



General Assembly

January Session, 2019

Committee Bill No. 190

LCO No. 4292



Referred to Committee on BANKING

Introduced by:
(BA)

***AN ACT REQUIRING FINANCIAL INSTITUTIONS TO ACCEPT
PROPERLY EXECUTED POWERS OF ATTORNEY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-56b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) The use of the following form in the creation of a power of
4 attorney account is authorized and, when used, shall be construed in
5 accordance with the provisions of this section:

6 CONNECTICUT STATUTORY DURABLE POWER OF
7 ATTORNEY ACCOUNT

8 I, (Insert name and address of principal), do hereby appoint (Insert
9 name and address of the agent, or each agent, if more than one is
10 designated. If more than one agent is designated and the principal
11 wishes each agent alone to be able to exercise the power conferred,
12 insert in this blank the word "severally". Failure to make any insertion
13 or the insertion of the word "jointly" shall require the agents to act
14 jointly.) my attorney-in-fact to deposit to my credit in account No.

15 (Insert account number) in (Insert name of financial institution)
16 moneys, negotiable instruments or credits acceptable by said financial
17 institution for deposit, to withdraw from said account, either
18 personally or by order payable either to said agent individually or to
19 another payee, all moneys now and hereafter deposited in my name
20 and to my credit in said account, and to sign in my name any and all
21 required receipts, orders, drafts and withdrawal slips therefor, giving
22 said agent full power and authority to do and perform anything
23 whatsoever requisite and necessary to be done with respect to said
24 account as fully as I might or could do if personally present, hereby
25 ratifying and confirming all that said agents shall do or cause to be
26 done by virtue hereof.

27 This power of attorney shall not be affected by my subsequent
28 disability or incompetence.

T1 Signed thisday of, 20...

Witnessed by:

T2

(Acknowledgment)

29 (b) No provisions of section 1-56a and this section shall be construed
30 to bar the use of any other form of power of attorney desired by the
31 parties concerned or to require a financial institution to offer the power
32 of attorney account created under this section.

33 (c) If more than one agent is designated by the principal, such
34 agents, in the exercise of the powers conferred, shall act jointly unless
35 the principal specifically provides that they are to act severally.

36 (d) The authority granted by the execution of a power of attorney in
37 the form set forth in subsection (a) of this section shall survive the
38 subsequent disability or incompetence of the principal.

39 (e) If a conservator of the estate of the principal is appointed, the
40 power of attorney shall cease at the time of the appointment, and the
41 person acting under the power of attorney shall account to the
42 conservator rather than to the principal. If the principal dies, the power

43 of attorney shall cease at the time of the principal's death, and the
44 person acting under the power of attorney shall account to the
45 fiduciary of the principal's estate.

46 (f) Except as provided in subsection (e) of this section, a financial
47 institution shall accept a power of attorney in the form set forth in
48 subsection (a) of this section. Payment by a financial institution of
49 funds held in a power of attorney account in accordance with powers
50 authorized pursuant to a power of attorney in the form set forth in
51 subsection (a) of this section shall be a valid and sufficient release and
52 discharge of said financial institution from all liability for all claims for
53 payments so made, unless and until actual written notice of
54 termination of said power of attorney, including termination by death
55 of the principal or by reason of the appointment of a conservator of the
56 principal's estate, is received by an officer of said financial institution
57 at its main office, during the regular banking hours and in such time
58 and manner as to afford the financial institution a reasonable
59 opportunity to act, but in no event less than two business days.

60 Sec. 2. Section 1-350a of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2019*):

62 As used in sections 1-350 to 1-353b, inclusive, unless context
63 otherwise requires:

64 (1) "Agent" means a person granted authority to act for a principal
65 under a power of attorney, whether denominated an agent, attorney in
66 fact, or otherwise. Agent includes an original agent, coagent, successor
67 agent and a person to which an agent's authority is delegated.

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

70 (3) "Electronic" means relating to technology having electrical,
71 digital, magnetic, wireless, optical, electromagnetic or similar
72 capabilities.

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

74 (5) "Incapacity" means inability of an individual, even with
75 appropriate assistance, to perform the functions inherent in managing
76 his or her affairs because the individual:

77 (A) Has a mental, emotional or physical condition that results in the
78 individual being unable to receive and evaluate information or make
79 or communicate decisions; or

80 (B) Is:

81 (i) Missing;

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

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

84 (6) "Person" means an individual, corporation, business trust, estate,
85 trust, partnership, limited liability company, association, joint venture,
86 public corporation, government or governmental subdivision, agency,
87 or instrumentality or any other legal or commercial entity.

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

91 (8) "Presently exercisable general power of appointment" means,
92 with respect to property or a property interest subject to a power of
93 appointment, power exercisable at the time in question to vest absolute
94 ownership in the principal individually, the principal's estate, the
95 principal's creditors or the creditors of the principal's estate. The term
96 includes a power of appointment not exercisable until the occurrence
97 of a specified event, the satisfaction of an ascertainable standard, or the
98 passage of a specified period only after the occurrence of the specified
99 event, the satisfaction of the ascertainable standard, or the passage of
100 the specified period. The term does not include a power exercisable in

101 a fiduciary capacity or only by will.

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

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

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

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

112 (A) Execute or adopt a tangible symbol; or

113 (B) Attach to or logically associate with the record an electronic
114 sound, symbol or process.

115 (13) "State" means a state of the United States, the District of
116 Columbia, Puerto Rico, the United States Virgin Islands or any
117 territory or insular possession subject to the jurisdiction of the United
118 States.

119 (14) "Stocks and bonds" means stocks, bonds, mutual funds, and all
120 other types of securities and financial instruments, whether held
121 directly, indirectly or in any other manner. "Stocks and bonds" does
122 not include commodity futures contracts and call or put options on
123 stocks or stock indexes.

124 Sec. 3. Section 1-350r of the general statutes is repealed and the
125 following is substituted in lieu thereof (*Effective October 1, 2019*):

126 (a) For purposes of this section and section 1-350s, as amended by
127 this act, "acknowledged" means purportedly verified before a notary
128 public, a commissioner of the Superior Court or other individual

129 authorized to take acknowledgments, and "person" means an
130 individual, corporation, business trust, estate, trust, partnership,
131 limited liability company, association, joint venture, public
132 corporation, government or governmental subdivision, agency or
133 instrumentality or any other legal or commercial entity, but does not
134 include a financial institution.

135 (b) A person or financial institution that in good faith accepts an
136 acknowledged power of attorney without actual knowledge that the
137 signature is not genuine may rely upon the presumption under section
138 1-350d that the signature is genuine.

139 (c) A person or financial institution that in good faith accepts an
140 acknowledged power of attorney without actual knowledge that the
141 power of attorney is void, invalid, or terminated, that the purported
142 agent's authority is void, invalid, or terminated, or that the agent is
143 exceeding or improperly exercising the agent's authority may rely
144 upon the power of attorney as if the power of attorney were genuine,
145 valid and still in effect, the agent's authority were genuine, valid and
146 still in effect, and the agent had not exceeded and had properly
147 exercised the authority.

148 (d) A person or financial institution that is asked to accept an
149 acknowledged power of attorney may request, and rely upon, without
150 further investigation:

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

153 (2) An English translation of the power of attorney if the power of
154 attorney contains, in whole or in part, language other than English;
155 and

156 (3) An opinion of counsel as to any matter of law concerning the
157 power of attorney if the person or financial institution making the
158 request provides in a writing or other record the reason for the request.

159 (e) An English translation or an opinion of counsel requested under
160 subsection (d) of this section [must] shall be provided at the principal's
161 expense [unless] if the request is made [more] (1) by a person not later
162 than seven business days after the power of attorney is presented for
163 acceptance, or (2) by a financial institution at the time the power of
164 attorney is presented for acceptance.

165 (f) For purposes of this section and section 1-350s, as amended by
166 this act, a person or financial institution that conducts activities
167 through an employee is without actual knowledge of a fact relating to:
168 (1) A power of attorney, (2) a principal, or (3) an agent if the employee
169 conducting the activity involving such power of attorney, principal or
170 agent is without actual knowledge of the fact.

171 Sec. 4. Section 1-350s of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2019*):

173 (a) Except as provided in subsection (b) of this section:

174 (1) A person shall either accept an acknowledged power of attorney
175 or request a certification, a translation [,] or an opinion of counsel
176 under subsection (d) of section 1-350r, as amended by this act, not later
177 than seven business days after presentation of the power of attorney
178 for acceptance. [;] If a person requests a certification, a translation or an
179 opinion of counsel under subsection (d) of section 1-350r, as amended
180 by this act, the person shall accept the power of attorney not later than
181 five business days after receipt of the certification, translation or
182 opinion of counsel. No person shall be required to accept an
183 acknowledged power of attorney if a request for a certification, a
184 translation or an opinion is refused.

185 (2) [If a person requests a certification, a translation, or an opinion of
186 counsel under subsection (d) of section 1-350r, the person shall accept
187 the power of attorney not later than five business days after receipt of
188 the certification, translation, or opinion of counsel; and] A financial
189 institution shall accept an acknowledged power of attorney upon

190 presentation of the power of attorney for acceptance, whether or not a
191 certification, a translation or an opinion of counsel has been requested
192 or provided pursuant to subsection (d) of section 1-350r, as amended
193 by this act.

194 (3) [A] No person or financial institution may [not] require an
195 additional or different form of power of attorney for authority granted
196 in the power of attorney presented.

197 (b) [A] No person [is not] or financial institution shall be required to
198 accept an acknowledged power of attorney if:

199 (1) The principal or financial institution is not otherwise eligible or
200 is not otherwise qualified to enter the transaction with the person or
201 financial institution;

202 (2) Engaging in a transaction with the agent or the principal in the
203 same circumstances would be inconsistent with state or federal law;

204 (3) The person or financial institution has actual knowledge of the
205 termination of the agent's authority or of the power of attorney before
206 exercise of the power;

207 [(4) A request for a certification, a translation, or an opinion of
208 counsel under subsection (d) of section 1-350r is refused;]

209 [(5)] (4) The person or financial institution in good faith believes that
210 the power is not valid or that the agent does not have the authority to
211 perform the act requested, whether or not a certification, a translation,
212 or an opinion of counsel under subsection (d) of section 1-350r, as
213 amended by this act, has been requested or provided; or

214 [(6)] (5) The person or financial institution makes, or has actual
215 knowledge that another person or financial institution has made, a
216 report to the Bureau of Aging, Community and Social Work Services
217 Division of the Department of Social Services stating a good faith belief
218 that the principal may be subject to physical or financial abuse, neglect,

219 exploitation or abandonment by the agent or a person acting for or
220 with the agent.

221 (c) A person or financial institution that refuses in violation of this
222 section to accept an acknowledged power of attorney is subject to an
223 order by a probate court or by a court of general jurisdiction
224 mandating acceptance of the power of attorney. The court may award
225 reasonable attorney's fees and costs incurred to the prevailing party in
226 such action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	1-56b
Sec. 2	<i>October 1, 2019</i>	1-350a
Sec. 3	<i>October 1, 2019</i>	1-350r
Sec. 4	<i>October 1, 2019</i>	1-350s

BA *Joint Favorable*