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H.536

Introduced by Representatives LaLonde of South Burlington, Grad of  
Moretown, Jerome of Brandon, and Kimbell of Woodstock  
Referred to Committee on  
Date:  
Subject: Court procedures; power of attorney  
Statement of purpose of bill as introduced: This bill proposes to enact the  
Vermont Uniform Power of Attorney Act.

An act relating to the Vermont Uniform Power of Attorney Act

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 14 V.S.A. chapter 127 is added to read:

CHAPTER 127. VERMONT UNIFORM POWER OF ATTORNEY ACT

Subchapter 1. General Provisions

§ 4001. SHORT TITLE

This chapter may be cited as the Vermont Uniform Power of Attorney Act.

§ 4002. DEFINITIONS

As used in this chapter:

(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

1 otherwise. The term includes an original agent, coagent, successor agent, and  
2 a person to which an agent's authority is delegated.

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

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

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

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

10 (A) has an impairment in the ability to receive and evaluate  
11 information or make or communicate decisions even with the use of  
12 technological assistance; or

13 (B) is:

14 (i) missing;

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

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

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

1           (7) “Power of attorney” means a writing or other record that grants  
2           authority to an agent to act in the place of the principal, whether or not the term  
3           power of attorney is used.

4           (8) “Presently exercisable general power of appointment,” with respect  
5           to property or a property interest subject to a power of appointment, means  
6           power exercisable at the time in question to vest absolute ownership in the  
7           principal individually, the principal’s estate, the principal’s creditors, or the  
8           creditors of the principal’s estate. The term includes a power of appointment  
9           not exercisable until the occurrence of a specified event, the satisfaction of an  
10           ascertainable standard, or the passage of a specified period only after the  
11           occurrence of the specified event, the satisfaction of the ascertainable standard,  
12           or the passage of the specified period. The term does not include a power  
13           exercisable in a fiduciary capacity or only by will.

14           (9) “Principal” means an individual who grants authority to an agent in a  
15           power of attorney.

16           (10) “Property” means anything that may be the subject of ownership,  
17           whether real or personal, or legal or equitable, or any interest or right therein.

18           (11) “Record” means information that is inscribed on a tangible medium  
19           or that is stored in an electronic or other medium and is retrievable in  
20           perceivable form.

21           (12) “Sign” means, with present intent to authenticate or adopt a record:

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

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

4           (13) “State” means a state of the United States, the District of Columbia,  
5 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession  
6 subject to the jurisdiction of the United States.

7           (14) “Stocks and bonds” means stocks, bonds, mutual funds, and all  
8 other types of securities and financial instruments, whether held directly,  
9 indirectly, or in any other manner. The term does not include commodity  
10 futures contracts and call or put options on stocks or stock indexes.

11   § 4003. APPLICABILITY

12           This chapter applies to all powers of attorney except:

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

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

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

19           (4) a power created on a form prescribed by a government or  
20 governmental subdivision, agency, or instrumentality for a governmental  
21 purpose.

1     § 4004. POWER OF ATTORNEY IS DURABLE

2             A power of attorney created under this chapter is durable unless it expressly  
3     provides that it is terminated by the incapacity of the principal.

4     § 4005. EXECUTION OF POWER OF ATTORNEY

5             A power of attorney shall be signed by the principal or in the principal's  
6     conscious presence by another individual directed by the principal to sign the  
7     principal's name on the power of attorney. A signature on a power of attorney  
8     is presumed to be genuine if the principal acknowledges the signature before a  
9     notary public or other individual authorized by law to take acknowledgments.

10    § 4006. VALIDITY OF POWER OF ATTORNEY

11            (a) A power of attorney executed in this State on or after July 1, 2022 is  
12    valid if its execution complies with section 4005 of this title.

13            (b) A power of attorney executed in this State before July 1, 2022 is valid if  
14    its execution complied with the law of this State as it existed at the time of  
15    execution.

16            (c) A power of attorney executed other than in this State is valid in this  
17    State if, when the power of attorney was executed, the execution complied  
18    with:

19            (1) the law of the jurisdiction that determines the meaning and effect of  
20    the power of attorney pursuant to section 4007 of this title; or

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

3           (d) Except as otherwise provided by statute other than this chapter, a  
4           photocopy or electronically transmitted copy of an original power of attorney  
5           has the same effect as the original.

6           § 4007. MEANING AND EFFECT OF POWER OF ATTORNEY

7           The meaning and effect of a power of attorney is determined by the law of  
8           the jurisdiction indicated in the power of attorney and, in the absence of an  
9           indication of jurisdiction, by the law of the jurisdiction in which the power of  
10           attorney was executed.

11           § 4008. NOMINATION OF GUARDIAN; RELATION OF AGENT TO  
12           COURT-APPOINTED FIDUCIARY

13           (a) In a power of attorney, a principal may nominate a guardian of the  
14           principal's estate or a guardian of the principal's person for consideration by  
15           the court if protective proceedings for the principal's estate or person are  
16           begun after the principal executes the power of attorney. Except for good  
17           cause shown or disqualification, the court shall make its appointment in  
18           accordance with the principal's most recent nomination.

19           (b) If, after a principal executes a power of attorney, a court appoints a  
20           guardian of the principal's estate or other fiduciary charged with the  
21           management of some or all of the principal's property, the agent is accountable

1 to the fiduciary as well as to the principal. The power of attorney is not  
2 terminated and the agent's authority continues unless limited, suspended, or  
3 terminated by the court.

4 § 4009. WHEN POWER OF ATTORNEY EFFECTIVE

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

8 (b) If a power of attorney becomes effective upon the occurrence of a  
9 future event or contingency, the principal, in the power of attorney, may  
10 authorize one or more persons to determine in a writing or other record that the  
11 event or contingency has occurred.

12 (c) If a power of attorney becomes effective upon the principal's incapacity  
13 and the principal has not authorized a person to determine whether the  
14 principal is incapacitated, or the person authorized is unable or unwilling to  
15 make the determination, the power of attorney becomes effective upon a  
16 determination in a writing or other record by:

17 (1) a licensed health care professional working within the professional's  
18 scope of practice, including a physician licensed pursuant to 26 V.S.A. chapter  
19 23 or 33 and a psychologist licensed pursuant to 26 V.S.A. chapter 55, that the  
20 principal is incapacitated within the meaning of subdivision 4002(5)(A) of this  
21 chapter; or

1           (2) an attorney at law, a judge, or an appropriate governmental official  
2           that the principal is incapacitated within the meaning of subdivision  
3           4002(5)(B) of this chapter.

4           (d) A person authorized by the principal in the power of attorney to  
5           determine that the principal is incapacitated may act as the principal's personal  
6           representative pursuant to the Health Insurance Portability and Accountability  
7           Act; Sections 1171 through 1179 of the Social Security Act; 42 U.S.C.  
8           § 1320d, as amended; and applicable regulations to obtain access to the  
9           principal's health-care information and communicate with the principal's  
10          health-care provider.

11          § 4010. TERMINATION OF POWER OF ATTORNEY OR AGENT'S

12                    AUTHORITY

13          (a) A power of attorney terminates when:

14                    (1) the principal dies;

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

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

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

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



1           (6) the principal revokes the agent’s authority or the agent dies, becomes  
2           incapacitated, or resigns, and the power of attorney does not provide for  
3           another agent to act under the power of attorney.

4           (b) An agent’s authority terminates when:

5                 (1) the principal revokes the authority;

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

7                 (3) an action is filed for the dissolution of the agent’s marriage to the  
8           principal or their legal separation, unless the power of attorney otherwise  
9           provides; or

10                (4) the power of attorney terminates.

11           (c) Unless the power of attorney otherwise provides, an agent’s authority is  
12           exercisable until the authority terminates under subsection (b) of this section,  
13           notwithstanding a lapse of time since the execution of the power of attorney.

14           (d) Termination of an agent’s authority or of a power of attorney is not  
15           effective as to the agent or another person that, without actual knowledge of  
16           the termination, acts in good faith under the power of attorney. An act so  
17           performed, unless otherwise invalid or unenforceable, binds the principal and  
18           the principal’s successors in interest.

19           (e) Incapacity of the principal of a power of attorney that is not durable  
20           does not revoke or terminate the power of attorney as to an agent or other  
21           person that, without actual knowledge of the incapacity, acts in good faith

1 under the power of attorney. An act so performed, unless otherwise invalid or  
2 unenforceable, binds the principal and the principal's successors in interest.

3 (f) The execution of a power of attorney does not revoke a power of  
4 attorney previously executed by the principal unless the subsequent power of  
5 attorney provides that the previous power of attorney is revoked or that all  
6 other powers of attorney are revoked.

7 § 4011. COAGENTS AND SUCCESSOR AGENTS

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

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

16 (1) has the same authority as that granted to the original agent; and  
17 (2) may not act until all predecessor agents have resigned, died, become  
18 incapacitated, are no longer qualified to serve, or have declined to serve.

19 (c) Except as otherwise provided in the power of attorney and subsection  
20 (d) of this section, an agent who does not participate in or conceal a breach of

1 fiduciary duty committed by another agent, including a predecessor agent, is  
2 not liable for the actions of the other agent.

3 (d) An agent who has actual knowledge of a breach or imminent breach of  
4 fiduciary duty by another agent shall notify the principal and, if the principal is  
5 incapacitated, take any action reasonably appropriate in the circumstances to  
6 safeguard the principal's best interests. An agent who fails to notify the  
7 principal or take action as required by this subsection is liable for the  
8 reasonably foreseeable damages that could have been avoided if the agent had  
9 notified the principal or taken such action.

10 § 4012. REIMBURSEMENT AND COMPENSATION OF AGENT

11 Unless the power of attorney otherwise provides, an agent is entitled to  
12 reimbursement of expenses reasonably incurred on behalf of the principal and  
13 to compensation that is reasonable under the circumstances.

14 § 4013. AGENT'S ACCEPTANCE

15 Except as otherwise provided in the power of attorney, a person accepts  
16 appointment as an agent under a power of attorney by exercising authority or  
17 performing duties as an agent or by any other assertion or conduct indicating  
18 acceptance.

19 § 4014. AGENT'S DUTIES

20 (a) Notwithstanding provisions in the power of attorney, an agent who has  
21 accepted appointment shall:

1           (1) act in accordance with the principal's reasonable expectations to the  
2           extent actually known by the agent and, otherwise, in the principal's best  
3           interests;

4           (2) act in good faith; and

5           (3) act only within the scope of authority granted in the power of  
6           attorney.

7           (b) Except as otherwise provided in the power of attorney, an agent who  
8           has accepted appointment shall:

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

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

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

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

16           (5) cooperate with a person who has authority to make health-care  
17           decisions for the principal to carry out the principal's reasonable expectations  
18           to the extent actually known by the agent and, otherwise, act in the principal's  
19           best interests; and

1           (6) attempt to preserve the principal’s estate plan, to the extent actually  
2           known by the agent, if preserving the plan is consistent with the principal’s  
3           best interests based on all relevant factors, including:

4                   (A) the value and nature of the principal’s property;

5                   (B) the principal’s foreseeable obligations and need for maintenance;

6                   (C) minimization of taxes, including income, estate, inheritance,  
7           generation-skipping transfer, and gift taxes; and

8                   (D) eligibility for a benefit, a program, or assistance under a statute  
9           or regulation.

10           (c) An agent who acts in good faith is not liable to any beneficiary of the  
11           principal’s estate plan for failure to preserve the plan.

12           (d) An agent who acts with care, competence, and diligence for the best  
13           interests of the principal is not liable solely because the agent also benefits  
14           from the act or has an individual or conflicting interest in relation to the  
15           property or affairs of the principal.

16           (e) If an agent is selected by the principal because of special skills or  
17           expertise possessed by the agent or in reliance on the agent’s representation  
18           that the agent has special skills or expertise, the special skills or expertise must  
19           be considered in determining whether the agent has acted with care,  
20           competence, and diligence under the circumstances.

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

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

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

18       § 4015. EXONERATION OF AGENT

19       A provision in a power of attorney relieving an agent of liability for breach  
20       of duty is binding on the principal and the principal's successors in interest  
21       except to the extent the provision:

1           (1) relieves the agent of liability for breach of duty committed  
2           dishonestly, with an improper motive, or with reckless indifference to the  
3           purposes of the power of attorney or the best interests of the principal; or

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

6           § 4016. JUDICIAL RELIEF

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

9           (1) the principal or the agent;

10          (2) a guardian or other fiduciary acting for the principal;

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

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

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

15          (6) a person named as a beneficiary to receive any property, benefit, or  
16          contractual right on the principal's death or as a beneficiary of a trust created  
17          by or for the principal who has a financial interest in the principal's estate;

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

20          (8) the principal's caregiver or another person who demonstrates  
21          sufficient interest in the principal's welfare; and

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

2           (b) Upon motion by the principal, the court shall dismiss a petition filed  
3           under this section, unless the court finds that the principal lacks capacity to  
4           revoke the agent’s authority or the power of attorney.

5           § 4017. AGENT’S LIABILITY

6           An agent who violates this chapter is liable to the principal or the  
7           principal’s successors in interest for the amount required to:

8           (1) restore the value of the principal’s property to what it would have  
9           been had the violation not occurred; and

10           (2) reimburse the principal or the principal’s successors in interest for  
11           the attorney’s fees and costs paid on the agent’s behalf.

12           § 4018. AGENT’S RESIGNATION; NOTICE

13           Unless the power of attorney provides a different method for an agent’s  
14           resignation, an agent may resign by giving notice to the principal and, if the  
15           principal is incapacitated:

16           (1) to the guardian, if one has been appointed for the principal, and a  
17           coagent or successor agent; or

18           (2) if there is no person described in subdivision (1) of this section, to:

19           (A) the principal’s caregiver;

20           (B) another person reasonably believed by the agent to have  
21           sufficient interest in the principal’s welfare; or



1           (C) a governmental agency having authority to protect the welfare of  
2           the principal.

3           § 4019. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED  
4           POWER OF ATTORNEY

5           (a) As used in this section and section 4120 of this title, “acknowledged”  
6           means purportedly verified before a notary public or other individual  
7           authorized to take acknowledgements.

8           (b) A person who in good faith accepts an acknowledged power of attorney  
9           without actual knowledge that the signature is not genuine may rely upon the  
10           presumption under section 4005 of this title that the signature is genuine.

11           (c) A person who in good faith accepts an acknowledged power of attorney  
12           without actual knowledge that the power of attorney is void, invalid, or  
13           terminated; that the purported agent’s authority is void, invalid, or terminated;  
14           or that the agent is exceeding or improperly exercising the agent’s authority  
15           may rely upon the power of attorney as if the power of attorney were genuine,  
16           valid, and still in effect; the agent’s authority were genuine, valid, and still in  
17           effect; and the agent had not exceeded and had properly exercised the  
18           authority.

19           (d) A person who is asked to accept an acknowledged power of attorney  
20           may request and rely upon, without further investigation:

1           (1) an agent’s certification under penalty of perjury of any factual matter  
2           concerning the principal, agent, or power of attorney;

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

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

8           (e) An English translation or an opinion of counsel requested under this  
9           section must be provided at the principal’s expense unless the request is made  
10           more than seven business days after the power of attorney is presented for  
11           acceptance.

12           (f) For purposes of this section and section 4120 of this title, a person who  
13           conducts activities through employees is without actual knowledge of a fact  
14           relating to a power of attorney, a principal, or an agent if the employee  
15           conducting the transaction involving the power of attorney is without actual  
16           knowledge of the fact.

17           § 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED

18                   STATUTORY FORM POWER OF ATTORNEY

19           (a) As used in this section, “statutory form power of attorney” means a  
20           power of attorney substantially in the form provided in section 4051 of this

1 title or that meets the requirements for a military power of attorney pursuant to  
2 10 U.S.C. § 1044b, as amended.

3 (b) Except as otherwise provided in subsection (c) of this section:

4 (1) a person shall either accept an acknowledged statutory form power  
5 of attorney or request a certification, a translation, or an opinion of counsel  
6 under subsection 4019(d) of this title not later than seven business days after  
7 presentation of the power of attorney for acceptance;

8 (2) if a person requests a certification, a translation, or an opinion of  
9 counsel under subsection 4019(d) of this title, the person shall accept the  
10 statutory form power of attorney not later than five business days after receipt  
11 of the certification, translation, or opinion of counsel; and

12 (3) a person may not require an additional or different form of power of  
13 attorney for authority granted in the statutory form power of attorney  
14 presented.

15 (c) A person is not required to accept an acknowledged statutory form  
16 power of attorney if:

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

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

1           (3) the person has actual knowledge of the termination of the agent's  
2           authority or of the power of attorney before exercise of the power;

3           (4) a request for a certification, a translation, or an opinion of counsel  
4           under subsection 4019(d) of this title is refused;

5           (5) the person in good faith believes that the power is not valid or that  
6           the agent does not have the authority to perform the act requested, whether or  
7           not a certification, a translation, or an opinion of counsel under subsection  
8           4019(d) of this title has been requested or provided; or

9           (6) the person makes, or has actual knowledge that another person has  
10          made, a report to the Adult Protective Services program or other appropriate  
11          entity within the Department of Disabilities, Aging, and Independent Living or  
12          to a law enforcement agency stating a good faith belief that the principal may  
13          be subject to physical or financial abuse, neglect, exploitation, or abandonment  
14          by the agent or a person acting for or with the agent.

15          (d) A person who refuses in violation of this section to accept an  
16          acknowledged statutory form power of attorney is subject to:

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

18               (2) liability for reasonable attorney's fees and costs incurred in any  
19          action or proceeding that confirms the validity of the power of attorney or  
20          mandates acceptance of the power of attorney.

1     § 4021. PRINCIPLES OF LAW AND EQUITY

2             Unless displaced by a provision of this chapter, the principles of law and  
3     equity supplement this chapter.

4     § 4022. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND  
5             ENTITIES

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

9     § 4023. REMEDIES UNDER OTHER LAW

10            The remedies under this chapter are not exclusive and do not abrogate any  
11    right or remedy under the law of this State other than this chapter.

12                                    Subchapter 2. Authority

13     § 4031. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT OF  
14             GENERAL AUTHORITY

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

20            (1) create, amend, revoke, or terminate an inter vivos trust;

21            (2) make a gift;

1           (3) create or change rights of survivorship;

2           (4) create or change a beneficiary designation;

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

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

6           (7) exercise fiduciary powers that the principal has authority to delegate;

7           (8) exercise authority over the content of electronic communications, as  
8 defined in 18 U.S.C. § 2510(12), as amended, sent or received by the principal;

9           or

10           (9) disclaim property, including a power of appointment.

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

18           (c) Subject to subsections (a), (b), (d), and (e) of this section, if a power of  
19 attorney grants to an agent authority to do all acts that a principal could do, the  
20 agent has the general authority described in sections 4034–4046 of this title.

1        (d) Unless the power of attorney otherwise provides, a grant of authority to  
2        make a gift is subject to section 4047 of this title.

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

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

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

14       § 4032. INCORPORATION OF AUTHORITY

15       (a) An agent has authority described in this chapter if the power of attorney  
16       refers to general authority with respect to the descriptive term for the subjects  
17       stated in sections 4034–4047 of this title or cites the section in which the  
18       authority is described.

19       (b) A reference in a power of attorney to general authority with respect to  
20       the descriptive term for a subject in sections 4034–4047 of this title or a

1 citation to a section of sections 4034–4047 of this title incorporates the entire  
2 section as if it were set out in full in the power of attorney.

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

4 § 4033. CONSTRUCTION OF AUTHORITY GENERALLY

5 Except as otherwise provided in the power of attorney, by executing a  
6 power of attorney that incorporates by reference a subject described in sections  
7 4034–4047 of this title or that grants to an agent authority to do all acts that a  
8 principal could do pursuant to subsection 4031(c) of this title, a principal  
9 authorizes the agent, with respect to that subject, to:

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

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

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



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

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

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

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

10          (8) communicate with any representative or employee of a government  
11          or governmental subdivision, agency, or instrumentality on behalf of the  
12          principal;

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

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

18          § 4034. REAL PROPERTY

19          Unless the power of attorney otherwise provides, language in a power of  
20          attorney granting general authority with respect to real property authorizes the  
21          agent to:

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

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

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

14          (4) release, assign, satisfy, or enforce by litigation or otherwise a  
15          mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other  
16          claim to real property that exists or is asserted;

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

19                (A) insuring against liability or casualty or other loss;

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

1           (C) paying, assessing, compromising, or contesting taxes or  
2           assessments or applying for and receiving refunds in connection with them;  
3           and

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

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

9           (7) participate in a reorganization with respect to real property or an  
10          entity that owns an interest in or right incident to real property and receive, and  
11          hold, and act with respect to stocks and bonds or other property received in a  
12          plan of reorganization, including:

13                 (A) selling or otherwise disposing of them;

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

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

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

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

1     § 4035. TANGIBLE PERSONAL PROPERTY

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

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

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

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

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

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

21            (A) insuring against liability or casualty or other loss;

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

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

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

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

8           (F) using and making repairs, alterations, or improvements to the  
9 property; and

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

11       § 4036. STOCKS AND BONDS

12           Unless the power of attorney otherwise provides, language in a power of  
13 attorney granting general authority with respect to stocks and bonds authorizes  
14 the agent to:

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

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

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

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

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

4           § 4037. COMMODITIES AND OPTIONS

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

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

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

12          § 4038. BANKS AND OTHER FINANCIAL INSTITUTIONS

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

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

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

1           (3) contract for services available from a financial institution, including  
2           renting a safe deposit box or space in a vault;

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

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

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

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

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

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

20          (10) apply for, receive, and use letters of credit, credit and debit cards,  
21          electronic transaction authorizations, and traveler's checks from a financial

1 institution and give an indemnity or other agreement in connection with letters  
2 of credit; and

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

5 § 4039. OPERATION OF ENTITY OR BUSINESS

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

10 (1) operate, buy, sell, enlarge, reduce, or terminate an ownership  
11 interest;

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

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

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

19 (5) exercise in person or by proxy, or enforce by litigation or otherwise,  
20 a right, power, privilege, or option the principal has or claims to have as the  
21 holder of stocks and bonds;



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

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

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

8           (B) determine:

9           (i) the location of its operation;

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

11          (iii) the methods of manufacturing, selling, merchandising,  
12          financing, accounting, and advertising employed in its operation;

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

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

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

19          (D) demand and receive money due or claimed by the principal or on  
20          the principal's behalf in the operation of the entity or business and control and  
21          disburse the money in the operation of the entity or business;

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

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

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

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

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

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

16          § 4040. INSURANCE AND ANNUITIES

17          Unless the power of attorney otherwise provides, language in a power of  
18          attorney granting general authority with respect to insurance and annuities  
19          authorizes the agent to:

20                 (1) continue, pay the premium or make a contribution on, modify,  
21                 exchange, rescind, release, or terminate a contract procured by or on behalf of

1 the principal that insures or provides an annuity to either the principal or  
2 another person, whether or not the principal is a beneficiary under the contract;

3 (2) procure new, different, and additional contracts of insurance and  
4 annuities for the principal and the principal's spouse, children, and other  
5 dependents and select the amount, type of insurance or annuity, and mode of  
6 payment;

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

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

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

14 (6) exercise an election;

15 (7) exercise investment powers available under a contract of insurance  
16 or annuity;

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

19 (9) change or convert the type of insurance or annuity with respect to  
20 which the principal has or claims to have authority described in this section;

1           (10) apply for and procure a benefit or assistance under a statute or  
2           regulation to guarantee or pay premiums of a contract of insurance on the life  
3           of the principal;

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

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

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

12           § 4041. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

13           (a) As used in this section, “estate, trust, or other beneficial interest” means  
14           a trust, probate estate, guardianship, conservatorship, escrow, or custodianship  
15           or a fund from which the principal is, may become, or claims to be entitled to a  
16           share or payment.

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

20           (1) accept, receive, receipt for, sell, assign, pledge, or exchange a share  
21           in or payment from an estate, trust, or other beneficial interest;

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

4           (3) exercise for the benefit of the principal a presently exercisable  
5           general power of appointment held by the principal;

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

10          (5) initiate, participate in, submit to alternative dispute resolution, settle,  
11          oppose, or propose or accept a compromise with respect to litigation to  
12          remove, substitute, or surcharge a fiduciary;

13          (6) conserve, invest, disburse, or use anything received for an authorized  
14          purpose;

15          (7) transfer an interest of the principal in real property, stocks and  
16          bonds, accounts with financial institutions or securities intermediaries,  
17          insurance, annuities, and other property to the trustee of a revocable trust  
18          created by the principal as settlor; and

19          (8) reject, renounce, disclaim, release, or consent to a reduction in or  
20          modification of a share in or payment from an estate, trust, or other beneficial  
21          interest.

1     § 4042. CLAIMS AND LITIGATION

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

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

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

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

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

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

20            (6) waive the issuance and service of process upon the principal; accept  
21     service of process; appear for the principal; designate persons upon which

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

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

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

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

17 § 4043. PERSONAL AND FAMILY MAINTENANCE

18 (a) Unless the power of attorney otherwise provides, language in a power  
19 of attorney granting general authority with respect to personal and family  
20 maintenance authorizes the agent to:

1           (1) perform the acts necessary to maintain the customary standard of  
2           living of the principal, the principal's spouse, and the following individuals,  
3           whether living when the power of attorney is executed or later born:

4                   (A) the principal's children;

5                   (B) other individuals legally entitled to be supported by the principal;

6           and

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

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

12           (3) provide living quarters for the individuals described in  
13           subdivision (1) of this subsection by:

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

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

18           (4) provide normal domestic help, usual vacations and travel expenses,  
19           and funds for shelter, clothing, food, appropriate education, including  
20           postsecondary and vocational education, and other current living costs for the  
21           individuals described in subdivision (1) of this subsection;



1           (5) pay expenses for necessary health care and custodial care on behalf  
2           of the individuals described in subdivision (1) of this subsection;

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

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

14           (8) maintain credit and debit accounts for the convenience of the  
15           individuals described in subdivision (1) of this subsection and open new  
16           accounts; and

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

1        (b) Authority with respect to personal and family maintenance is neither  
2        dependent upon, nor limited by, authority that an agent may or may not have  
3        with respect to gifts under this chapter.

4        § 4044. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR  
5        MILITARY SERVICE

6        (a) As used in this section, “benefits from governmental programs or civil  
7        or military service” means any benefit, program, or assistance provided under a  
8        statute or regulation, including Social Security, Medicare, and Medicaid.

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

12       (1) execute vouchers in the name of the principal for allowances and  
13       reimbursements payable by the United States or a foreign government or by a  
14       state or subdivision of a state to the principal, including allowances and  
15       reimbursements for transportation of the individuals described in subdivision  
16       4043(a)(1) of this section and for shipment of their household effects;

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

1           (3) enroll in, apply for, select, reject, change, amend, or discontinue, on  
2 the principal's behalf, a benefit or program;

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

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

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

13       § 4045. RETIREMENT PLANS

14           (a) As used in this section, "retirement plan" means a plan or account  
15 created by an employer, the principal, or another individual to provide  
16 retirement benefits or deferred compensation of which the principal is a  
17 participant, beneficiary, or owner, including a plan or account under the  
18 following sections of the Internal Revenue Code:

19           (1) an individual retirement account under Internal Revenue Code § 408,  
20 26 U.S.C. § 408, as amended;

1           (2) a Roth individual retirement account under Internal Revenue Code  
2           § 408A, 26 U.S.C. § 408A , as amended;

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

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

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

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

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

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

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

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

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

- 1           (4) make contributions to a retirement plan;  
2           (5) exercise investment powers available under a retirement plan; and  
3           (6) borrow from, sell assets to, or purchase assets from a retirement  
4 plan.

5           § 4046. TAXES

6           Unless the power of attorney otherwise provides, language in a power of  
7 attorney granting general authority with respect to taxes authorizes the agent  
8 to:

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

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

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

3           (4) act for the principal in all tax matters for all periods before the  
4           Internal Revenue Service, or other taxing authority.

5           § 4047. GIFTS

6           (a) For purposes of this section, a gift “for the benefit of” a person includes  
7           a gift to a trust, an account under chapter 115 of this title (Vermont Uniform  
8           Transfers to Minors Act), and a tuition savings account or prepaid tuition plan  
9           as defined under Internal Revenue Code § 529, 26 U.S.C. § 529, as amended.

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

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

1           (2) consent, pursuant to Internal Revenue Code § 2513, 26 U.S.C.  
2           § 2513, as amended, to the splitting of a gift made by the principal's spouse in  
3           an amount per donee not to exceed the aggregate annual gift tax exclusions for  
4           both spouses.

5           (c) An agent may make a gift of the principal's property only as the agent  
6           determines is consistent with the principal's objectives if actually known by  
7           the agent and, if unknown, as the agent determines is consistent with the  
8           principal's best interests based on all relevant factors, including:

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

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

11                   (3) minimization of taxes, including income, estate, inheritance,  
12           generation-skipping transfer, and gift taxes;

13                   (4) eligibility for a benefit, a program, or assistance under a statute or  
14           regulation; and

15                   (5) the principal's personal history of making or joining in making gifts.

16                                   Subchapter 3. Statutory Forms

17           § 4051. STATUTORY FORM POWER OF ATTORNEY

18           A document substantially in the following form may be used to create a  
19           statutory form power of attorney that has the meaning and effect prescribed by  
20           this chapter.

1                    VERMONT STATUTORY FORM POWER OF ATTORNEY

2                    IMPORTANT INFORMATION

3                    This power of attorney authorizes another person (your agent) to make  
4                    decisions concerning your property for you (the principal). Your agent will be  
5                    able to make decisions and act with respect to your property (including your  
6                    money) whether or not you are able to act for yourself. The meaning of  
7                    authority over subjects listed on this form is explained in the Vermont Uniform  
8                    Power of Attorney Act, 14 V.S.A. chapter 127.

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

11                   You should select someone you trust to serve as your agent. Unless you  
12                   specify otherwise, generally the agent’s authority will continue until you die or  
13                   revoke the power of attorney or the agent resigns or is unable to act for you.  
14                   Your agent is entitled to reasonable compensation unless you state otherwise in  
15                   the Special Instructions.

16                   This form provides for designation of one agent. If you wish to name more  
17                   than one agent, you may name a coagent in the Special Instructions. Coagents  
18                   are not required to act together unless you include that requirement in the  
19                   Special Instructions.



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

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

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

8 DESIGNATION OF AGENT

9 I \_\_\_\_\_ (Name of Principal) name the following person  
10 as my agent:

11 Name of Agent: \_\_\_\_\_

12 Agent's Address: \_\_\_\_\_

13 Agent's Telephone Number: \_\_\_\_\_

14 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

16 Name of Successor Agent: \_\_\_\_\_

17 Successor Agent's Address: \_\_\_\_\_

18 Successor Agent's Telephone Number: \_\_\_\_\_

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

21 Name of Second Successor Agent: \_\_\_\_\_

1 Second Successor Agent's Address: \_\_\_\_\_

2 Second Successor Agent's Telephone Number: \_\_\_\_\_

3 GRANT OF GENERAL AUTHORITY

4 I grant my agent and any successor agent general authority to act for me

5 with respect to the following subjects as defined in the Vermont Uniform

6 Power of Attorney Act, 14 V.S.A. chapter 127.

7 (INITIAL each subject you want to include in the agent's general authority. If

8 you wish to grant general authority over all of the subjects you may initial "All

9 Preceding Subjects" instead of initialing each subject.)

10 ( ) Real Property

11 ( ) Tangible Personal Property

12 ( ) Stocks and Bonds

13 ( ) Commodities and Options

14 ( ) Banks and Other Financial Institutions

15 ( ) Operation of Entity or Business

16 ( ) Insurance and Annuities

17 ( ) Estates, Trusts, and Other Beneficial Interests

18 ( ) Claims and Litigation

19 ( ) Personal and Family Maintenance

20 ( ) Benefits from Governmental Programs or Civil or Military Service

21 ( ) Retirement Plans

1      Taxes

2      All Preceding Subjects

3                     GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

4         My agent MAY NOT do any of the following specific acts for me UNLESS

5     I have INITIALED the specific authority listed below:

6     (CAUTION: Granting any of the following will give your agent the authority

7     to take actions that could significantly reduce your property or change how

8     your property is distributed at your death. INITIAL ONLY the specific

9     authority you WANT to give your agent.)

10     Create, amend, revoke, or terminate an inter vivos trust

11     Make a gift, subject to the limitations of 14 V.S.A. § 4147 (Gifts) and

12    any special instructions in this power of attorney

13     Create or change rights of survivorship

14     Create or change a beneficiary designation

15     Authorize another person to exercise the authority granted under this

16    power of attorney

17     Waive the principal's right to be a beneficiary of a joint and survivor

18    annuity, including a survivor benefit under a retirement plan

19     Exercise fiduciary powers that the principal has authority to delegate

20     Access the content of electronic communications

1     ( ) Disclaim or refuse an interest in property, including a power of  
2     appointment

3                     LIMITATION ON AGENT’S AUTHORITY

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

7                     SPECIAL INSTRUCTIONS (OPTIONAL)

8             You may give special instructions on the following lines:

9     \_\_\_\_\_

10    \_\_\_\_\_

11    \_\_\_\_\_

12    \_\_\_\_\_

13    \_\_\_\_\_

14    \_\_\_\_\_

15    \_\_\_\_\_

16    \_\_\_\_\_

17                     EFFECTIVE DATE

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

1  
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21

NOMINATION OF GUARDIAN (OPTIONAL)

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

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

\_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for guardian of my person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

RELIANCE ON THIS POWER OF ATTORNEY

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

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_

Your Name Printed

\_\_\_\_\_

Your Address

\_\_\_\_\_

Your Telephone Number

1 \_\_\_\_\_

2 State of \_\_\_\_\_

3 County of \_\_\_\_\_

4 This document was acknowledged before me on \_\_\_\_\_ (Date)

5 by \_\_\_\_\_.

6 (Name of Principal)

7 \_\_\_\_\_ (Seal, if any)

8 Signature of Notary \_\_\_\_\_

9 My commission expires: \_\_\_\_\_

10 IMPORTANT INFORMATION FOR AGENT

11 Agent's Duties

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

16 (1) do what you know the principal reasonably expects you to do with  
17 the principal's property or, if you do not know the principal's expectations, act  
18 in the principal's best interests;

19 (2) act in good faith;

20 (3) do nothing beyond the authority granted in this power of attorney;

21 and

1           (4) disclose your identity as an agent whenever you act for the principal  
2           by writing or printing the name of the principal and signing your own name as  
3           “agent” in the following manner: (Principal’s Name) by (Your Signature) as  
4           Agent.

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

7           (1) act loyally for the principal’s benefit;

8           (2) avoid conflicts that would impair your ability to act in the principal’s  
9           best interest;

10          (3) act with care, competence, and diligence;

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

13          (5) cooperate with any person that has authority to make health-care  
14          decisions for the principal to do what you know the principal reasonably  
15          expects or, if you do not know the principal’s expectations, to act in the  
16          principal’s best interests; and

17          (6) attempt to preserve the principal’s estate plan if you know the plan  
18          and preserving the plan is consistent with the principal’s best interests.

19                               Termination of Agent’s Authority

20          You must stop acting on behalf of the principal if you learn of any event  
21          that terminates this power of attorney or your authority under this power of

1 attorney. Events that terminate a power of attorney or your authority to act  
2 under a power of attorney include:

3 (1) death of the principal;

4 (2) the principal's revocation of the power of attorney or your authority;

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

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

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

#### 11 Liability of Agent

12 The meaning of the authority granted to you is defined in the Vermont  
13 Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the  
14 Vermont Uniform Power of Attorney Act, or act outside the authority granted,  
15 you may be liable for any damages caused by your violation.

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

#### 18 § 4152. AGENT'S CERTIFICATION

19 The following optional form may be used by an agent to certify facts  
20 concerning a power of attorney.



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

3   State of \_\_\_\_\_

4   [County] of \_\_\_\_\_ ]

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

9        I further certify that to my knowledge:

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

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

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

17           (4) (Insert other relevant statements below)

18   \_\_\_\_\_

19   \_\_\_\_\_

20   \_\_\_\_\_

21   \_\_\_\_\_

1 \_\_\_\_\_

2 \_\_\_\_\_

3 SIGNATURE AND ACKNOWLEDGMENT

4 \_\_\_\_\_

5  
6 \_\_\_\_\_

7 Agent's Name Printed

8 \_\_\_\_\_

9 Agent's Address

10 \_\_\_\_\_

11 Agent's Telephone Number

12 This document was acknowledged before me on \_\_\_\_\_,

13 \_\_\_\_\_ (Date)

14 by \_\_\_\_\_

15 (Name of Agent)

16 \_\_\_\_\_ (Seal, if any)

17 Signature of Notary

18 My commission expires: \_\_\_\_\_

1                                    Subchapter 4. Miscellaneous Provisions

2                    § 4061. UNIFORMITY OF APPLICATION AND CONSTRUCTION

3                    In applying and construing this uniform act, consideration shall be given to  
4                    the need to promote uniformity of the law with respect to its subject matter  
5                    among the states that enact it.

6                    § 4062. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
7                                    NATIONAL COMMERCE ACT

8                    This chapter modifies, limits, and supersedes the federal Electronic  
9                    Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq.,  
10                    but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C.  
11                    § 7001(c), or authorize electronic delivery of any of the notices described in  
12                    section 103(b) of that act, 15 U.S.C. § 7003(b).

13                    § 4063. EFFECT ON EXISTING POWERS OF ATTORNEY

14                    Except as otherwise provided in this chapter, on July 1, 2022:

15                    (1) this chapter applies to a power of attorney created before, on, or  
16                    after July 1, 2022;

17                    (2) this chapter applies to a judicial proceeding concerning a power of  
18                    attorney commenced on or after July 1, 2022;

19                    (3) this chapter applies to a judicial proceeding concerning a power of  
20                    attorney commenced before July 1, 2022 unless the court finds that application  
21                    of a provision of this chapter would substantially interfere with the effective

1 conduct of the judicial proceeding or prejudice the rights of a party, in which  
2 case that provision does not apply and the superseded law applies; and

3 (4) an act done before July 1, 2022 is not affected by this chapter.

4 Sec. 2. REPEAL

5 14 V.S.A. chapter 123 (powers of attorney) is repealed.

6 Sec. 3. EFFECTIVE DATE

7 This act shall take effect on July 1, 2022.