIPAL MAY GRANT AUTHORITY TO DESIGNATE ONE OR MORE SUCCESSOR AGENTS TO AN AGENT



OR OTHER PERSON DESIGNATED BY NAME, OFFICE, OR FUNCTION. UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A SUCCESSOR AGENT:

(a) HAS THE SAME AUTHORITY AS THAT GRANTED TO THE ORIGINAL AGENT; AND

(b) MAY NOT ACT UNTIL ALL PREDECESSOR AGENTS HAVE RESIGNED, DIED, BECOME INCAPACITATED, ARE NO LONGER QUALIFIED TO SERVE, OR HAVE DECLINED TO SERVE.

(3) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY AND SUBSECTION (4) OF THIS SECTION, AN AGENT THAT DOES NOT PARTICIPATE IN OR CONCEAL A BREACH OF FIDUCIARY DUTY COMMITTED BY ANOTHER AGENT, INCLUDING A PREDECESSOR AGENT, IS NOT LIABLE FOR THE ACTIONS OF THE OTHER AGENT.

(4) AN AGENT THAT HAS ACTUAL KNOWLEDGE OF A BREACH OR IMMINENT BREACH OF FIDUCIARY DUTY BY ANOTHER AGENT SHALL NOTIFY THE PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED, TAKE ANY ACTION REASONABLY APPROPRIATE IN THE CIRCUMSTANCES TO SAFEGUARD THE PRINCIPAL'S BEST INTEREST. AN AGENT THAT FAILS TO NOTIFY THE PRINCIPAL OR TAKE ACTION AS REQUIRED BY THIS SUBSECTION (4) IS LIABLE FOR THE REASONABLY FORESEEABLE DAMAGES THAT COULD HAVE BEEN AVOIDED IF THE AGENT HAD NOTIFIED THE PRINCIPAL OR TAKEN SUCH ACTION.

**15-14-712. Reimbursement and compensation of agent.** UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT IS ENTITLED TO REIMBURSEMENT OF EXPENSES REASONABLY INCURRED ON BEHALF OF THE PRINCIPAL AND TO COMPENSATION THAT IS REASONABLE UNDER THE CIRCUMSTANCES.

**15-14-713. Agent's acceptance.** EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, A PERSON ACCEPTS APPOINTMENT AS AN AGENT UNDER A POWER OF ATTORNEY BY EXERCISING AUTHORITY OR PERFORMING DUTIES AS AN AGENT OR BY ANY OTHER ASSERTION OR CONDUCT INDICATING ACCEPTANCE.

**15-14-714. Agent's duties.** (1) NOTWITHSTANDING PROVISIONS IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT

SHALL:

(a) ACT IN ACCORDANCE WITH THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, IN THE PRINCIPAL'S BEST INTEREST;

(b) ACT IN GOOD FAITH; AND

(c) ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN THE POWER OF ATTORNEY.

(2) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

(a) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;

(b) ACT SO AS NOT TO CREATE A CONFLICT OF INTEREST THAT IMPAIRS THE AGENT'S ABILITY TO ACT IMPARTIALLY IN THE PRINCIPAL'S BEST INTEREST;

(c) ACT WITH THE CARE, COMPETENCE, AND DILIGENCE ORDINARILY EXERCISED BY AGENTS IN SIMILAR CIRCUMSTANCES;

(d) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;

(e) COOPERATE WITH A PERSON THAT HAS AUTHORITY TO MAKE HEALTHCARE DECISIONS FOR THE PRINCIPAL TO CARRY OUT THE PRINCIPAL'S REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST; AND

(f) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN, TO THE EXTENT ACTUALLY KNOWN BY THE AGENT, IF PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(I) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(II) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(III) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION-SKIPPING TRANSFER, AND GIFT TAXES; AND

(IV) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION.

(3) AN AGENT THAT ACTS IN GOOD FAITH IS NOT LIABLE TO ANY BENEFICIARY OF THE PRINCIPAL'S ESTATE PLAN FOR FAILURE TO PRESERVE THE PLAN.

(4) AN AGENT THAT ACTS WITH CARE, COMPETENCE, AND DILIGENCE FOR THE BEST INTEREST OF THE PRINCIPAL IS NOT LIABLE SOLELY BECAUSE THE AGENT ALSO BENEFITS FROM THE ACT OR HAS AN INDIVIDUAL OR CONFLICTING INTEREST IN RELATION TO THE PROPERTY OR AFFAIRS OF THE PRINCIPAL.

(5) IF AN AGENT IS SELECTED BY THE PRINCIPAL BECAUSE OF SPECIAL SKILLS OR EXPERTISE POSSESSED BY THE AGENT OR IN RELIANCE ON THE AGENT'S REPRESENTATION THAT THE AGENT HAS SPECIAL SKILLS OR EXPERTISE, THE SPECIAL SKILLS OR EXPERTISE MUST BE CONSIDERED IN DETERMINING WHETHER THE AGENT HAS ACTED WITH CARE, COMPETENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES.

(6) ABSENT A BREACH OF DUTY TO THE PRINCIPAL, AN AGENT IS NOT LIABLE IF THE VALUE OF THE PRINCIPAL'S PROPERTY DECLINES.

(7) AN AGENT THAT EXERCISES AUTHORITY PROVIDED IN THE POWER OF ATTORNEY TO DELEGATE TO ANOTHER PERSON THE AUTHORITY GRANTED BY THE PRINCIPAL OR THAT ENGAGES ANOTHER PERSON ON BEHALF OF THE PRINCIPAL IS NOT LIABLE FOR AN ACT, ERROR OF JUDGMENT, OR DEFAULT OF THAT PERSON IF THE AGENT EXERCISES CARE, COMPETENCE, AND DILIGENCE IN SELECTING AND MONITORING THE PERSON.

(8) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN AGENT IS NOT REQUIRED TO DISCLOSE RECEIPTS, DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL UNLESS ORDERED BY A COURT OR REQUESTED BY THE PRINCIPAL, A GUARDIAN, A CONSERVATOR, ANOTHER FIDUCIARY ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, UPON THE DEATH OF THE PRINCIPAL, BY THE PERSONAL

REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S ESTATE. IF SO REQUESTED, WITHIN THIRTY DAYS THE AGENT SHALL COMPLY WITH THE REQUEST OR PROVIDE A WRITING OR OTHER RECORD SUBSTANTIATING WHY ADDITIONAL TIME IS NEEDED AND SHALL COMPLY WITH THE REQUEST WITHIN AN ADDITIONAL THIRTY DAYS.

**15-14-715. Exoneration of agent.** (1) PROVISION IN A POWER OF ATTORNEY RELIEVING AN AGENT OF LIABILITY FOR BREACH OF DUTY IS BINDING ON THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST EXCEPT TO THE EXTENT THE PROVISION:

(a) RELIEVES THE AGENT OF LIABILITY FOR BREACH OF DUTY COMMITTED DISHONESTLY, WITH AN IMPROPER MOTIVE, OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE POWER OF ATTORNEY OR THE BEST INTEREST OF THE PRINCIPAL; OR

(b) WAS INSERTED AS A RESULT OF AN ABUSE OF A CONFIDENTIAL OR FIDUCIARY RELATIONSHIP WITH THE PRINCIPAL.

**15-14-716. Judicial relief.** (1) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT AND GRANT APPROPRIATE RELIEF:

(a) THE PRINCIPAL OR THE AGENT;

(b) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING FOR THE PRINCIPAL;

(c) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL;

(d) THE PRINCIPAL'S SPOUSE, PARENT, OR DESCENDANT;

(e) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE HEIR OF THE PRINCIPAL;

(f) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL'S DEATH OR AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A FINANCIAL INTEREST IN THE PRINCIPAL'S ESTATE;

(g) A GOVERNMENTAL AGENCY HAVING REGULATORY AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;

(h) THE PRINCIPAL'S CAREGIVER OR ANOTHER PERSON THAT DEMONSTRATES SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; AND

(i) A PERSON ASKED TO ACCEPT THE POWER OF ATTORNEY.

(2) UPON MOTION BY THE PRINCIPAL, THE COURT SHALL DISMISS A PETITION FILED UNDER THIS SECTION, UNLESS THE COURT FINDS THAT THE PRINCIPAL LACKS CAPACITY TO REVOKE THE AGENT'S AUTHORITY OR THE POWER OF ATTORNEY.

**15-14-717. Agent's liability.** (1) AN AGENT THAT VIOLATES THIS PART 7 IS LIABLE TO THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE AMOUNT REQUIRED TO:

(a) RESTORE THE VALUE OF THE PRINCIPAL'S PROPERTY TO WHAT IT WOULD HAVE BEEN HAD THE VIOLATION NOT OCCURRED; AND

(b) REIMBURSE THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE ATTORNEY'S FEES AND COSTS PAID ON THE AGENT'S BEHALF.

**15-14-718. Agent's resignation - notice.** (1) UNLESS THE POWER OF ATTORNEY PROVIDES A DIFFERENT METHOD FOR AN AGENT'S RESIGNATION, AN AGENT MAY RESIGN BY GIVING NOTICE TO THE PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED:

(a) TO THE CONSERVATOR OR GUARDIAN, IF ONE HAS BEEN APPOINTED FOR THE PRINCIPAL, AND A COAGENT OR SUCCESSOR AGENT; OR

(b) IF THERE IS NO PERSON DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1), TO:

(I) THE PRINCIPAL'S CAREGIVER;

(II) ANOTHER PERSON REASONABLY BELIEVED BY THE AGENT TO HAVE SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; OR

(III) A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL.

**15-14-719. Acceptance of and reliance upon acknowledged power of attorney.** (1) FOR PURPOSES OF THIS SECTION AND SECTION 15-14-720, "ACKNOWLEDGED" MEANS PURPORTEDLY VERIFIED BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED TO TAKE ACKNOWLEDGEMENTS.

(2) A PERSON THAT IN GOOD FAITH ACCEPTS A PURPORTEDLY ACKNOWLEDGED POWER OF ATTORNEY WITHOUT ACTUAL KNOWLEDGE THAT THE SIGNATURE IS NOT GENUINE MAY RELY UPON THE PRESUMPTION UNDER SECTION 15-14-705 THAT THE SIGNATURE IS GENUINE.

(3) A PERSON THAT IN GOOD FAITH ACCEPTS A PURPORTEDLY ACKNOWLEDGED POWER OF ATTORNEY WITHOUT ACTUAL KNOWLEDGE THAT THE POWER OF ATTORNEY IS VOID, INVALID, OR TERMINATED, THAT THE PURPORTED AGENT'S AUTHORITY IS VOID, INVALID, OR TERMINATED, OR THAT THE AGENT IS EXCEEDING OR IMPROPERLY EXERCISING THE AGENT'S AUTHORITY MAY RELY UPON THE POWER OF ATTORNEY AS IF THE POWER OF ATTORNEY WERE GENUINE, VALID, AND STILL IN EFFECT, THE AGENT'S AUTHORITY WERE GENUINE, VALID, AND STILL IN EFFECT, AND THE AGENT HAD NOT EXCEEDED AND HAD PROPERLY EXERCISED THE AUTHORITY.

(4) A PERSON THAT IS ASKED TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY MAY REQUEST AND RELY UPON, WITHOUT FURTHER INVESTIGATION, ONE OR MORE OF THE FOLLOWING:

(a) AN AGENT'S CERTIFICATION UNDER PENALTY OF PERJURY OF ANY FACTUAL MATTER CONCERNING THE PRINCIPAL, AGENT, OR POWER OF ATTORNEY;

(b) AN ENGLISH TRANSLATION OF THE POWER OF ATTORNEY IF THE POWER OF ATTORNEY CONTAINS, IN WHOLE OR IN PART, LANGUAGE OTHER THAN ENGLISH; OR

(c) AN OPINION OF COUNSEL AS TO ANY MATTER OF LAW CONCERNING THE POWER OF ATTORNEY IF THE PERSON MAKING THE REQUEST PROVIDES IN A WRITING OR OTHER RECORD THE REASON FOR THE REQUEST.

(5) AN ENGLISH TRANSLATION, AN AGENT'S CERTIFICATION, OR AN OPINION OF COUNSEL REQUESTED UNDER THIS SECTION MUST BE PROVIDED AT THE PRINCIPAL'S EXPENSE.

(6) FOR PURPOSES OF THIS SECTION AND SECTION 15-14-720, A PERSON THAT CONDUCTS ACTIVITIES THROUGH EMPLOYEES IS WITHOUT ACTUAL KNOWLEDGE OF A FACT RELATING TO A POWER OF ATTORNEY, A PRINCIPAL, OR AN AGENT IF THE EMPLOYEE CONDUCTING THE TRANSACTION INVOLVING THE POWER OF ATTORNEY IS WITHOUT ACTUAL KNOWLEDGE OF THE FACT.

**15-14-720. Liability for refusal to accept acknowledged power of attorney.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION:

(a) A PERSON SHALL EITHER ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY OR REQUEST A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER SECTION 15-14-719 (4) NO LATER THAN SEVEN BUSINESS DAYS AFTER PRESENTATION OF THE POWER OF ATTORNEY FOR ACCEPTANCE.

(b) IF A PERSON REQUESTS A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER SECTION 15-14-719 (4), THE PERSON SHALL ACCEPT THE POWER OF ATTORNEY NO LATER THAN FIVE BUSINESS DAYS AFTER RECEIPT OF THE CERTIFICATION, TRANSLATION, OR OPINION OF COUNSEL.

(c) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT FORM OF POWER OF ATTORNEY FOR AUTHORITY GRANTED IN THE POWER OF ATTORNEY PRESENTED.

(2) A PERSON IS NOT REQUIRED TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY IF:

(a) THE PERSON IS NOT OTHERWISE REQUIRED TO ENGAGE IN A TRANSACTION WITH THE PRINCIPAL IN THE SAME CIRCUMSTANCES, INCLUDING, WITHOUT LIMITATION, THE CIRCUMSTANCES SET FORTH IN PARAGRAPHS (a.3) AND (a.5) OF THIS SUBSECTION (2);

(a.3) THE AGENT SEEKS TO ESTABLISH A CUSTOMER RELATIONSHIP UNDER THE POWER OF ATTORNEY AND THE PRINCIPAL IS NOT CURRENTLY A

CUSTOMER;

(a.5) THE AGENT SEEKS SERVICES UNDER THE POWER OF ATTORNEY THAT THE PERSON DOES NOT OFFER;

(b) ENGAGING IN A TRANSACTION WITH THE AGENT OR THE PRINCIPAL IN THE SAME CIRCUMSTANCES OR ACCEPTANCE OF THE POWER OF ATTORNEY IN THE SAME CIRCUMSTANCES WOULD BE INCONSISTENT WITH ANY FEDERAL OR STATE LAW, RULE, OR REGULATION OTHER THAN AS SET FORTH IN THIS PART 7;

(c) THE PERSON HAS ACTUAL KNOWLEDGE OF THE TERMINATION OF THE AGENT'S AUTHORITY OR OF THE POWER OF ATTORNEY BEFORE EXERCISE OF THE POWER;

(d) A REQUEST FOR A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER SECTION 15-14-719 (4) IS REFUSED;

(e) THE PERSON IN GOOD FAITH BELIEVES THAT THE POWER IS NOT VALID OR THAT THE AGENT DOES NOT HAVE THE AUTHORITY TO PERFORM THE ACT REQUESTED, WHETHER OR NOT A CERTIFICATION, A TRANSLATION, OR AN OPINION OF COUNSEL UNDER SECTION 15-14-719 (4) HAS BEEN REQUESTED OR PROVIDED;

(f) THE PERSON MAKES, OR HAS ACTUAL KNOWLEDGE THAT ANOTHER PERSON HAS MADE, A REPORT TO THE LOCAL ADULT PROTECTIVE SERVICES OFFICE STATING A GOOD FAITH BELIEF THAT THE PRINCIPAL MAY BE SUBJECT TO PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION, OR ABANDONMENT BY THE AGENT OR A PERSON ACTING FOR OR WITH THE AGENT; OR

(f.5) THE PERSON HAS AN APPREHENSION, FORMED IN GOOD FAITH, THAT THE AGENT OR PERSON ACTING FOR OR WITH THE AGENT HAS ACTED OR IS ACTING, IN ANY CAPACITY, EITHER UNLAWFULLY OR NOT IN GOOD FAITH IN DEALING WITH THE PERSON AND THE PERSON IS INVESTIGATING IN GOOD FAITH TO DETERMINE WHETHER THE PERSON MAY, BASED ON THE RESULTS OF THE INVESTIGATION, FORM A GOOD FAITH BELIEF THAT THE PRINCIPAL MAY BE SUBJECT TO FINANCIAL ABUSE, NEGLECT, EXPLOITATION, OR ABANDONMENT BY THE AGENT OR A PERSON ACTING FOR OR WITH THE AGENT.



(3) A PERSON THAT REFUSES IN VIOLATION OF THIS SECTION TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY IS SUBJECT TO:

(a) A COURT ORDER MANDATING ACCEPTANCE OF THE POWER OF ATTORNEY; AND

(b) LIABILITY FOR REASONABLE ATTORNEY'S FEES AND COSTS INCURRED IN ANY ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF THE POWER OF ATTORNEY OR MANDATES ACCEPTANCE OF THE POWER OF ATTORNEY.

**15-14-721. Principles of law and equity.** UNLESS DISPLACED BY A PROVISION OF THIS PART 7, THE PRINCIPLES OF LAW AND EQUITY SUPPLEMENT THIS PART 7.

**15-14-722. Laws applicable to financial institutions and entities.** THIS PART 7 DOES NOT SUPERSEDE ANY OTHER LAW APPLICABLE TO FINANCIAL INSTITUTIONS OR OTHER ENTITIES, AND THE OTHER LAW CONTROLS IF INCONSISTENT WITH THIS PART 7.

**15-14-723. Remedies under other law.** THE REMEDIES UNDER THIS PART 7 ARE NOT EXCLUSIVE AND DO NOT ABROGATE ANY RIGHT OR REMEDY UNDER THE LAW OF THIS STATE OTHER THAN THIS PART 7.

## SUBPART 2 AUTHORITY

**15-14-724. Authority that requires specific grant - grant of general authority.** (1) AN AGENT UNDER A POWER OF ATTORNEY MAY DO THE FOLLOWING ON BEHALF OF THE PRINCIPAL OR WITH THE PRINCIPAL'S PROPERTY ONLY IF THE POWER OF ATTORNEY EXPRESSLY GRANTS THE AGENT THE AUTHORITY AND EXERCISE OF THE AUTHORITY IS NOT OTHERWISE PROHIBITED BY ANOTHER AGREEMENT OR INSTRUMENT TO WHICH THE AUTHORITY OR PROPERTY IS SUBJECT:

(a) CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS TRUST;

(b) MAKE A GIFT;

(c) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP;

(d) CREATE OR CHANGE A BENEFICIARY DESIGNATION;

(e) DELEGATE AUTHORITY GRANTED UNDER THE POWER OF ATTORNEY;

(f) WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN;

(g) EXERCISE:

(I) A POWER HELD BY THE PRINCIPAL IN A FIDUCIARY CAPACITY;

(II) A POWER TO NOMINATE, APPOINT, OR REMOVE A FIDUCIARY OR TO CONSENT, VETO, OR OTHERWISE PARTICIPATE IN THE DESIGNATION OR CHANGING OF A FIDUCIARY; OR

(III) A POWER TO DIRECT A FIDUCIARY IN THE EXERCISE OF A POWER OF THE FIDUCIARY WITH RESPECT TO PROPERTY SUBJECT TO THE FIDUCIARY RELATIONSHIP, INCLUDING, BUT NOT LIMITED TO, A POWER TO DIRECT INVESTMENTS, OR TO CONSENT, VETO, OR OTHERWISE PARTICIPATE IN CONTROLLING THE EXERCISE OF SUCH A POWER.

(h) DISCLAIM OR RELEASE PROPERTY OR A POWER OF APPOINTMENT;

(i) EXCEPT FOR THE EXERCISE OF A GENERAL POWER OF APPOINTMENT FOR THE BENEFIT OF THE PRINCIPAL, TO THE EXTENT THAT THE AGENT IS AUTHORIZED AS PROVIDED IN SECTION 15-14-734, OR FOR THE BENEFIT OF PERSONS OTHER THAN THE PRINCIPAL, TO THE EXTENT THAT THE AGENT IS AUTHORIZED TO MAKE GIFTS AS PROVIDED IN SECTION 15-14-740, EXERCISE A POWER OF APPOINTMENT; OR

(j) EXCEPT WITH RESPECT TO AN ENTITY OWNED SOLELY BY THE PRINCIPAL, EXERCISE POWERS, RIGHTS, OR AUTHORITY AS A PARTNER, MEMBER, OR MANAGER OF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ENTITY THAT THE PRINCIPAL MAY EXERCISE ON BEHALF OF THE ENTITY AND HAS AUTHORITY TO DELEGATE.

(2) NOTWITHSTANDING A GRANT OF AUTHORITY TO DO AN ACT DESCRIBED IN SUBSECTION (1) OF THIS SECTION, UNLESS THE POWER OF

ATTORNEY OTHERWISE PROVIDES, AN AGENT THAT IS NOT AN ANCESTOR, SPOUSE, OR DESCENDANT OF THE PRINCIPAL MAY NOT EXERCISE AUTHORITY UNDER A POWER OF ATTORNEY TO CREATE IN THE AGENT, OR IN AN INDIVIDUAL TO WHOM THE AGENT OWES A LEGAL OBLIGATION OF SUPPORT, AN INTEREST IN THE PRINCIPAL'S PROPERTY, WHETHER BY GIFT, RIGHT OF SURVIVORSHIP, BENEFICIARY DESIGNATION, DISCLAIMER, OR OTHERWISE.

(3) SUBJECT TO SUBSECTIONS (1), (2), (4), AND (5) OF THIS SECTION, IF A POWER OF ATTORNEY GRANTS TO AN AGENT AUTHORITY TO DO ALL ACTS THAT A PRINCIPAL COULD DO, THE AGENT HAS THE GENERAL AUTHORITY DESCRIBED IN SECTIONS 15-14-727 TO 15-14-739.

(4) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A GRANT OF AUTHORITY TO MAKE A GIFT IS SUBJECT TO SECTION 15-14-740.

(5) SUBJECT TO SUBSECTIONS (1), (2), AND (4) OF THIS SECTION, IF THE SUBJECTS OVER WHICH AUTHORITY IS GRANTED IN A POWER OF ATTORNEY ARE SIMILAR OR OVERLAP, THE BROADEST AUTHORITY CONTROLS.

(6) AUTHORITY GRANTED IN A POWER OF ATTORNEY IS EXERCISABLE WITH RESPECT TO PROPERTY THAT THE PRINCIPAL HAS WHEN THE POWER OF ATTORNEY IS EXECUTED OR ACQUIRES LATER, WHETHER OR NOT THE PROPERTY IS LOCATED IN THIS STATE AND WHETHER OR NOT THE AUTHORITY IS EXERCISED OR THE POWER OF ATTORNEY IS EXECUTED IN THIS STATE.

(7) AN ACT PERFORMED BY AN AGENT PURSUANT TO A POWER OF ATTORNEY HAS THE SAME EFFECT AND INURES TO THE BENEFIT OF AND BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST AS IF THE PRINCIPAL HAD PERFORMED THE ACT.

**15-14-725. Incorporation of authority - incorporation by reference.** (1) AN AGENT HAS AUTHORITY DESCRIBED IN THIS PART 7 IF THE POWER OF ATTORNEY REFERS TO GENERAL AUTHORITY WITH RESPECT TO THE DESCRIPTIVE TERM FOR THE SUBJECTS STATED IN SECTIONS 15-14-727 TO 15-14-740 OR CITES THE SECTION IN WHICH THE AUTHORITY IS DESCRIBED.

(2) A REFERENCE IN A POWER OF ATTORNEY TO GENERAL AUTHORITY WITH RESPECT TO THE DESCRIPTIVE TERM FOR A SUBJECT IN SECTIONS 15-14-727 TO 15-14-740 OR A CITATION TO A SECTION OF SECTIONS

15-14-727 TO 15-14-740 INCORPORATES THE ENTIRE SECTION AS IF IT WERE SET OUT IN FULL IN THE POWER OF ATTORNEY.

(2.5) IN ADDITION TO THE INCORPORATION OF AUTHORITY AS PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS SECTION, A WRITING OR OTHER RECORD IN EXISTENCE WHEN A POWER OF ATTORNEY IS EXECUTED MAY BE INCORPORATED BY REFERENCE IF THE LANGUAGE OF THE POWER OF ATTORNEY MANIFESTS THIS INTENT AND DESCRIBES THE WRITING OR OTHER RECORD SUFFICIENTLY TO PERMIT ITS IDENTIFICATION. A WRITING OR OTHER RECORD SO INCORPORATED BY REFERENCE IS CONSIDERED AS SET OUT IN FULL IN THE POWER OF ATTORNEY.

(3) A PRINCIPAL MAY MODIFY AUTHORITY OR A WRITING OR OTHER RECORD INCORPORATED BY REFERENCE.

**15-14-726. Construction of authority generally.** (1) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, BY EXECUTING A POWER OF ATTORNEY THAT INCORPORATES BY REFERENCE A SUBJECT DESCRIBED IN SECTIONS 15-14-727 TO 15-14-740 OR THAT GRANTS TO AN AGENT AUTHORITY TO DO ALL ACTS THAT A PRINCIPAL COULD DO PURSUANT TO SECTION 15-14-724 (3), A PRINCIPAL AUTHORIZES THE AGENT, WITH RESPECT TO THAT SUBJECT, TO:

(a) DEMAND, RECEIVE, AND OBTAIN BY LITIGATION OR OTHERWISE MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED AND CONSERVE, INVEST, DISBURSE, OR USE ANYTHING SO RECEIVED OR OBTAINED FOR THE PURPOSES INTENDED;

(b) CONTRACT IN ANY MANNER WITH ANY PERSON, ON TERMS AGREEABLE TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM, RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(c) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO ACCOMPLISH A PURPOSE OF A TRANSACTION, INCLUDING CREATING AT ANY TIME A SCHEDULE LISTING SOME OR ALL OF THE PRINCIPAL'S PROPERTY AND ATTACHING IT TO THE POWER OF ATTORNEY;

(d) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO A CLAIM EXISTING IN FAVOR OF OR AGAINST THE PRINCIPAL OR INTERVENE IN LITIGATION RELATING TO THE CLAIM;

(e) SEEK ON THE PRINCIPAL'S BEHALF THE ASSISTANCE OF A COURT OR OTHER GOVERNMENTAL AGENCY TO CARRY OUT AN ACT AUTHORIZED IN THE POWER OF ATTORNEY;

(f) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY, ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR OTHER ADVISOR;

(g) PREPARE, EXECUTE, AND FILE A RECORD, REPORT, OR OTHER DOCUMENT TO SAFEGUARD OR PROMOTE THE PRINCIPAL'S INTEREST UNDER A STATUTE OR REGULATION;

(h) COMMUNICATE WITH ANY REPRESENTATIVE OR EMPLOYEE OF A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY ON BEHALF OF THE PRINCIPAL;

(i) ACCESS COMMUNICATIONS INTENDED FOR AND COMMUNICATE ON BEHALF OF THE PRINCIPAL, WHETHER BY MAIL, ELECTRONIC TRANSMISSION, TELEPHONE, OR OTHER MEANS; AND

(j) DO ANY LAWFUL ACT WITH RESPECT TO THE SUBJECT AND ALL PROPERTY RELATED TO THE SUBJECT.

**15-14-727. Real property.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO REAL PROPERTY AUTHORIZES THE AGENT TO:

(a) DEMAND, BUY, LEASE, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY;

(b) SELL; EXCHANGE; CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES; QUITCLAIM; RELEASE; SURRENDER; RETAIN TITLE FOR SECURITY; ENCUMBER; PARTITION; CONSENT TO

PARTITIONING; SUBJECT TO AN EASEMENT OR COVENANT; SUBDIVIDE; APPLY FOR ZONING OR OTHER GOVERNMENTAL PERMITS; PLAT OR CONSENT TO PLATTING; DEVELOP; GRANT AN OPTION CONCERNING; LEASE; SUBLEASE; CONTRIBUTE TO AN ENTITY IN EXCHANGE FOR AN INTEREST IN THAT ENTITY; OR OTHERWISE GRANT OR DISPOSE OF AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY;

(c) PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL;

(d) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR OTHERWISE A MORTGAGE, DEED OF TRUST, CONDITIONAL SALE CONTRACT, ENCUMBRANCE, LIEN, OR OTHER CLAIM TO REAL PROPERTY THAT EXISTS OR IS ASSERTED;

(e) MANAGE OR CONSERVE AN INTEREST IN REAL PROPERTY OR A RIGHT INCIDENT TO REAL PROPERTY OWNED OR CLAIMED TO BE OWNED BY THE PRINCIPAL, INCLUDING:

(I) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(II) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE INTEREST OR RIGHT BY LITIGATION OR OTHERWISE;

(III) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH THEM; AND

(IV) PURCHASING SUPPLIES, HIRING ASSISTANCE OR LABOR, AND MAKING REPAIRS OR ALTERATIONS TO THE REAL PROPERTY;

(f) USE, DEVELOP, ALTER, REPLACE, REMOVE, ERECT, OR INSTALL STRUCTURES OR OTHER IMPROVEMENTS UPON REAL PROPERTY IN OR INCIDENT TO WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST OR RIGHT;

(g) PARTICIPATE IN A REORGANIZATION WITH RESPECT TO REAL PROPERTY OR AN ENTITY THAT OWNS AN INTEREST IN OR RIGHT INCIDENT TO

REAL PROPERTY AND RECEIVE, AND HOLD, AND ACT WITH RESPECT TO STOCKS AND BONDS OR OTHER PROPERTY RECEIVED IN A PLAN OF REORGANIZATION, INCLUDING:

(I) SELLING OR OTHERWISE DISPOSING OF THEM;

(II) EXERCISING OR SELLING AN OPTION, RIGHT OF CONVERSION, OR SIMILAR RIGHT WITH RESPECT TO THEM; AND

(III) EXERCISING ANY VOTING RIGHTS IN PERSON OR BY PROXY;

(h) CHANGE THE FORM OF TITLE OF AN INTEREST IN OR RIGHT INCIDENT TO REAL PROPERTY; AND

(i) DEDICATE TO PUBLIC USE, WITH OR WITHOUT CONSIDERATION, EASEMENTS OR OTHER REAL PROPERTY IN WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AN INTEREST.

**15-14-728. Tangible personal property.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AUTHORIZES THE AGENT TO:

(a) DEMAND, BUY, RECEIVE, ACCEPT AS A GIFT OR AS SECURITY FOR AN EXTENSION OF CREDIT, OR OTHERWISE ACQUIRE OR REJECT OWNERSHIP OR POSSESSION OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;

(b) SELL; EXCHANGE; CONVEY WITH OR WITHOUT COVENANTS, REPRESENTATIONS, OR WARRANTIES; QUITCLAIM; RELEASE; SURRENDER; CREATE A SECURITY INTEREST IN; GRANT OPTIONS CONCERNING; LEASE; SUBLEASE; OR OTHERWISE DISPOSE OF TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;

(c) GRANT A SECURITY INTEREST IN TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL;

(d) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR

OTHERWISE A SECURITY INTEREST, LIEN, OR OTHER CLAIM ON BEHALF OF THE PRINCIPAL WITH RESPECT TO TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY;

(e) MANAGE OR CONSERVE TANGIBLE PERSONAL PROPERTY OR AN INTEREST IN TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE PRINCIPAL, INCLUDING:

(I) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER LOSS;

(II) OBTAINING OR REGAINING POSSESSION OF OR PROTECTING THE PROPERTY OR INTEREST, BY LITIGATION OR OTHERWISE;

(III) PAYING, ASSESSING, COMPROMISING, OR CONTESTING TAXES OR ASSESSMENTS OR APPLYING FOR AND RECEIVING REFUNDS IN CONNECTION WITH TAXES OR ASSESSMENTS;

(IV) MOVING THE PROPERTY FROM PLACE TO PLACE;

(V) STORING THE PROPERTY FOR HIRE OR ON A GRATUITOUS BAILMENT; AND

(VI) USING AND MAKING REPAIRS, ALTERATIONS, OR IMPROVEMENTS TO THE PROPERTY; AND

(f) CHANGE THE FORM OF TITLE OF AN INTEREST IN TANGIBLE PERSONAL PROPERTY.

**15-14-729. Stocks and bonds.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO STOCKS AND BONDS AUTHORIZES THE AGENT TO:

(a) BUY, SELL, AND EXCHANGE STOCKS AND BONDS;

(b) ESTABLISH, CONTINUE, MODIFY, OR TERMINATE AN ACCOUNT WITH RESPECT TO STOCKS AND BONDS;

(c) PLEDGE STOCKS AND BONDS AS SECURITY TO BORROW, PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL;



(d) RECEIVE CERTIFICATES AND OTHER EVIDENCES OF OWNERSHIP WITH RESPECT TO STOCKS AND BONDS; AND

(e) EXERCISE VOTING RIGHTS WITH RESPECT TO STOCKS AND BONDS IN PERSON OR BY PROXY, ENTER INTO VOTING TRUSTS, AND CONSENT TO LIMITATIONS ON THE RIGHT TO VOTE.

**15-14-730. Commodities and options.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO COMMODITIES AND OPTIONS AUTHORIZES THE AGENT TO:

(a) BUY, SELL, EXCHANGE, ASSIGN, SETTLE, AND EXERCISE COMMODITY FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK INDEXES TRADED ON A REGULATED OPTION EXCHANGE; AND

(b) ESTABLISH, CONTINUE, MODIFY, AND TERMINATE OPTION ACCOUNTS.

**15-14-731. Banks and other financial institutions.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO BANKS AND OTHER FINANCIAL INSTITUTIONS AUTHORIZES THE AGENT TO:

(a) CONTINUE, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT MADE BY OR ON BEHALF OF THE PRINCIPAL;

(b) ESTABLISH, MODIFY, AND TERMINATE AN ACCOUNT OR OTHER BANKING ARRANGEMENT WITH A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, THRIFT COMPANY, BROKERAGE FIRM, OR OTHER FINANCIAL INSTITUTION SELECTED BY THE AGENT;

(c) CONTRACT FOR SERVICES AVAILABLE FROM A FINANCIAL INSTITUTION, INCLUDING RENTING A SAFE DEPOSIT BOX OR SPACE IN A VAULT;

(d) WITHDRAW, BY CHECK, ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, MONEY OR PROPERTY OF THE PRINCIPAL DEPOSITED WITH OR LEFT IN THE CUSTODY OF A FINANCIAL INSTITUTION;

(e) RECEIVE STATEMENTS OF ACCOUNT, VOUCHERS, NOTICES, AND SIMILAR DOCUMENTS FROM A FINANCIAL INSTITUTION AND ACT WITH RESPECT TO THEM;

(f) ENTER A SAFE DEPOSIT BOX OR VAULT AND WITHDRAW OR ADD TO THE CONTENTS;

(g) BORROW MONEY AND PLEDGE AS SECURITY PERSONAL PROPERTY OF THE PRINCIPAL NECESSARY TO BORROW MONEY OR PAY, RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A DEBT GUARANTEED BY THE PRINCIPAL;

(h) MAKE, ASSIGN, DRAW, ENDORSE, DISCOUNT, GUARANTEE, AND NEGOTIATE PROMISSORY NOTES, CHECKS, DRAFTS, AND OTHER NEGOTIABLE OR NONNEGOTIABLE PAPER OF THE PRINCIPAL OR PAYABLE TO THE PRINCIPAL OR THE PRINCIPAL'S ORDER; TRANSFER MONEY; RECEIVE THE CASH OR OTHER PROCEEDS OF THOSE TRANSACTIONS; AND ACCEPT A DRAFT DRAWN BY A PERSON UPON THE PRINCIPAL AND PAY IT WHEN DUE;

(i) RECEIVE FOR THE PRINCIPAL AND ACT UPON A SIGHT DRAFT, WAREHOUSE RECEIPT, OR OTHER DOCUMENT OF TITLE WHETHER TANGIBLE OR ELECTRONIC OR OTHER NEGOTIABLE OR NONNEGOTIABLE INSTRUMENT;

(j) APPLY FOR, RECEIVE, AND USE LETTERS OF CREDIT, CREDIT AND DEBIT CARDS, ELECTRONIC TRANSACTION AUTHORIZATIONS, AND TRAVELER'S CHECKS FROM A FINANCIAL INSTITUTION AND GIVE AN INDEMNITY OR OTHER AGREEMENT IN CONNECTION WITH LETTERS OF CREDIT; AND

(k) CONSENT TO AN EXTENSION OF THE TIME OF PAYMENT WITH RESPECT TO COMMERCIAL PAPER OR A FINANCIAL TRANSACTION WITH A FINANCIAL INSTITUTION.

**15-14-732. Operation of entity or business.** (1) SUBJECT TO THE TERMS OF A DOCUMENT OR AN AGREEMENT GOVERNING AN ENTITY OR AN ENTITY OWNERSHIP INTEREST, AND UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO OPERATION OF AN ENTITY OR BUSINESS AUTHORIZES THE AGENT TO:

(a) OPERATE, BUY, SELL, ENLARGE, REDUCE, OR TERMINATE AN OWNERSHIP INTEREST;

(b) PERFORM A DUTY OR DISCHARGE A LIABILITY AND EXERCISE IN PERSON OR BY PROXY A RIGHT, POWER, PRIVILEGE, OR OPTION THAT THE PRINCIPAL HAS, MAY HAVE, OR CLAIMS TO HAVE;

(c) ENFORCE THE TERMS OF AN OWNERSHIP AGREEMENT;

(d) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY BECAUSE OF AN OWNERSHIP INTEREST;

(e) EXERCISE IN PERSON OR BY PROXY, OR ENFORCE BY LITIGATION OR OTHERWISE, A RIGHT, POWER, PRIVILEGE, OR OPTION THE PRINCIPAL HAS OR CLAIMS TO HAVE AS THE HOLDER OF STOCKS AND BONDS;

(f) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO WHICH THE PRINCIPAL IS A PARTY CONCERNING STOCKS AND BONDS;

(g) WITH RESPECT TO AN ENTITY OR BUSINESS OWNED SOLELY BY THE PRINCIPAL:

(I) CONTINUE, MODIFY, RENEGOTIATE, EXTEND, AND TERMINATE A CONTRACT MADE BY OR ON BEHALF OF THE PRINCIPAL WITH RESPECT TO THE ENTITY OR BUSINESS BEFORE EXECUTION OF THE POWER OF ATTORNEY;

(II) DETERMINE:

(A) THE LOCATION OF ITS OPERATION;

(B) THE NATURE AND EXTENT OF ITS BUSINESS;

(C) THE METHODS OF MANUFACTURING, SELLING, MERCHANDISING, FINANCING, ACCOUNTING, AND ADVERTISING EMPLOYED IN ITS OPERATION;

(D) THE AMOUNT AND TYPES OF INSURANCE CARRIED; AND

(E) THE MODE OF ENGAGING, COMPENSATING, AND DEALING WITH ITS EMPLOYEES AND ACCOUNTANTS, ATTORNEYS, OR OTHER ADVISORS;

(III) CHANGE THE NAME OR FORM OF ORGANIZATION UNDER WHICH THE ENTITY OR BUSINESS IS OPERATED AND ENTER INTO AN OWNERSHIP AGREEMENT WITH OTHER PERSONS TO TAKE OVER ALL OR PART OF THE OPERATION OF THE ENTITY OR BUSINESS; AND

(IV) DEMAND AND RECEIVE MONEY DUE OR CLAIMED BY THE PRINCIPAL OR ON THE PRINCIPAL'S BEHALF IN THE OPERATION OF THE ENTITY OR BUSINESS AND CONTROL AND DISBURSE THE MONEY IN THE OPERATION OF THE ENTITY OR BUSINESS;

(h) PUT ADDITIONAL CAPITAL INTO AN ENTITY OR BUSINESS IN WHICH THE PRINCIPAL HAS AN INTEREST;

(i) JOIN IN A PLAN OF REORGANIZATION, CONSOLIDATION, CONVERSION, DOMESTICATION, OR MERGER OF THE ENTITY OR BUSINESS;

(j) SELL OR LIQUIDATE ALL OR PART OF AN ENTITY OR BUSINESS;

(k) ESTABLISH THE VALUE OF AN ENTITY OR BUSINESS UNDER A BUY-OUT AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY;

(l) PREPARE, SIGN, FILE, AND DELIVER REPORTS, COMPILATIONS OF INFORMATION, RETURNS, OR OTHER PAPERS WITH RESPECT TO AN ENTITY OR BUSINESS AND MAKE RELATED PAYMENTS; AND

(m) PAY, COMPROMISE, OR CONTEST TAXES, ASSESSMENTS, FINES, OR PENALTIES AND PERFORM ANY OTHER ACT TO PROTECT THE PRINCIPAL FROM ILLEGAL OR UNNECESSARY TAXATION, ASSESSMENTS, FINES, OR PENALTIES, WITH RESPECT TO AN ENTITY OR BUSINESS, INCLUDING ATTEMPTS TO RECOVER, IN ANY MANNER PERMITTED BY LAW, MONEY PAID BEFORE OR AFTER THE EXECUTION OF THE POWER OF ATTORNEY.

**15-14-733. Insurance and annuities.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO INSURANCE AND ANNUITIES AUTHORIZES THE AGENT TO:

(a) CONTINUE, PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT PROCURED BY OR ON BEHALF OF THE PRINCIPAL THAT INSURES OR PROVIDES AN ANNUITY TO EITHER THE PRINCIPAL OR ANOTHER PERSON, WHETHER OR NOT THE PRINCIPAL IS A BENEFICIARY UNDER THE CONTRACT;

(b) PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND THE PRINCIPAL'S SPOUSE, CHILDREN, AND OTHER DEPENDENTS, SELECT THE AMOUNT, TYPE OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT, AND DESIGNATE A BENEFICIARY THAT WILL BE THE ESTATE OF THE PRINCIPAL;

(c) PAY THE PREMIUM OR MAKE A CONTRIBUTION ON, MODIFY, EXCHANGE, RESCIND, RELEASE, OR TERMINATE A CONTRACT OF INSURANCE OR ANNUITY PROCURED BY THE AGENT;

(d) APPLY FOR AND RECEIVE A LOAN SECURED BY A CONTRACT OF INSURANCE OR ANNUITY;

(e) SURRENDER AND RECEIVE THE CASH SURRENDER VALUE ON A CONTRACT OF INSURANCE OR ANNUITY;

(f) EXERCISE AN ELECTION;

(g) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A CONTRACT OF INSURANCE OR ANNUITY;

(h) CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT OF INSURANCE OR ANNUITY;

(i) CHANGE OR CONVERT THE TYPE OF INSURANCE OR ANNUITY WITH RESPECT TO WHICH THE PRINCIPAL HAS OR CLAIMS TO HAVE AUTHORITY DESCRIBED IN THIS SECTION;

(j) APPLY FOR AND PROCURE A BENEFIT OR ASSISTANCE UNDER A STATUTE OR REGULATION TO GUARANTEE OR PAY PREMIUMS OF A CONTRACT OF INSURANCE ON THE LIFE OF THE PRINCIPAL;

(k) COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST, OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE OR

ANNUITY;

(l) SELECT THE FORM AND TIMING OF THE PAYMENT OF PROCEEDS FROM A CONTRACT OF INSURANCE OR ANNUITY; AND

(m) PAY, FROM PROCEEDS OR OTHERWISE, COMPROMISE OR CONTEST, AND APPLY FOR REFUNDS IN CONNECTION WITH A TAX OR ASSESSMENT LEVIED BY A TAXING AUTHORITY WITH RESPECT TO A CONTRACT OF INSURANCE OR ANNUITY OR ITS PROCEEDS OR LIABILITY ACCRUING BY REASON OF THE TAX OR ASSESSMENT.

**15-14-734. Estates, trusts, and other beneficial interests.** (1) IN THIS SECTION, "ESTATE, TRUST, OR OTHER BENEFICIAL INTEREST" MEANS A TRUST, PROBATE ESTATE, GUARDIANSHIP, CONSERVATORSHIP, ESCROW, OR CUSTODIANSHIP OR A FUND FROM WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE, ENTITLED AS A BENEFICIARY TO A SHARE OR PAYMENT.

(2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS AUTHORIZES THE AGENT TO:

(a) ACCEPT, RECEIVE, RECEIPT FOR, SELL, ASSIGN, PLEDGE, OR EXCHANGE A SHARE IN OR PAYMENT FROM AN ESTATE, TRUST, OR OTHER BENEFICIAL INTEREST;

(b) DEMAND OR OBTAIN MONEY OR ANOTHER THING OF VALUE TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE, ENTITLED BY REASON OF AN ESTATE, TRUST, OR OTHER BENEFICIAL INTEREST, BY LITIGATION OR OTHERWISE;

(c) EXERCISE FOR THE BENEFIT OF THE PRINCIPAL A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL;

(d) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO ASCERTAIN THE MEANING, VALIDITY, OR EFFECT OF A DEED, WILL, DECLARATION OF TRUST, OR OTHER INSTRUMENT OR TRANSACTION AFFECTING THE INTEREST OF THE PRINCIPAL;

(e) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION TO REMOVE, SUBSTITUTE, OR SURCHARGE A FIDUCIARY;

(f) CONSERVE, INVEST, DISBURSE, OR USE ANYTHING RECEIVED FOR AN AUTHORIZED PURPOSE;

(g) TRANSFER AN INTEREST OF THE PRINCIPAL IN REAL PROPERTY, STOCKS AND BONDS, ACCOUNTS WITH FINANCIAL INSTITUTIONS OR SECURITIES INTERMEDIARIES, INSURANCE, ANNUITIES, AND OTHER PROPERTY TO THE TRUSTEE OF A REVOCABLE TRUST CREATED BY THE PRINCIPAL AS SETTLOR; AND

(h) REJECT, RENOUNCE, DISCLAIM, RELEASE, OR CONSENT TO A REDUCTION IN OR MODIFICATION OF A SHARE IN OR PAYMENT FROM AN ESTATE, TRUST, OR OTHER BENEFICIAL INTEREST.

**15-14-735. Claims and litigation.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO CLAIMS AND LITIGATION AUTHORIZES THE AGENT TO:

(a) ASSERT AND MAINTAIN BEFORE A COURT OR ADMINISTRATIVE AGENCY A CLAIM, CLAIM FOR RELIEF, CAUSE OF ACTION, COUNTERCLAIM, OFFSET, RECOUPMENT, OR DEFENSE, INCLUDING AN ACTION TO RECOVER PROPERTY OR OTHER THING OF VALUE, RECOVER DAMAGES SUSTAINED BY THE PRINCIPAL, ELIMINATE OR MODIFY TAX LIABILITY, OR SEEK AN INJUNCTION, SPECIFIC PERFORMANCE, OR OTHER RELIEF;

(b) BRING AN ACTION TO DETERMINE ADVERSE CLAIMS OR INTERVENE OR OTHERWISE PARTICIPATE IN LITIGATION;

(c) SEEK AN ATTACHMENT, GARNISHMENT, ORDER OF ARREST, OR OTHER PRELIMINARY, PROVISIONAL, OR INTERMEDIATE RELIEF AND USE AN AVAILABLE PROCEDURE TO EFFECT OR SATISFY A JUDGMENT, ORDER, OR DECREE;

(d) MAKE OR ACCEPT A TENDER, OFFER OF JUDGMENT, OR ADMISSION OF FACTS, SUBMIT A CONTROVERSY ON AN AGREED STATEMENT OF FACTS,

CONSENT TO EXAMINATION, AND BIND THE PRINCIPAL IN LITIGATION;

(e) SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, AND PROPOSE OR ACCEPT A COMPROMISE;

(f) WAIVE THE ISSUANCE AND SERVICE OF PROCESS UPON THE PRINCIPAL, ACCEPT SERVICE OF PROCESS, APPEAR FOR THE PRINCIPAL, DESIGNATE PERSONS UPON WHICH PROCESS DIRECTED TO THE PRINCIPAL MAY BE SERVED, EXECUTE AND FILE OR DELIVER STIPULATIONS ON THE PRINCIPAL'S BEHALF, VERIFY PLEADINGS, SEEK APPELLATE REVIEW, PROCURE AND GIVE SURETY AND INDEMNITY BONDS, CONTRACT AND PAY FOR THE PREPARATION AND PRINTING OF RECORDS AND BRIEFS, RECEIVE, EXECUTE, AND FILE OR DELIVER A CONSENT, WAIVER, RELEASE, CONFESSION OF JUDGMENT, SATISFACTION OF JUDGMENT, NOTICE, AGREEMENT, OR OTHER INSTRUMENT IN CONNECTION WITH THE PROSECUTION, SETTLEMENT, OR DEFENSE OF A CLAIM OR LITIGATION;

(g) ACT FOR THE PRINCIPAL WITH RESPECT TO BANKRUPTCY OR INSOLVENCY, WHETHER VOLUNTARY OR INVOLUNTARY, CONCERNING THE PRINCIPAL OR SOME OTHER PERSON, OR WITH RESPECT TO A REORGANIZATION, RECEIVERSHIP, OR APPLICATION FOR THE APPOINTMENT OF A RECEIVER OR TRUSTEE THAT AFFECTS AN INTEREST OF THE PRINCIPAL IN PROPERTY OR OTHER THING OF VALUE;

(h) PAY A JUDGMENT, AWARD, OR ORDER AGAINST THE PRINCIPAL OR A SETTLEMENT MADE IN CONNECTION WITH A CLAIM OR LITIGATION; AND

(i) RECEIVE MONEY OR OTHER THING OF VALUE PAID IN SETTLEMENT OF OR AS PROCEEDS OF A CLAIM OR LITIGATION.

**15-14-736. Personal and family maintenance.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE AUTHORIZES THE AGENT TO:

(a) PERFORM THE ACTS NECESSARY TO MAINTAIN THE CUSTOMARY STANDARD OF LIVING OF THE PRINCIPAL, THE PRINCIPAL'S SPOUSE, AND THE FOLLOWING INDIVIDUALS, WHETHER LIVING WHEN THE POWER OF ATTORNEY IS EXECUTED OR LATER BORN:



(I) THE PRINCIPAL'S CHILDREN;

(II) OTHER INDIVIDUALS LEGALLY ENTITLED TO BE SUPPORTED BY THE PRINCIPAL; AND

(III) THE INDIVIDUALS WHOM THE PRINCIPAL HAS CUSTOMARILY SUPPORTED OR INDICATED THE INTENT TO SUPPORT;

(b) MAKE PERIODIC PAYMENTS OF CHILD SUPPORT AND OTHER FAMILY MAINTENANCE REQUIRED BY A COURT OR GOVERNMENTAL AGENCY OR AN AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY;

(c) PROVIDE LIVING QUARTERS FOR THE INDIVIDUALS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) BY:

(I) PURCHASE, LEASE, OR OTHER CONTRACT; OR

(II) PAYING THE OPERATING COSTS, INCLUDING INTEREST, AMORTIZATION PAYMENTS, REPAIRS, IMPROVEMENTS, AND TAXES, FOR PREMISES OWNED BY THE PRINCIPAL OR OCCUPIED BY THOSE INDIVIDUALS;

(d) PROVIDE NORMAL DOMESTIC HELP, USUAL VACATIONS AND TRAVEL EXPENSES, AND FUNDS FOR SHELTER, CLOTHING, FOOD, APPROPRIATE EDUCATION, INCLUDING POSTSECONDARY AND VOCATIONAL EDUCATION, AND OTHER CURRENT LIVING COSTS FOR THE INDIVIDUALS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1);

(e) PAY EXPENSES FOR NECESSARY HEALTH CARE AND CUSTODIAL CARE ON BEHALF OF THE INDIVIDUALS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1);

(f) ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE PURSUANT TO THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT", SECTIONS 1171 TO 1179 OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1320d, AS AMENDED, AND APPLICABLE REGULATIONS, IN MAKING DECISIONS RELATED TO THE PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE CONSENTED TO BY THE PRINCIPAL OR ANYONE AUTHORIZED UNDER THE LAW OF THIS STATE TO CONSENT TO HEALTH CARE ON BEHALF OF THE PRINCIPAL;

(g) CONTINUE ANY PROVISION MADE BY THE PRINCIPAL FOR AUTOMOBILES OR OTHER MEANS OF TRANSPORTATION, INCLUDING REGISTERING, LICENSING, INSURING, AND REPLACING THEM, FOR THE INDIVIDUALS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1);

(h) MAINTAIN CREDIT AND DEBIT ACCOUNTS FOR THE CONVENIENCE OF THE INDIVIDUALS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) AND OPEN NEW ACCOUNTS; AND

(i) CONTINUE PAYMENTS INCIDENTAL TO THE MEMBERSHIP OR AFFILIATION OF THE PRINCIPAL IN A RELIGIOUS INSTITUTION, CLUB, SOCIETY, ORDER, OR OTHER ORGANIZATION OR TO CONTINUE CONTRIBUTIONS TO THOSE ORGANIZATIONS.

(2) AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY MAINTENANCE IS NEITHER DEPENDENT UPON, NOR LIMITED BY, AUTHORITY THAT AN AGENT MAY OR MAY NOT HAVE WITH RESPECT TO GIFTS UNDER THIS PART 7.

**15-14-737. Benefits from governmental programs or civil or military service.** (1) IN THIS SECTION, "BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE" MEANS ANY BENEFIT, PROGRAM, OR ASSISTANCE PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY, MEDICARE, AND MEDICAID.

(2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE AUTHORIZES THE AGENT TO:

(a) EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE PRINCIPAL, INCLUDING ALLOWANCES AND REIMBURSEMENTS FOR TRANSPORTATION OF THE INDIVIDUALS DESCRIBED IN SECTION 15-14-736(1) (a), AND FOR SHIPMENT OF THEIR HOUSEHOLD EFFECTS;

(b) TAKE POSSESSION AND ORDER THE REMOVAL AND SHIPMENT OF PROPERTY OF THE PRINCIPAL FROM A POST, WAREHOUSE, DEPOT, DOCK, OR OTHER PLACE OF STORAGE OR SAFEKEEPING, EITHER GOVERNMENTAL OR

PRIVATE, AND EXECUTE AND DELIVER A RELEASE, VOUCHER, RECEIPT, BILL OF LADING, SHIPPING TICKET, CERTIFICATE, OR OTHER INSTRUMENT FOR THAT PURPOSE;

(c) ENROLL IN, APPLY FOR, SELECT, REJECT, CHANGE, AMEND, OR DISCONTINUE, ON THE PRINCIPAL'S BEHALF, A BENEFIT OR PROGRAM;

(d) PREPARE, FILE, AND MAINTAIN A CLAIM OF THE PRINCIPAL FOR A BENEFIT OR ASSISTANCE, FINANCIAL OR OTHERWISE, TO WHICH THE PRINCIPAL MAY BE ENTITLED UNDER A STATUTE OR REGULATION;

(e) INITIATE, PARTICIPATE IN, SUBMIT TO ALTERNATIVE DISPUTE RESOLUTION, SETTLE, OPPOSE, OR PROPOSE OR ACCEPT A COMPROMISE WITH RESPECT TO LITIGATION CONCERNING ANY BENEFIT OR ASSISTANCE THE PRINCIPAL MAY BE ENTITLED TO RECEIVE UNDER A STATUTE OR REGULATION; AND

(f) RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION (2) AND CONSERVE, INVEST, DISBURSE, OR USE FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED.

**15-14-738. Retirement plans.** (1) IN THIS SECTION, "RETIREMENT PLAN" MEANS A PLAN OR ACCOUNT CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED:

(a) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408, 26 U.S.C. SEC. 408, AS AMENDED;

(b) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408A, 26 U.S.C. SEC. 408A, AS AMENDED;

(c) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 408 (q), 26 U.S.C. SEC. 408 (q), AS AMENDED;

(d) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER INTERNAL REVENUE CODE SECTION 403 (b), 26 U.S.C. SEC. 403 (b), AS

AMENDED;

(e) A PENSION, PROFIT-SHARING, STOCK BONUS, OR OTHER RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 401 (a), 26 U.S.C. SEC. 401 (a), AS AMENDED;

(f) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457 (b), 26 U.S.C. SEC 457 (b), AS AMENDED; AND

(g) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER INTERNAL REVENUE CODE SECTION 409A, 26 U.S.C. SEC. 409A, AS AMENDED.

(2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO RETIREMENT PLANS AUTHORIZES THE AGENT TO:

(a) SELECT THE FORM AND TIMING OF PAYMENTS UNDER A RETIREMENT PLAN AND WITHDRAW BENEFITS FROM A PLAN;

(b) MAKE A ROLLOVER, INCLUDING A DIRECT TRUSTEE-TO-TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN TO ANOTHER;

(c) ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME AND DESIGNATE A BENEFICIARY THAT WILL BE THE ESTATE OF THE PRINCIPAL;

(d) MAKE CONTRIBUTIONS TO A RETIREMENT PLAN;

(e) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A RETIREMENT PLAN; AND

(f) BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS FROM A RETIREMENT PLAN.

**15-14-739. Taxes.** (1) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO TAXES AUTHORIZES THE AGENT TO:

(a) PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, "FEDERAL INSURANCE CONTRIBUTIONS

ACT", AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS, REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND ANY OTHER TAX-RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS, CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL REVENUE CODE SECTION 2032A, 26 U.S.C. SEC. 2032A, AS AMENDED, CLOSING AGREEMENTS, AND ANY POWER OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR UPON WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING TWENTY-FIVE TAX YEARS;

(b) PAY TAXES DUE, COLLECT REFUNDS, POST BONDS, RECEIVE CONFIDENTIAL INFORMATION, AND CONTEST DEFICIENCIES DETERMINED BY THE INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY;

(c) EXERCISE ANY ELECTION AVAILABLE TO THE PRINCIPAL UNDER FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW; AND

(d) ACT FOR THE PRINCIPAL IN ALL TAX MATTERS FOR ALL PERIODS BEFORE THE INTERNAL REVENUE SERVICE, OR OTHER TAXING AUTHORITY.

**15-14-740. Gifts.** (1) IN THIS SECTION, A GIFT "FOR THE BENEFIT OF" A PERSON INCLUDES A GIFT TO A TRUST, AN ACCOUNT UNDER THE FEDERAL "UNIFORM TRANSFERS TO MINORS ACT", AND A TUITION SAVINGS ACCOUNT OR PREPAID TUITION PLAN AS DEFINED UNDER INTERNAL REVENUE CODE SECTION 529, 26 U.S.C. SEC. 529, AS AMENDED.

(2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO GIFTS AUTHORIZES THE AGENT ONLY TO:

(a) MAKE OUTRIGHT TO, OR FOR THE BENEFIT OF, A PERSON, A GIFT OF ANY OF THE PRINCIPAL'S PROPERTY, INCLUDING BY THE EXERCISE OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL, IN AN AMOUNT PER DONEE NOT TO EXCEED THE ANNUAL DOLLAR LIMITS OF THE FEDERAL GIFT TAX EXCLUSION UNDER INTERNAL REVENUE CODE SECTION 2503 (b), 26 U.S.C. SEC. 2503 (b), AS AMENDED, WITHOUT REGARD TO WHETHER THE FEDERAL GIFT TAX EXCLUSION APPLIES TO THE GIFT, OR IF THE PRINCIPAL'S SPOUSE AGREES TO CONSENT TO A SPLIT GIFT PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. SEC. 2513, AS AMENDED, IN AN AMOUNT PER DONEE NOT TO EXCEED TWICE THE

ANNUAL FEDERAL GIFT TAX EXCLUSION LIMIT; AND

(b) CONSENT, PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. SEC. 2513, AS AMENDED, TO THE SPLITTING OF A GIFT MADE BY THE PRINCIPAL'S SPOUSE IN AN AMOUNT PER DONEE NOT TO EXCEED THE AGGREGATE ANNUAL GIFT TAX EXCLUSIONS FOR BOTH SPOUSES.

(3) AN AGENT MAY MAKE A GIFT OF THE PRINCIPAL'S PROPERTY ONLY AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S OBJECTIVES IF ACTUALLY KNOWN BY THE AGENT AND, IF UNKNOWN, AS THE AGENT DETERMINES IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST BASED ON ALL RELEVANT FACTORS, INCLUDING:

(a) THE VALUE AND NATURE OF THE PRINCIPAL'S PROPERTY;

(b) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED FOR MAINTENANCE;

(c) MINIMIZATION OF TAXES, INCLUDING INCOME, ESTATE, INHERITANCE, GENERATION-SKIPPING TRANSFER, AND GIFT TAXES;

(d) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE UNDER A STATUTE OR REGULATION; AND

(e) THE PRINCIPAL'S PERSONAL HISTORY OF MAKING OR JOINING IN MAKING GIFTS.

### SUBPART 3 STATUTORY FORMS

**15-14-741. Statutory form - power of attorney.** A DOCUMENT SUBSTANTIALLY IN THE FOLLOWING FORM MAY BE USED TO CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING AND EFFECT PRESCRIBED BY THIS PART 7.

#### **STATE OF COLORADO STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION**

THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO

MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL). YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF. THE MEANING OF AUTHORITY OVER SUBJECTS LISTED ON THIS FORM IS EXPLAINED IN THE "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14 OF TITLE 15, COLORADO REVISED STATUTES.

THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.

YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A COAGENT IN THE SPECIAL INSTRUCTIONS. COAGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.

IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

**IF YOU HAVE QUESTIONS ABOUT THE POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT, YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING THIS FORM.**

### **DESIGNATION OF AGENT**

I \_\_\_\_\_ (NAME OF PRINCIPAL) NAME THE FOLLOWING PERSON AS MY AGENT:

NAME OF AGENT: \_\_\_\_\_

AGENT'S ADDRESS: \_\_\_\_\_

AGENT'S TELEPHONE NUMBER: \_\_\_\_\_

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

IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SUCCESSOR AGENT:

NAME OF SUCCESSOR AGENT: \_\_\_\_\_

SUCCESSOR AGENT'S ADDRESS: \_\_\_\_\_

SUCCESSOR AGENT'S TELEPHONE NUMBER: \_\_\_\_\_

IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY SECOND SUCCESSOR AGENT:

NAME OF SECOND SUCCESSOR AGENT: \_\_\_\_\_

SECOND SUCCESSOR AGENT'S ADDRESS: \_\_\_\_\_

SECOND SUCCESSOR AGENT'S TELEPHONE NUMBER: \_\_\_\_\_

### **GRANT OF GENERAL AUTHORITY**

I GRANT MY AGENT AND ANY SUCCESSOR AGENT GENERAL AUTHORITY TO ACT FOR ME WITH RESPECT TO THE FOLLOWING SUBJECTS AS DEFINED IN THE "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14 OF TITLE 15, COLORADO REVISED STATUTES:

(INITIAL EACH SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL AUTHORITY. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER ALL OF THE SUBJECTS YOU MAY INITIAL "ALL PRECEDING SUBJECTS" INSTEAD OF INITIALING EACH SUBJECT.)

- REAL PROPERTY
- TANGIBLE PERSONAL PROPERTY
- STOCKS AND BONDS
- COMMODITIES AND OPTIONS
- BANKS AND OTHER FINANCIAL INSTITUTIONS
- OPERATION OF ENTITY OR BUSINESS
- INSURANCE AND ANNUITIES
- ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS
- CLAIMS AND LITIGATION



- PERSONAL AND FAMILY MAINTENANCE
- BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE
- RETIREMENT PLANS
- TAXES
  
- ALL PRECEDING SUBJECTS

**GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:

(CAUTION: GRANTING ANY OF THE FOLLOWING WILL GIVE YOUR AGENT THE AUTHORITY TO TAKE ACTIONS THAT COULD SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. INITIAL ONLY THE SPECIFIC AUTHORITY YOU WANT TO GIVE YOUR AGENT.)

- CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS TRUST
- MAKE A GIFT, SUBJECT TO THE LIMITATIONS OF THE "UNIFORM POWER OF ATTORNEY ACT" SET FORTH IN SECTION 15-14-740, COLORADO REVISED STATUTES, AND ANY SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY
- CREATE OR CHANGE RIGHTS OF SURVIVORSHIP
- CREATE OR CHANGE A BENEFICIARY DESIGNATION
- AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY
- WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A RETIREMENT PLAN
- EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO DELEGATE
- DISCLAIM, REFUSE, OR RELEASE AN INTEREST IN PROPERTY OR A POWER OF APPOINTMENT
- EXERCISE A POWER OF APPOINTMENT OTHER THAN: (1) THE EXERCISE OF A GENERAL POWER OF APPOINTMENT FOR THE BENEFIT OF THE PRINCIPAL WHICH MAY, IF THE SUBJECT OF ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS IS AUTHORIZED ABOVE, BE EXERCISED AS PROVIDED UNDER THE SUBJECT OF ESTATES, TRUSTS, AND OTHER

BENEFICIAL INTERESTS; OR (2) THE EXERCISE OF A GENERAL POWER OF APPOINTMENT FOR THE BENEFIT OF PERSONS OTHER THAN THE PRINCIPAL WHICH MAY, IF THE MAKING OF A GIFT IS SPECIFICALLY AUTHORIZED ABOVE, BE EXERCISED UNDER THE SPECIFIC AUTHORIZATION TO MAKE GIFTS

(\_\_\_) EXERCISE POWERS, RIGHTS, OR AUTHORITY AS A PARTNER, MEMBER, OR MANAGER OF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ENTITY THAT THE PRINCIPAL MAY EXERCISE ON BEHALF OF THE ENTITY AND HAS AUTHORITY TO DELEGATE EXCLUDING THE EXERCISE OF SUCH POWERS, RIGHTS, AND AUTHORITY WITH RESPECT TO AN ENTITY OWNED SOLELY BY THE PRINCIPAL WHICH MAY, IF OPERATION OF ENTITY OR BUSINESS IS AUTHORIZED ABOVE, BE EXERCISED AS PROVIDED UNDER THE SUBJECT OF OPERATION OF THE ENTITY OR BUSINESS

**LIMITATION ON AGENT'S AUTHORITY**

AN AGENT THAT IS NOT MY ANCESTOR, SPOUSE, OR DESCENDANT MAY NOT USE MY PROPERTY TO BENEFIT THE AGENT OR A PERSON TO WHOM THE AGENT OWES AN OBLIGATION OF SUPPORT UNLESS I HAVE INCLUDED THAT AUTHORITY IN THE SPECIAL INSTRUCTIONS.

**SPECIAL INSTRUCTIONS (OPTIONAL)**

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

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**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 OF MY ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S) FOR APPOINTMENT:

NAME OF NOMINEE FOR CONSERVATOR 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 THIS POWER OF ATTORNEY OR A COPY OF IT UNLESS THAT PERSON KNOWS IT HAS TERMINATED OR IS INVALID.

**SIGNATURE AND ACKNOWLEDGMENT**

\_\_\_\_\_  
YOUR SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
YOUR NAME PRINTED

\_\_\_\_\_  
YOUR ADDRESS

\_\_\_\_\_  
YOUR TELEPHONE NUMBER

STATE OF \_\_\_\_\_

[COUNTY] OF \_\_\_\_\_

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON \_\_\_\_\_,  
(DATE)

BY \_\_\_\_\_.  
(NAME OF PRINCIPAL)

\_\_\_\_\_  
(SEAL, IF ANY)  
SIGNATURE OF NOTARY

MY COMMISSION EXPIRES: \_\_\_\_\_

THIS DOCUMENT PREPARED BY:

\_\_\_\_\_  
\_\_\_\_\_

## **IMPORTANT INFORMATION FOR AGENT**

### **AGENT'S DUTIES**

WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES UPON YOU LEGAL DUTIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR REVOKED. YOU MUST:

- (1) DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS YOU TO DO WITH THE PRINCIPAL'S PROPERTY OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, ACT IN THE PRINCIPAL'S BEST INTEREST;
- (2) ACT IN GOOD FAITH;
- (3) DO NOTHING BEYOND THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY; AND
- (4) DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR THE PRINCIPAL BY WRITING OR PRINTING THE NAME OF THE PRINCIPAL AND SIGNING YOUR OWN NAME AS "AGENT" IN THE FOLLOWING MANNER:

(PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT

UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE OTHERWISE, YOU MUST ALSO:

- (1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;
- (2) AVOID CONFLICTS THAT WOULD IMPAIR YOUR ABILITY TO ACT IN THE PRINCIPAL'S BEST INTEREST;
- (3) ACT WITH CARE, COMPETENCE, AND DILIGENCE;
- (4) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL;
- (5) COOPERATE WITH ANY PERSON THAT HAS AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR THE PRINCIPAL TO DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS OR, IF YOU DO NOT KNOW THE PRINCIPAL'S EXPECTATIONS, TO ACT IN THE PRINCIPAL'S BEST INTEREST; AND
- (6) ATTEMPT TO PRESERVE THE PRINCIPAL'S ESTATE PLAN IF YOU KNOW THE PLAN AND PRESERVING THE PLAN IS CONSISTENT WITH THE PRINCIPAL'S BEST INTEREST.

#### **TERMINATION OF AGENT'S AUTHORITY**

YOU MUST STOP ACTING ON BEHALF OF THE PRINCIPAL IF YOU LEARN OF ANY EVENT THAT TERMINATES THIS POWER OF ATTORNEY OR YOUR AUTHORITY UNDER THIS POWER OF ATTORNEY. EVENTS THAT TERMINATE A POWER OF ATTORNEY OR YOUR AUTHORITY TO ACT UNDER A POWER OF ATTORNEY INCLUDE:

- (1) DEATH OF THE PRINCIPAL;
- (2) THE PRINCIPAL'S REVOCATION OF THE POWER OF ATTORNEY OR YOUR AUTHORITY;
- (3) THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE POWER OF ATTORNEY;
- (4) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY ACCOMPLISHED;  
OR
- (5) IF YOU ARE MARRIED TO THE PRINCIPAL, A LEGAL ACTION IS FILED WITH A COURT TO END YOUR MARRIAGE, OR FOR YOUR LEGAL SEPARATION, UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE THAT SUCH AN ACTION WILL NOT TERMINATE YOUR AUTHORITY.

#### **LIABILITY OF AGENT**

THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN THE "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14 OF TITLE 15,

COLORADO REVISED STATUTES. IF YOU VIOLATE THE "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14 OF TITLE 15, COLORADO REVISED STATUTES, OR ACT OUTSIDE THE AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR VIOLATION.

IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.

**15-14-742. Certification.** THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY FACTS CONCERNING A POWER OF ATTORNEY.

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (NAME OF AGENT), CERTIFY UNDER PENALTY OF PERJURY THAT \_\_\_\_\_ (NAME OF PRINCIPAL) GRANTED ME AUTHORITY AS AN AGENT OR SUCCESSOR AGENT IN A POWER OF ATTORNEY DATED \_\_\_\_\_.

I FURTHER CERTIFY THAT TO MY KNOWLEDGE:

(1) THE PRINCIPAL IS ALIVE AND HAS NOT REVOKED THE POWER OF ATTORNEY OR MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY AND THE POWER OF ATTORNEY AND MY AUTHORITY TO ACT UNDER THE POWER OF ATTORNEY HAVE NOT TERMINATED;

(2) IF THE POWER OF ATTORNEY WAS DRAFTED TO BECOME EFFECTIVE UPON THE HAPPENING OF AN EVENT OR CONTINGENCY, THE EVENT OR CONTINGENCY HAS OCCURRED;

(3) IF I WAS NAMED AS A SUCCESSOR AGENT, THE PRIOR AGENT IS NO LONGER ABLE OR WILLING TO SERVE; AND

(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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(INSERT OTHER RELEVANT STATEMENTS)

**SIGNATURE AND ACKNOWLEDGMENT**

---

AGENT'S SIGNATURE

---

DATE

---

AGENT'S NAME PRINTED

---

AGENT'S ADDRESS

---

AGENT'S TELEPHONE NUMBER

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON \_\_\_\_\_,  
(DATE)

BY \_\_\_\_\_.  
(NAME OF AGENT)

---

SIGNATURE OF NOTARY (SEAL, IF ANY)

MY COMMISSION EXPIRES: \_\_\_\_\_

THIS DOCUMENT PREPARED BY:

---

**SUBPART 4  
MISCELLANEOUS PROVISIONS**

**15-14-743. Uniformity of application and construction.** IN APPLYING AND CONSTRUING THIS PART 7, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG THE STATES THAT ENACT IT.

**15-14-744. Relation to "Electronic Signatures in Global and National Commerce Act".** THIS PART 7, MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

**15-14-745. Effect on existing powers of attorney.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 7, ON JANUARY 1, 2010:

(a) THIS PART 7 APPLIES TO A POWER OF ATTORNEY CREATED BEFORE, ON, OR AFTER JANUARY 1, 2010;

(b) THIS PART 7 APPLIES TO A JUDICIAL PROCEEDING CONCERNING A POWER OF ATTORNEY COMMENCED ON OR AFTER JANUARY 1, 2010;

(c) THIS PART 7 APPLIES TO A JUDICIAL PROCEEDING CONCERNING A POWER OF ATTORNEY COMMENCED BEFORE JANUARY 1, 2010, UNLESS THE COURT FINDS THAT APPLICATION OF A PROVISION OF THIS PART 7 WOULD SUBSTANTIALLY INTERFERE WITH THE EFFECTIVE CONDUCT OF THE JUDICIAL PROCEEDING OR PREJUDICE THE RIGHTS OF A PARTY, IN WHICH CASE THAT PROVISION DOES NOT APPLY AND THE SUPERSEDED LAW APPLIES; AND

(d) AN ACT DONE BEFORE JANUARY 1, 2010, IS NOT AFFECTED BY THIS PART 7.

(2) (a) A POWER OF ATTORNEY IS DURABLE AS DETERMINED PURSUANT TO SECTION 15-14-704 (1) AND IS OTHERWISE CONSTRUED AND APPLIED IN ACCORDANCE WITH THIS PART 7 PRIOR TO JANUARY 1, 2010, IF THE POWER OF ATTORNEY:

(I) IS SIGNED ON OR AFTER THE DATE THIS PART 7 BECOMES LAW AND BEFORE JANUARY 1, 2010;

(II) IS EITHER:

(A) SUBSTANTIALLY IN THE FORM SET FORTH IN SECTION 15-14-741;  
OR



(B) STATES THAT IT IS SUBJECT TO THE "UNIFORM POWER OF ATTORNEY ACT" OR TO THIS PART 7.

(b) TO THE EXTENT OF ANY CONFLICT BETWEEN THIS SUBSECTION (2) AND EITHER PART 13 OF ARTICLE 1 OF THIS TITLE OR SECTION 15-14-501, THIS SUBSECTION (2) SHALL CONTROL.

**SECTION 2.** 15-2-202, Colorado Revised Statutes, is amended to read:

**15-2-202. Power may be released.** A power of appointment, whether or not existing on July 1, 1967, may be released, wholly or partially, by the donee thereof, or his or her attorney-in-fact or agent acting under a power of attorney in accordance with ~~section 15-14-501, unless otherwise expressly provided in the instrument creating the power~~ PART 7 OF ARTICLE 14 OF THIS TITLE. As used in this part 2, the term "release" includes a disclaimer or a renunciation of a power of appointment.

**SECTION 3.** 15-2-203, Colorado Revised Statutes, is amended to read:

**15-2-203. How power released.** A power releasable according to section 15-2-202 may be released, wholly or partially, by the donee of the power or his or her attorney-in-fact or agent acting under a power of attorney in accordance with ~~section 15-14-501~~ PART 7 OF ARTICLE 14 OF THIS TITLE, to any person who could be adversely affected by the exercise of the power or, in the case of a power created by will, by the filing of a written release in the district or probate court in which such will was proved or allowed; but, wherever property subject to the power is then held in trust, a written release must also be delivered to the trustee holding such property. The execution of a partial release of a power shall not prevent the execution and delivery of further partial releases from time to time nor prevent the later execution and delivery of an instrument wholly releasing such power.

**SECTION 4.** 15-2-301, Colorado Revised Statutes, is amended to read:

**15-2-301. Extent of exercise.** Unless the instrument creating a power of appointment expressly limits the right, interest, or estate which can be appointed by exercise of that power, a donee of a power, or his or

her attorney-in-fact or agent acting under a power of attorney in accordance with ~~section 15-14-501~~ PART 7 OF ARTICLE 14 OF THIS TITLE, may exercise such power to pass to the appointee a fee or any lesser estate, interest, or a power of appointment or to pass the property subject to the power to a trustee for the benefit of one or more of the objects of the power of appointment.

**SECTION 5.** Part 5 of article 14 of title 15, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

**15-14-500.3. [Formerly 15-14-601.] Legislative declaration.**

(1) The general assembly hereby recognizes that each adult individual has the right as a principal to appoint an agent to deal with property or make personal decisions for the individual, but that this right cannot be fully effective unless the principal may empower the agent to act throughout the principal's lifetime, including during periods of disability, and be sure that any third party will honor the agent's authority at all times.

(2) The general assembly hereby finds, determines, and declares that:

(a) In light of modern financial needs, the statutory recognition of the right of delegation in Colorado must be restated, among other things, to expand its application and the permissible scope of the agent's authority, to clarify the power of the individual to authorize an agent to make financial decisions for the individual, and to better protect any third party who relies in good faith on the agent so that reliance will be assured.

(b) The public interest requires a standard form ~~affidavit of agency~~ FOR CERTIFICATION OF AGENCY that any third party may use to assure that an agent's authority under an agency has not been altered or terminated.

(3) The general assembly hereby finds, determines, and declares that nothing in this ~~part 6~~ PART 5 OR PARTS 6 OR 7 OF THIS ARTICLE shall be deemed to authorize or encourage any course of action that violates the criminal laws of this state or the United States. Similarly, nothing in this ~~part 6~~ PART 5 OR PARTS 6 OR 7 OF THIS ARTICLE shall be deemed to authorize or encourage any violation of any civil right expressed in the constitution,

statutes, case law, or administrative rulings of this state or the United States or any course of action that violates the public policy expressed in the constitution, statutes, case law, or administrative rulings of this state or the United States.

(4) The general assembly hereby recognizes each adult's constitutional right to accept or reject medical treatment, artificial nourishment, and hydration and the right to create advanced medical directives and to appoint an agent to make health care decisions under a medical durable power of attorney. The "Colorado Patient Autonomy Act", sections 15-14-503 to 15-14-509, is intended to assist the exercise of such rights.

(5) In the event of a conflict between the provisions of ~~this part 6~~ PART 7 OF THIS ARTICLE and the "Colorado Patient Autonomy Act" or between the provisions of powers of attorney prepared pursuant to ~~this part 6~~ PART 7 OF THIS ARTICLE and the "Colorado Patient Autonomy Act", the provisions of the "Colorado Patient Autonomy Act" or provisions of powers of attorney prepared pursuant to the "Colorado Patient Autonomy Act" shall prevail.

(6) ~~This part 6 does~~ PARTS 6 AND 7 OF THIS ARTICLE DO not abridge the right of any person to enter into a verbal principal and agent relationship. A brokerage relationship between a real estate broker and a seller, landlord, buyer, or tenant in a real estate transaction established pursuant to part 8 of article 61 of title 12, C.R.S., shall be governed by the provisions of part 8 of article 61 of title 12, C.R.S., and not by ~~this part 6~~ PARTS 6 AND 7 OF THIS ARTICLE.

(7) ~~This part 6 does~~ PARTS 6 AND 7 OF THIS ARTICLE DO not create any power or right in an agent that the agent's principal does not hold or possess and does not abridge contracts existing between principals and third parties.

**SECTION 6.** Part 5 of article 14 of title 15, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**15-14-500.5. Definitions - excluded powers.** (1) (a) FOR PURPOSES OF SECTIONS 15-14-501 AND 15-14-502, "POWER OF ATTORNEY" MEANS A POWER TO MAKE HEALTH CARE DECISIONS GRANTED BY AN

INDIVIDUAL.

(b) FOR PURPOSES OF SECTION 15-14-502, "POWER OF ATTORNEY" ALSO INCLUDES A POWER OR DELEGATION THAT IS:

(I) EXCLUDED FROM THE APPLICATION OF PART 7 OF THIS ARTICLE PURSUANT TO SECTION 15-14-703;

(II) NOT A POWER TO MAKE HEALTH CARE DECISIONS; AND

(III) NOT EFFECTIVE WITHOUT APPLICATION OF SECTION 15-14-502.

(c) FOR PURPOSES OF THIS PART 5 AND PART 6 OF THIS ARTICLE, "MEDICAL DURABLE POWER OF ATTORNEY" AND "MEDICAL POWER OF ATTORNEY" MEANS A POWER TO MAKE HEALTH CARE DECISIONS.

(2) A POWER AND DELEGATION THAT IS EXCLUDED FROM THE APPLICATION OF PART 7 OF THIS ARTICLE BY SECTION 15-14-703, OTHER THAN A POWER TO MAKE HEALTH CARE DECISIONS, MAY BE EXERCISED DURING THE INCAPACITY OF THE PRINCIPAL TO THE EXTENT PROVIDED IN THE POWER OR DELEGATION OR BY APPLICABLE PRINCIPLES OF LAW AND EQUITY.

**SECTION 7.** 15-14-602 (2) and (4), Colorado Revised Statutes, are amended to read:

**15-14-602. Definitions.** As used in this part 6:

(2) "Agency instrument" means the written power of attorney or other written instrument of agency governing the relationship between the principal and agent. An agency is subject to the provisions of this part 6 to the extent the agency relationship is established in writing and may be controlled by the principal, excluding agencies and powers for the benefit of the agent. This definition shall not apply to medical powers of attorney drafted pursuant to the "Colorado Patient Autonomy Act", sections 15-14-503 to 15-14-509, A POWER OF ATTORNEY SUBJECT TO THE "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14, OR TO ANY OTHER POWER OF ATTORNEY OR INSTRUMENT OF AGENCY GRANTED BY AN INDIVIDUAL.

(4) "Principal" means ~~an individual~~; A corporation, trust,

partnership, limited liability company, or other entity, including, but not limited to, an individual ENTITY acting as trustee, personal representative, or other fiduciary, who signs a power of attorney or other instrument of agency granting powers to an agent.

**SECTION 8. Repeal.** 15-14-603 (2) (b), (3) (b), and (4), Colorado Revised Statutes, are repealed as follows:

**15-14-603. Applicability.** (2) (b) ~~The statutory power of attorney for property form set forth in section 15-1-1302 does not limit the applicability of the provisions of this part 6. It is the general assembly's intent that every agency instrument, including but not limited to statutory agency instruments, shall have the benefit of and be governed by all of the general provisions of this part 6, except as otherwise provided in this part 6 or to the extent the terms of the agency instrument are inconsistent with the provisions of this part 6.~~

(3) (b) ~~Any durable power of attorney executed under this part 6 may also have a document with a written statement as provided in section 12-34-105 (b), C.R.S., or a statement in substantially similar form, indicating a decision regarding organ and tissue donation. Such a document shall be executed in accordance with the provisions of the "Revised Uniform Anatomical Gift Act", part 1 of article 34 of title 12, C.R.S. Such a written statement may be in the following form:~~

~~I hereby make an anatomical gift, to be effective upon my death, of:~~

~~A. \_\_\_\_\_ Any needed organs/tissues~~

~~B. \_\_\_\_\_ The following organs/tissues:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
Donor signature: \_\_\_\_\_~~

(4) ~~A principal must be at least eighteen years of age to execute an agency instrument under the provisions of this part 6. A natural person must be at least twenty-one years of age to be appointed as an agent under an agency instrument.~~

**SECTION 9.** 15-14-604, Colorado Revised Statutes, is amended to read:

**15-14-604. Duration of agency - amendment and revocation -**

**resignation of agent.** (1) ~~Where an agency instrument contains the language specified in section 15-14-501 (1) or otherwise specifies that the agent designated therein may exercise the authority conferred notwithstanding the principal's disability, such agent may exercise such authority notwithstanding the principal's later disability or incapacity or later uncertainty as to whether the principal is dead.~~

(2) Any agency created by an agency instrument continues until the ~~death of the principal~~ CEASED TO EXIST, regardless of the length of time that elapses, unless the agency instrument states an earlier termination date. The principal may amend or revoke the agency instrument at any time and in any manner that is communicated to the agent or to any other person who is related to the subject matter of the agency. Any agent who acts in good faith on behalf of the principal within the scope of an agency instrument is not liable for any acts that are no longer authorized by reason of an amendment or revocation of the agency instrument until the agent receives actual notice of the amendment or revocation. An agency may be temporarily continued under the conditions specified in section 15-14-607.

(3) ~~All acts of the agent that are within the scope of the agency and are committed during any period of disability, incapacity, or incompetency of the principal have the same effect and inure to the benefit of and bind the principal and his or her successors in interest as if the principal were competent and not disabled.~~

(4) Any agent acting on behalf of a principal under an agency instrument has the right to resign under the terms and conditions stated in the agency instrument. If the agency instrument does not specify the terms and conditions of resignation, an agent may resign by notifying the principal, or the principal's ~~guardian or conservator~~ RECEIVER, CUSTODIAN, TRUSTEE IN BANKRUPTCY, LIQUIDATING TRUSTEE, OR SIMILAR REPRESENTATIVE if one has been appointed, in writing of the agent's resignation. The agent shall also notify in writing the successor agent, if any, and all reasonably ascertainable third parties who are affected by the resignation. In all cases, any party who receives notice of the resignation of an agent is bound by such notice.

**SECTION 10.** 15-14-606, Colorado Revised Statutes, is amended to read:

**15-14-606. Duty - standard of care - record-keeping - exoneration.** Unless otherwise agreed by the principal and agent in the agency instrument, an agent is under no duty to exercise the powers granted by the agency or to assume control of or responsibility for any of the principal's property care, or affairs, ~~regardless of the principal's physical or mental condition.~~ Whenever the agent exercises the powers granted by the agency, the agent shall use due care to act in the best interests of the principal in accordance with the terms of the agency. Any agent who acts under an agency instrument shall be liable for any breach of legal duty owed by the agent to the principal under Colorado law. The agent shall keep a record of all receipts, disbursements, and significant actions taken under the agency. The agent shall not be liable for any loss due to the act or default of any other person. ~~When exercising any powers under an agency, during any period of disability of the principal, the agent shall be held to the standard of care of a fiduciary as specified in sections 15-16-302 and 15-14-418.~~

**SECTION 11.** 15-14-607 (1) (b) (I), Colorado Revised Statutes, is amended to read:

**15-14-607. Reliance on an agency instrument.** (1) (b) (I) Any third party who deals with an agent may presume, in the absence of actual knowledge to the contrary, that:

(A) The agency instrument naming the agent was validly executed;

(B) The principal ~~was competent~~ HAD AUTHORITY TO ACT at the time of execution; and

(C) At the time of reliance, the principal ~~is alive~~ EXISTS, the agency instrument and the relevant powers of the agent have not terminated or been amended, and the acts of the agent conform to the standards of this part 6.

**SECTION 12.** 2-5-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**2-5-102. Inclusions - nonstatutory.** (10) THERE SHALL BE INCLUDED IN THE PUBLICATION OF THE "UNIFORM POWER OF ATTORNEY ACT", AS NONSTATUTORY MATTER, FOLLOWING EACH SECTION OF THE PART, THE FULL TEXT OF THE OFFICIAL COMMENTS TO THAT SECTION CONTAINED

IN THE OFFICIAL VOLUME CONTAINING THE 2006 OFFICIAL TEXT OF THE "UNIFORM POWER OF ATTORNEY ACT" ISSUED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, WITH ANY CHANGES IN THE OFFICIAL COMMENTS OR COLORADO COMMENTS TO CORRESPOND TO COLORADO CHANGES IN THE UNIFORM ACT. THE COMMENTS SHALL BE PREPARED BY THE REVISOR OF STATUTES AND APPROVED FOR PUBLICATION BY THE COMMITTEE ON LEGAL SERVICES.

**SECTION 13. Repeal.** 15-2-102 (2), Colorado Revised Statutes, is repealed as follows:

**15-2-102. Power of appointment, donor, donee, objects, appointees, takers in default defined.** ~~(2) A power to consume, invade, or appropriate property for the benefit of the donee of the power, which power is limited by an ascertainable standard related to the health, support, education, or maintenance of the donee, shall not be deemed a power of appointment.~~

**SECTION 14. Repeal.** 15-14-605, Colorado Revised Statutes, is repealed as follows:

**15-14-605. Dissolution of marriage.** ~~If an agency instrument appoints the principal's spouse as agent and a court enters a decree of dissolution of marriage or legal separation between the principal and spouse after the agency instrument is signed, the spouse shall be deemed to have died at the time of the decree for purposes of the agency.~~

**SECTION 15. Repeal.** 15-14-608, Colorado Revised Statutes, is repealed as follows:

**15-14-608. Preservation of estate plan and trusts.** ~~(1) In exercising any powers granted under the agency instrument, the agent shall take the principal's estate plan into account, insofar as it is known to the agent, and shall attempt to preserve the estate plan. Specifically, the agent shall preserve the estate plan in exercising any powers of amendment or revocation and any powers to expend or withdraw property passing by trust, contract, or beneficiary designation at the principal's death, including, but not limited to, specifically bequeathed property, joint accounts, life insurance, trusts, and retirement plans. The agent shall be liable to a beneficiary only for actions taken in bad faith.~~



~~(2) An agent may not revoke or amend a trust that is revocable or amendable by the principal without specific authority and specific reference to the trust in the agency instrument. In addition, an agent may not require the trustee of any trust for the benefit of the principal to pay income or principal to the agent without specific authority and specific reference to the trust in the agency instrument. The agent shall have access to and the right to copy, but not to hold, the principal's will, trusts, and other personal papers and records to the extent the agent deems necessary for purposes of exercising the agency powers.~~

**SECTION 16. Repeal.** 15-14-609, Colorado Revised Statutes, is repealed as follows:

**15-14-609. Agency - court relationship.** ~~(1) Upon petition by any interested person, including the agent, after such notice to interested persons as the court directs and upon a finding by the court that the principal lacks the capacity to control or revoke the agency instrument:~~

~~(a) If the court finds that the agent is not acting for the benefit of the principal in accordance with the terms of the agency instrument or that the agent's action or inaction has caused or threatens substantial harm to the principal's person or property in a manner not authorized or intended by the principal, the court may order a guardian of the principal's person or a conservator of the principal's estate, or both, to exercise any powers of the principal under the agency instrument, including the power to revoke the agency, or may enter such other orders without appointment of a guardian or conservator as the court deems necessary to provide for the best interests of the principal; or~~

~~(b) If the court finds that the agency instrument requires interpretation, the court may construe the agency instrument and instruct the agent to act in accordance with its construction; except that the court may not amend the agency instrument. A court may order a guardian or conservator, or both, to exercise powers of the principal under the agency instrument.~~

~~(2) Proceedings under this section shall be commenced in the court where the guardian or conservator was appointed. If no Colorado guardian or conservator has been appointed, proceedings shall be commenced in the county where the principal resides. If the principal does not reside in~~

~~Colorado, proceedings may be commenced in any county in the state.~~

~~(3)(a) If a guardian or conservator is appointed for the principal, the agent shall consult with the guardian or conservator during the continuance of the appointment on matters concerning the principal's financial affairs.~~

~~(b) A conservator has the same power to revoke, suspend, or terminate all or any part of the power of attorney or agency instrument as it relates to financial matters as the principal would have had if the principal were not disabled or incompetent.~~

~~(c) Subject to any limitation or restriction included in the letters of guardianship, a guardian has the same power to revoke, suspend, or terminate all or any part of the power of attorney or agency instrument as it relates to matters concerning the principal's personal care that the principal would have had if the principal were not disabled or incompetent, except with respect to medical treatment decisions made by an agent pursuant to sections 15-14-506 to 15-14-509. The exception included in this paragraph (c) shall not preclude a court from removing an agent in the event the agent becomes incapacitated or is unwilling or unable to serve as an agent.~~

**SECTION 17. Repeal.** 15-14-610, Colorado Revised Statutes, is repealed as follows:

**15-14-610. Statutory form agent's affidavit regarding power of attorney.** ~~(1) The form specified in subsection (2) of this section shall be known as the "statutory agent's affidavit regarding power of attorney" and may be used to assure that an agent's authority under an agency instrument has not been altered or terminated. An agent's affidavit in substantially the following form shall have the meaning and effect prescribed in this part 6. Nothing in this part 6 shall invalidate or bar the use of any other or different form of agent affidavit.~~

~~(2) The statutory agent's affidavit regarding power of attorney shall be in substantially the following form:~~

~~COLORADO AGENT'S AFFIDAVIT REGARDING  
POWER OF ATTORNEY~~

STATE OF COLORADO \_\_\_\_\_ )  
\_\_\_\_\_) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, whose address is \_\_\_\_\_, of lawful age, pursuant to sections 15-1-1302, 15-14-501, and 15-14-502, Colorado Revised Statutes, state upon my oath that I am the attorney-in-fact and agent for \_\_\_\_\_, principal, under the power of attorney dated \_\_\_\_\_, a copy of which is attached hereto and incorporated herein by this reference, that as of this date I have no actual knowledge of the [revocation or\*] termination of the power of attorney by any act of the principal, or by the death, [disability, or incompetence\*] of the principal, that my authority has not been terminated by a decree of dissolution of marriage or legal separation, and that to the best of my knowledge the power of attorney has not been so terminated and remains valid, in full force and effect.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
Attorney-in-Fact

The foregoing Affidavit was subscribed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, Agent. Witness my hand and official seal. My Commission expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public

\*Strike "revocation or" and "disability or incompetence" if the power of attorney is durable and the principal is disabled or incompetent.

**SECTION 18. Repeal.** Part 13 of article 1 of title 15, Colorado Revised Statutes, is repealed.

**SECTION 19. Repeal of provisions being relocated in this act.** 15-14-601, Colorado Revised Statutes, is repealed.

**SECTION 20. Effective date.** Sections 2 through 19 of this act

shall take effect on January 1, 2010, and the remainder of this act shall take effect upon passage.

**SECTION 21. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Peter C. Groff  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

---

Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO