



House of Representatives

General Assembly

File No. 728

January Session, 2015

Substitute House Bill No. 6774

House of Representatives, April 22, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT.

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

1 Section 1. (NEW) (*Effective October 1, 2015*) Sections 1 to 45,
2 inclusive, of this act may be cited as the "Connecticut Uniform Power
3 of Attorney Act."

4 Sec. 2. (NEW) (*Effective October 1, 2015*) As used in sections 1 to 45,
5 inclusive, of this act:

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

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

12 (3) "Electronic" means relating to technology having electrical,

13 digital, magnetic, wireless, optical, electromagnetic or similar
14 capabilities.

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

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

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

22 (B) Is:

23 (i) Missing;

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

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

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

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

33 (8) "Presently exercisable general power of appointment" means,
34 with respect to property or a property interest subject to a power of
35 appointment, power exercisable at the time in question to vest absolute
36 ownership in the principal individually, the principal's estate, the
37 principal's creditors or the creditors of the principal's estate. The term
38 includes a power of appointment not exercisable until the occurrence
39 of a specified event, the satisfaction of an ascertainable standard, or the
40 passage of a specified period only after the occurrence of the specified
41 event, the satisfaction of the ascertainable standard, or the passage of

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

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

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

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

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

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

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

57 (13) "State" means a state of the United States, the District of
58 Columbia, Puerto Rico, the United States Virgin Islands or any
59 territory or insular possession subject to the jurisdiction of the United
60 States.

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

66 Sec. 3. (NEW) (*Effective October 1, 2015*) The provisions of sections 1
67 to 45, inclusive, of this act apply to all powers of attorney except:

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

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

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

74 (4) A power created on a form prescribed by a government or
75 governmental subdivision, agency or instrumentality for a
76 governmental purpose.

77 Sec. 4. (NEW) (*Effective October 1, 2015*) A power of attorney created
78 under sections 1 to 45, inclusive, of this act is durable unless it
79 expressly provides that it is terminated by the incapacity of the
80 principal.

81 Sec. 5. (NEW) (*Effective October 1, 2015*) A power of attorney must be
82 dated and signed by the principal or in the principal's conscious
83 presence by another individual directed by the principal to sign the
84 principal's name on the power of attorney and witnessed by two
85 witnesses. A signature on a power of attorney is presumed to be
86 genuine if the principal acknowledges the signature before a notary
87 public or other individual authorized by law to take
88 acknowledgments.

89 Sec. 6. (NEW) (*Effective October 1, 2015*) (a) A power of attorney
90 executed in this state on or after October 1, 2015, is valid if its
91 execution complies with section 5 of this act.

92 (b) A power of attorney executed in this state before October 1, 2015,
93 is valid if its execution complied with the law of this state as it existed
94 at the time of execution.

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

98 (1) The law of the jurisdiction that determines the meaning and
99 effect of the power of attorney pursuant to section 7 of this act; or

100 (2) The requirements for a military power of attorney pursuant to 10
101 USC 1044b, as amended from time to time.

102 (d) Except as otherwise provided by statute, other than sections 1 to
103 45, inclusive, of this act, or unless the power of attorney otherwise
104 provides, a photocopy or electronically transmitted copy of an original
105 power of attorney has the same effect as the original.

106 Sec. 7. (NEW) (*Effective October 1, 2015*) The meaning and effect of a
107 power of attorney is determined by the law of the jurisdiction
108 indicated in the power of attorney and, in the absence of an indication
109 of jurisdiction, by the law of the jurisdiction in which the power of
110 attorney was executed.

111 Sec. 8. (NEW) (*Effective October 1, 2015*) (a) In a power of attorney, a
112 principal may nominate a conservator of the principal's estate or
113 conservator of the principal's person for consideration by the court if
114 protective proceedings for the principal's estate or person are begun
115 after the principal executes the power of attorney. The court shall make
116 its appointment in accordance with the principal's most recent
117 nomination unless the court finds that the appointee, designee or
118 nominee is unwilling or unable to serve or there is substantial evidence
119 to disqualify such person.

120 (b) If, after a principal executes a power of attorney, a court appoints
121 a conservator of the principal's estate or other fiduciary charged with
122 the management of some or all of the principal's property, the court
123 may continue, limit, suspend or terminate the power of attorney. If the
124 power of attorney continues, the agent is accountable to the fiduciary
125 as well as to the principal. If the power of attorney is suspended
126 pursuant to this subsection, then the power of attorney shall be
127 reinstated upon termination of the conservatorship as a result of the
128 principal regaining capacity. The court shall have the authority to
129 continue certain provisions of the power of attorney, but not others.

130 Sec. 9. (NEW) (*Effective October 1, 2015*) (a) A power of attorney is
131 effective when executed unless the principal provides in the power of

132 attorney that it becomes effective at a future date or upon the
133 occurrence of a future event or contingency.

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

138 (c) If a power of attorney becomes effective upon the principal's
139 incapacity and the principal has not authorized a person to determine
140 whether the principal is incapacitated, or the person authorized is
141 unable or unwilling to make the determination, the power of attorney
142 becomes effective upon a determination in a writing or other record
143 by:

144 (1) Two independent physicians that the principal is incapacitated
145 within the meaning set forth in subparagraph (A) of subdivision (5) of
146 section 2 of this act; or

147 (2) A judge or an appropriate governmental official that the
148 principal is incapacitated within the meaning set forth in
149 subparagraph (B) of subdivision (5) of section 2 of this act.

150 (d) A person authorized by the principal in the power of attorney to
151 determine that the principal is incapacitated may act as the principal's
152 personal representative pursuant to the Health Insurance Portability
153 and Accountability Act, Sections 1171 to 1179, inclusive, of the Social
154 Security Act, 42 USC 1320d, as amended from time to time, and
155 applicable federal regulations, to obtain access to the principal's health
156 care information and communicate with the principal's health care
157 provider.

158 (e) If the principal, in the power of attorney, authorizes one or more
159 persons to determine in a written affidavit that the event or
160 contingency has occurred, as provided in subsection (b) of this section,
161 then the written affidavit may be in substantially the following form:

162 AFFIDAVIT THAT POWER OF ATTORNEY IS IN FULL FORCE

163 AND EFFECT

164 STATE OF)

165) SS:

166 COUNTY OF)

167 I, of, being duly sworn, depose and say:

168 THAT, of, as principal, did on, 20.., appoint me in a power
169 of attorney dated, 20.., to execute an affidavit that a specified
170 contingency had occurred;

171 THAT specified contingency was:

172 THAT specified contingency has occurred.

173 IN WITNESS WHEREOF, I have hereunto set my hand and seal.

174 L.S.

175

176 Witness

177

178 Witness

179 Subscribed and sworn to before me this day of, 20...

180

181 Commissioner of the Superior Court

182 Notary Public

183 My commission expires:

184 Sec. 10. (NEW) (Effective October 1, 2015) (a) A power of attorney
185 terminates when:

- 186 (1) The principal dies;
- 187 (2) The principal becomes incapacitated, if the power of attorney is
188 not durable;
- 189 (3) The principal revokes the power of attorney;
- 190 (4) The power of attorney provides that it terminates;
- 191 (5) The purpose of the power of attorney is accomplished;
- 192 (6) The principal revokes the agent's authority or the agent dies,
193 becomes incapacitated, or resigns and the power of attorney does not
194 provide for another agent to act under the power of attorney; or
- 195 (7) The power of attorney is terminated by a court pursuant to
196 subsection (b) of section 8 of this act.
- 197 (b) An agent's authority terminates when:
- 198 (1) The principal revokes the authority;
- 199 (2) A court terminates the agent's authority pursuant to subsection
200 (b) of section 8 of this act;
- 201 (3) The agent dies or resigns;
- 202 (4) The agent becomes incapacitated. Unless the power of attorney
203 otherwise provides, an agent shall be determined to be incapable of
204 acting as an agent upon a determination in a writing or other record
205 that the agent is incapacitated:
- 206 (A) Within the meaning set forth in subparagraph (A) of subdivision
207 (5) of section 2 of this act, by:
- 208 (i) A judge in a court proceeding;
- 209 (ii) Two independent physicians; or
- 210 (iii) A successor agent, designated in accordance with section 11 of

211 this act, if a written opinion of a physician cannot be obtained either
212 due to the refusal of an agent to be examined by a physician or due to
213 an agent's failure to execute an authorization to release medical
214 information; or

215 (B) Within the meaning set forth in subparagraph (B) of subdivision
216 (5) of section 2 of this act, a judge or an appropriate governmental
217 official;

218 (5) An action is filed for the dissolution or annulment of the agent's
219 marriage to the principal or their legal separation, unless the power of
220 attorney otherwise provides; or

221 (6) The power of attorney terminates.

222 (c) Unless the power of attorney otherwise provides, an agent's
223 authority is exercisable until the authority terminates under subsection
224 (b) of this section, notwithstanding a lapse of time since the execution
225 of the power of attorney.

226 (d) Termination of an agent's authority or of a power of attorney is
227 not effective as to the agent or another person that, without actual
228 knowledge of the termination, acts in good faith under the power of
229 attorney. An act so performed, unless otherwise invalid or
230 unenforceable, binds the principal and the principal's successors in
231 interest.

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

238 (f) The execution of a power of attorney does not revoke a power of
239 attorney previously executed by the principal unless the subsequent
240 power of attorney provides that the previous power of attorney is
241 revoked or that all other powers of attorney are revoked.

242 Sec. 11. (NEW) (*Effective October 1, 2015*) (a) A principal may
243 designate two or more persons to act as coagents. Unless the power of
244 attorney otherwise provides, each coagent may exercise its authority
245 independently. A person that in good faith accepts an acknowledged
246 power of attorney from one or more coagents without actual
247 knowledge that the power of attorney is void, invalid or terminated,
248 that the purported agent's authority is void, invalid or terminated, or
249 that the agent is exceeding or improperly exercising the agent's
250 authority may rely upon the power of attorney as if the power of
251 attorney were genuine, valid and still in effect, the agent's authority
252 were genuine, valid and still in effect, and the agent had not exceeded
253 and had properly exercised the authority.

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

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

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

264 (c) Except as otherwise provided in the power of attorney and
265 subsection (d) of this section, an agent that does not participate in or
266 conceal a breach of fiduciary duty committed by another agent,
267 including a predecessor agent, is not liable for the actions of the other
268 agent.

269 (d) Except as otherwise provided in the power of attorney, an agent
270 that has actual knowledge of a breach or imminent breach of fiduciary
271 duty by another agent shall notify the principal and, if the principal is
272 incapacitated, take any action reasonably appropriate in the
273 circumstances to safeguard the principal's best interest. An agent that

274 fails to notify the principal or take action as required by this
275 subsection, specifically with respect to the theft or misappropriation of
276 the principal's property by another agent, is liable for the reasonably
277 foreseeable damages that could have been avoided if the agent had
278 notified the principal or taken such action relating to such theft or
279 misappropriation.

280 Sec. 12. (NEW) (*Effective October 1, 2015*) Unless the power of
281 attorney otherwise provides, an agent is entitled to reimbursement of
282 expenses reasonably incurred on behalf of the principal and to
283 compensation that is reasonable under the circumstances.

284 Sec. 13. (NEW) (*Effective October 1, 2015*) Unless the power of
285 attorney otherwise provides, a person accepts appointment as an agent
286 under a power of attorney by exercising authority or performing
287 duties as an agent or by any other assertion or conduct indicating
288 acceptance.

289 Sec. 14. (NEW) (*Effective October 1, 2015*) (a) Notwithstanding
290 provisions in the power of attorney, an agent that has accepted
291 appointment shall:

292 (1) Act in accordance with the principal's reasonable expectations,
293 and, if such expectations are unknown, make reasonable efforts to
294 ascertain the principal's expectations and act, otherwise, in the
295 principal's best interest;

296 (2) Act in good faith; and

297 (3) Act only within the scope of authority granted in the power of
298 attorney.

299 (b) Unless the power of attorney otherwise provides, an agent that
300 has accepted appointment shall:

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

302 (2) Act so as not to create a conflict of interest that impairs the

303 agent's ability to act impartially in the principal's best interest;

304 (3) Act with the care, competence and diligence ordinarily exercised
305 by agents in similar circumstances;

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

308 (5) Cooperate with a person that has authority to make health care
309 decisions for the principal to carry out the principal's reasonable
310 expectations to the extent actually known by the agent and, otherwise,
311 act in the principal's best interest; and

312 (6) Attempt to preserve the principal's estate plan, to the extent
313 actually known by the agent, if preserving the plan is consistent with
314 the principal's best interest based on all relevant factors, including:

315 (A) The value and nature of the principal's property;

316 (B) The principal's foreseeable obligations and need for
317 maintenance;

318 (C) Minimization of taxes, including income, estate, inheritance,
319 generation skipping transfer and gift taxes; and

320 (D) Eligibility for a benefit, a program or assistance under a federal
321 or state statute or regulation.

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

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

328 (e) If an agent is selected by the principal because of special skills or
329 expertise possessed by the agent or in reliance on the agent's
330 representation that the agent has special skills or expertise, the special

331 skills or expertise must be considered in determining whether the
332 agent has acted with care, competence and diligence under the
333 circumstances.

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

336 (g) An agent that exercises authority to delegate to another person
337 the authority granted by the principal or that engages another person
338 on behalf of the principal is not liable for an act, error of judgment or
339 default of that person if the agent exercises care, competence and
340 diligence in selecting and monitoring the person.

341 (h) Unless the power of attorney otherwise provides, an agent is not
342 required to disclose receipts, disbursements or transactions conducted
343 on behalf of the principal unless ordered by a court or requested by the
344 principal, a guardian, a conservator, another fiduciary acting for the
345 principal, a representative of the Division of Protective Services for the
346 Elderly within the Department of Social Services or, upon the death of
347 the principal, by the personal representative or successor in interest of
348 the principal's estate. If so requested, the agent shall comply with the
349 request not later than thirty days after the date of such request or
350 provide a writing or other record substantiating why additional time is
351 needed, in which case, the agent shall comply with the request not
352 later than thirty days after the date of providing such writing or
353 record.

354 Sec. 15. (NEW) (*Effective October 1, 2015*) A provision in a power of
355 attorney relieving an agent of liability for breach of duty is binding on
356 the principal and the principal's successors in interest except to the
357 extent the provision:

358 (1) Relieves the agent of liability for breach of duty committed
359 dishonestly, with an improper motive or with reckless indifference to
360 the purposes of the power of attorney or the best interest of the
361 principal; or

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

364 Sec. 16. (NEW) (*Effective October 1, 2015*) (a) The following persons
365 may petition a court in accordance with subsection (d) of section 45a-
366 175 of the general statutes, as amended by this act, to construe a power
367 of attorney or review the agent's conduct, and grant appropriate relief:

368 (1) The principal or the agent;

369 (2) A guardian, conservator or other fiduciary acting for the
370 principal;

371 (3) A person authorized to make health care decisions for the
372 principal;

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

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

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

380 (7) A representative of the Division of Protective Services for the
381 Elderly within the Department of Social Services;

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

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

385 (b) Upon motion by the principal, the court shall dismiss a petition
386 filed under this section, unless the court finds that the principal is
387 incapacitated within the meaning set forth in subdivision (5) of section
388 2 of this act.

389 Sec. 17. (NEW) (*Effective October 1, 2015*) An agent that violates
390 sections 1 to 45, inclusive, of this act is liable to the principal or the
391 principal's successors in interest for the amount required to:

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

394 (2) Reimburse the principal or the principal's successors in interest
395 for the reasonable attorney's fees and costs paid on the agent's behalf.

396 Sec. 18. (NEW) (*Effective October 1, 2015*) Unless the power of
397 attorney provides a different method for an agent's resignation, an
398 agent may resign by giving notice to the principal and, if the principal
399 is incapacitated:

400 (1) To the conservator of the estate, the conservator of the person
401 and guardian, if one has been appointed for the principal, and a
402 coagent or successor agent; or

403 (2) If there is no person described in subdivision (1) of this section,
404 to:

405 (A) The principal's spouse and children, if any, or a person
406 reasonably believed by the agent to have sufficient interest in the
407 principal's welfare; or

408 (B) A representative of the Division of Protective Services for the
409 Elderly within the Department of Social Services.

410 Sec. 19. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
411 section and section 20 of this act, "acknowledged" means purportedly
412 verified before a notary public or other individual authorized to take
413 acknowledgements.

414 (b) A person that in good faith accepts an acknowledged power of
415 attorney without actual knowledge that the signature is not genuine
416 may rely upon the presumption under section 5 of this act that the
417 signature is genuine.

418 (c) A person that in good faith accepts an acknowledged power of
419 attorney without actual knowledge that the power of attorney is void,
420 invalid, or terminated, that the purported agent's authority is void,
421 invalid, or terminated, or that the agent is exceeding or improperly
422 exercising the agent's authority may rely upon the power of attorney
423 as if the power of attorney were genuine, valid and still in effect, the
424 agent's authority were genuine, valid and still in effect, and the agent
425 had not exceeded and had properly exercised the authority.

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

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

430 (2) An English translation of the power of attorney if the power of
431 attorney contains, in whole or in part, language other than English;
432 and

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

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

440 (f) For purposes of this section and section 20 of this act, a person
441 that conducts activities through an employee is without actual
442 knowledge of a fact relating to: (1) A power of attorney, (2) a principal,
443 or (3) an agent if the employee conducting the activity involving such
444 power of attorney, principal or agent is without actual knowledge of
445 the fact.

446 Sec. 20. (NEW) (*Effective October 1, 2015*) (a) Except as provided in
447 subsection (b) of this section:

448 (1) A person shall either accept an acknowledged power of attorney
449 or request a certification a translation, or an opinion of counsel under
450 subsection (d) of section 19 of this act not later than seven business
451 days after presentation of the power of attorney for acceptance;

452 (2) If a person requests a certification, a translation, or an opinion of
453 counsel under subsection (d) of section 19 of this act, the person shall
454 accept the power of attorney not later than five business days after
455 receipt of the certification, translation, or opinion of counsel; and

456 (3) A person may not require an additional or different form of
457 power of attorney for authority granted in the power of attorney
458 presented.

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

461 (1) The principal is not otherwise eligible or is not otherwise
462 qualified to enter the transaction with the person;

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

465 (3) The person has actual knowledge of the termination of the
466 agent's authority or of the power of attorney before exercise of the
467 power;

468 (4) A request for a certification, a translation, or an opinion of
469 counsel under subsection (d) of section 19 of this act is refused;

470 (5) The person in good faith believes that the power is not valid or
471 that the agent does not have the authority to perform the act requested,
472 whether or not a certification, a translation, or an opinion of counsel
473 under subsection (d) of section 19 of this act has been requested or
474 provided; or

475 (6) The person makes, or has actual knowledge that another person
476 has made, a report to the Bureau of Aging, Community and Social

477 Work Services Division of the Department of Social Services stating a
478 good faith belief that the principal may be subject to physical or
479 financial abuse, neglect, exploitation or abandonment by the agent or a
480 person acting for or with the agent.

481 (c) A person that refuses in violation of this section to accept an
482 acknowledged power of attorney is subject to an order by a probate
483 court or by a court of general jurisdiction mandating acceptance of the
484 power of attorney. The court may award reasonable attorney's fees and
485 costs incurred to the prevailing party in such action.

486 Sec. 21. (NEW) (*Effective October 1, 2015*) Unless displaced by a
487 provision of sections 1 to 45, inclusive, of this act, the principles of law
488 and equity supplement the provisions of sections 1 to 45, inclusive, of
489 this act.

490 Sec. 22. (NEW) (*Effective October 1, 2015*) The provisions of sections 1
491 to 45, inclusive, of this act do not supersede any other law applicable to
492 financial institutions or other entities, and the other law controls if
493 inconsistent with the provisions of sections 1 to 45, inclusive, of this
494 act.

495 Sec. 23. (NEW) (*Effective October 1, 2015*) The remedies under
496 sections 1 to 45, inclusive, of this act are not exclusive and do not
497 abrogate any right or remedy under the law of this state, other than
498 sections 1 to 45, inclusive, of this act.

499 Sec. 24. (NEW) (*Effective October 1, 2015*) (a) An agent under a power
500 of attorney may perform the activities listed in this subsection on
501 behalf of the principal or with the principal's property only if the
502 power of attorney expressly grants the agent the authority to perform
503 such activities and exercise of the authority to perform such activities
504 is not otherwise prohibited by another agreement or instrument to
505 which the authority or property is subject such as a trust agreement:

506 (1) Create, amend, revoke, or terminate an inter vivos trust,
507 provided, in the case of a trust established pursuant to 42 USC

508 1396p(d)(4)(A) or 42 USC 1396p(d)(4)(C), the creation of such trust by
509 an attorney in fact shall be only as permitted by federal law;

510 (2) Make a gift;

511 (3) Create or change rights of survivorship;

512 (4) Create or change a beneficiary designation;

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

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

516 (7) Exercise fiduciary powers that the principal has authority to
517 delegate; or

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

519 (b) Notwithstanding a grant of authority to perform an act
520 described in subsection (a) of this section, unless the power of attorney
521 otherwise provides, an agent that is not an ancestor, spouse or
522 descendant of the principal may not exercise authority under a power
523 of attorney to create in the agent, or in an individual to whom the
524 agent owes a legal obligation of support, an interest in the principal's
525 property, whether by gift, right of survivorship, beneficiary
526 designation, disclaimer or otherwise.

527 (c) Subject to the provisions set forth in subsections (a), (b), (d) and
528 (e) of this section, if a power of attorney grants to an agent authority to
529 perform all acts that a principal could perform, the agent has the
530 general authority described in sections 27 to 39, inclusive, of this act.

531 (d) Unless the power of attorney otherwise provides, a grant of
532 authority to make a gift is subject to section 40 of this act.

533 (e) Subject to the provisions set forth in subsections (a), (b) and (d)
534 of this section, if the subjects over which authority is granted in a
535 power of attorney are similar or overlap, the broadest authority

536 controls.

537 (f) Authority granted in a power of attorney is exercisable with
538 respect to property that the principal has when the power of attorney
539 is executed or acquires later, whether or not the property is located in
540 this state and whether or not the authority is exercised or the power of
541 attorney is executed in this state.

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

546 Sec. 25. (NEW) (*Effective October 1, 2015*) (a) An agent has authority
547 described in sections 24 to 40, inclusive, of this act if the power of
548 attorney refers to general authority with respect to the descriptive term
549 for the subjects stated in sections 27 to 40, inclusive, of this act or cites
550 the section in which the authority is described.

551 (b) A reference in a power of attorney to general authority with
552 respect to the descriptive term for a subject in sections 27 to 40,
553 inclusive, of this act or a citation to a section of sections 27 to 40,
554 inclusive, of this act incorporates the entire section as if it were set out
555 in full in the power of attorney.

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

557 Sec. 26. (NEW) (*Effective October 1, 2015*) Unless the power of
558 attorney otherwise provides, by executing a power of attorney that
559 incorporates by reference a subject described in sections 27 to 40,
560 inclusive, of this act or that grants to an agent authority to perform all
561 acts that a principal could perform pursuant to subsection (c) of section
562 24 of this act, a principal authorizes the agent, with respect to that
563 subject, to:

564 (1) Demand, receive, and obtain by litigation or otherwise, money or
565 another thing of value to which the principal is, may become, or claims
566 to be entitled, and conserve, invest, disburse or use anything so

567 received or obtained for the purposes intended;

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

572 (3) Execute, acknowledge, seal, deliver, file or record any instrument
573 or communication the agent considers desirable to accomplish a
574 purpose of a transaction, including creating at any time a schedule
575 listing some or all of the principal's property and attaching it to the
576 power of attorney;

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

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

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

586 (7) Prepare, execute and file a record, report or other document to
587 safeguard or promote the principal's interest under a federal or state
588 statute or regulation;

589 (8) Communicate with any representative or employee of a
590 government or governmental subdivision, agency or instrumentality,
591 on behalf of the principal;

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

595 (10) Do any lawful act with respect to the subject and all property

596 related to the subject.

597 Sec. 27. (NEW) (*Effective October 1, 2015*) Unless the power of
598 attorney otherwise provides, language in a power of attorney granting
599 general authority with respect to real property authorizes the agent to:

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

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

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

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

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

621 (A) Insuring against liability or casualty or other loss;

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

624 (C) Paying, assessing, compromising or contesting taxes or

625 assessments or applying for and receiving refunds in connection with
626 such taxes or assessments; and

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

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

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

636 (A) Selling or otherwise disposing of such stocks, bonds or other
637 property;

638 (B) Exercising or selling an option, right of conversion or similar
639 right with respect to such stocks, bonds or other property; and

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

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

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

646 Sec. 28. (NEW) (*Effective October 1, 2015*) Unless the power of
647 attorney otherwise provides, language in a power of attorney granting
648 general authority with respect to tangible personal property authorizes
649 the agent to:

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

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

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

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

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

669 (A) Insuring against liability or casualty or other loss;

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

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

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

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

677 (F) Using and making repairs, alterations or improvements to the
678 property; and

679 (6) Change the form of title of an interest in tangible personal
680 property.

681 Sec. 29. (NEW) (*Effective October 1, 2015*) Unless the power of

682 attorney otherwise provides, language in a power of attorney granting
683 general authority with respect to stocks and bonds authorizes the
684 agent to:

685 (1) Buy, sell and exchange stocks and bonds;

686 (2) Establish, continue, modify or terminate an account with respect
687 to stocks and bonds;

688 (3) Pledge stocks and bonds as security to borrow, pay, renew or
689 extend the time of payment of a debt of the principal;

690 (4) Receive certificates and other evidences of ownership with
691 respect to stocks and bonds; and

692 (5) Exercise voting rights with respect to stocks and bonds in person
693 or by proxy, enter into voting trusts and consent to limitations on the
694 right to vote.

695 Sec. 30. (NEW) (*Effective October 1, 2015*) Unless the power of
696 attorney otherwise provides, language in a power of attorney granting
697 general authority with respect to commodities and options authorizes
698 the agent to:

699 (1) Buy, sell, exchange, assign, settle and exercise commodity
700 futures contracts and call or put options on stocks or stock indexes
701 traded on a regulated option exchange; and

702 (2) Establish, continue, modify and terminate option accounts.

703 Sec. 31. (NEW) (*Effective October 1, 2015*) Unless the power of
704 attorney otherwise provides, language in a power of attorney granting
705 general authority with respect to banks and other financial institutions
706 authorizes the agent to:

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

709 (2) Establish, modify, and terminate an account or other banking

710 arrangement with a bank, trust company, savings and loan association,
711 credit union, thrift company, brokerage firm or other financial
712 institution selected by the agent;

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

715 (4) Withdraw by: Check, order, electronic funds transfer or
716 otherwise, money or property of the principal deposited with or left in
717 the custody of a financial institution;

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

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

722 (7) Borrow money and pledge as security personal property of the
723 principal necessary to borrow money or pay, renew or extend the time
724 of payment of a debt of the principal or a debt guaranteed by the
725 principal;

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

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

735 (10) Apply for, receive and use letters of credit, credit and debit
736 cards, electronic transaction authorizations and traveler's checks from
737 a financial institution and give an indemnity or other agreement in
738 connection with letters of credit; and

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

741 Sec. 32. (NEW) (*Effective October 1, 2015*) Subject to the terms of a
742 document or an agreement governing an entity or an entity ownership
743 interest, and unless the power of attorney otherwise provides,
744 language in a power of attorney granting general authority with
745 respect to operation of an entity or business authorizes the agent to:

746 (1) Operate, buy, sell, enlarge, reduce, or terminate an ownership
747 interest;

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

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

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

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

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

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

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

- 768 (B) Determine:
- 769 (i) The location of its operation;
- 770 (ii) The nature and extent of its business;
- 771 (iii) The methods of manufacturing, selling, merchandising,
772 financing, accounting and advertising employed in its operation;
- 773 (iv) The amount and types of insurance carried; and
- 774 (v) The mode of engaging, compensating and dealing with its
775 employees and accountants, attorneys or other advisors;
- 776 (C) Change the name or form of organization under which the
777 entity or business is operated and enter into an ownership agreement
778 with other persons to take over all or part of the operation of the entity
779 or business; and
- 780 (D) Demand and receive money due or claimed by the principal or
781 on the principal's behalf in the operation of the entity or business and
782 control and disburse the money in the operation of the entity or
783 business;
- 784 (8) Put additional capital into an entity or business in which the
785 principal has an interest;
- 786 (9) Join in a plan of reorganization, consolidation, conversion,
787 domestication or merger of the entity or business;
- 788 (10) Sell or liquidate all or part of an entity or business;
- 789 (11) Establish the value of an entity or business under a buyout
790 agreement to which the principal is a party;
- 791 (12) Prepare, sign, file and deliver reports, compilations of
792 information, returns or other papers with respect to an entity or
793 business and make related payments; and
- 794 (13) Pay, compromise or contest taxes, assessments, fines or

795 penalties and perform any other act to protect the principal from
796 illegal or unnecessary taxation, assessments, fines or penalties, with
797 respect to an entity or business, including attempts to recover, in any
798 manner permitted by law, money paid before or after the execution of
799 the power of attorney.

800 Sec. 33. (NEW) (*Effective October 1, 2015*) Unless the power of
801 attorney otherwise provides, language in a power of attorney granting
802 general authority with respect to insurance and annuities authorizes
803 the agent to:

804 (1) Continue, pay the premium or make a contribution on, modify,
805 exchange, rescind, release or terminate a contract procured by or on
806 behalf of the principal which insures or provides an annuity to either
807 the principal or another person, whether or not the principal is a
808 beneficiary under the contract;

809 (2) Procure new, different and additional contracts of insurance and
810 annuities for the principal and the principal's spouse, children and
811 other dependents, and select the amount, type of insurance or annuity
812 and mode of payment;

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

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

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

820 (6) Exercise an election;

821 (7) Exercise investment powers available under a contract of
822 insurance or annuity;

823 (8) Change the manner of paying premiums on a contract of

824 insurance or annuity;

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

828 (10) Apply for and procure a benefit or assistance under a federal or
829 state statute or regulation to guarantee or pay premiums of a contract
830 of insurance on the life of the principal;

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

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

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

839 Sec. 34. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
840 section, "estate, trust or other beneficial interest" means a trust, probate
841 estate, guardianship, conservatorship, escrow or custodianship or a
842 fund from which the principal is, may become or claims to be, entitled
843 to a share or payment.

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

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

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

852 (3) Exercise for the benefit of the principal a presently exercisable

853 general power of appointment held by the principal;

854 (4) Initiate, participate in, submit to alternative dispute resolution,
855 settle, oppose, or propose or accept a compromise with respect to
856 litigation to ascertain the meaning, validity or effect of a deed, will,
857 declaration of trust or other instrument or transaction affecting the
858 interest of the principal;

859 (5) Initiate, participate in, submit to alternative dispute resolution,
860 settle, oppose, or propose or accept a compromise with respect to
861 litigation to remove, substitute or surcharge a fiduciary;

862 (6) Conserve, invest, disburse or use anything received for an
863 authorized purpose; and

864 (7) Transfer an interest of the principal in real property, stocks and
865 bonds, accounts with financial institutions or securities intermediaries,
866 insurance, annuities and other property to the trustee of a revocable
867 trust created by the principal as settlor.

868 Sec. 35. (NEW) (*Effective October 1, 2015*) Unless the power of
869 attorney otherwise provides, language in a power of attorney granting
870 general authority with respect to claims and litigation authorizes the
871 agent to:

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

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

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

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

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

887 (6) Waive the issuance and service of process upon the principal,
888 accept service of process, appear for the principal, designate persons
889 upon which process directed to the principal may be served, execute
890 and file or deliver stipulations on the principal's behalf, verify
891 pleadings, seek appellate review, procure and give surety and
892 indemnity bonds, contract and pay for the preparation and printing of
893 records and briefs, receive, execute, and file or deliver a consent,
894 waiver, release, confession of judgment, satisfaction of judgment,
895 notice, agreement or other instrument in connection with the
896 prosecution, settlement or defense of a claim or litigation;

897 (7) Act for the principal with respect to bankruptcy or insolvency,
898 whether voluntary or involuntary, concerning the principal or some
899 other person, or with respect to a reorganization, receivership or
900 application for the appointment of a receiver or trustee which affects
901 an interest of the principal in property or other thing of value;

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

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

906 Sec. 36. (NEW) (*Effective October 1, 2015*) (a) Unless the power of
907 attorney otherwise provides, language in a power of attorney granting
908 general authority with respect to personal and family maintenance
909 authorizes the agent to:

910 (1) Perform the acts necessary to maintain the customary standard
911 of living of the principal, the principal's spouse and the following
912 individuals, whether living when the power of attorney is executed or

913 later born:

914 (A) The principal's children;

915 (B) Other individuals legally entitled to be supported by the
916 principal; and

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

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

922 (3) Provide living quarters for the individuals described in
923 subdivision (1) of this subsection by:

924 (A) Purchase, lease or other contract; or

925 (B) Paying the operating costs, including interest, amortization
926 payments, repairs, improvements and taxes, for premises owned by
927 the principal or occupied by those individuals;

928 (4) Provide normal domestic help, usual vacations and travel
929 expenses and funds for shelter, clothing, food, appropriate education,
930 including post secondary and vocational education and other current
931 living costs for the individuals described in subdivision (1) of this
932 subsection;

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

935 (6) Act as the principal's personal representative pursuant to the
936 Health Insurance Portability and Accountability Act, Sections 1171 to
937 1179, inclusive, of the Social Security Act, 42 USC 1320d, as amended
938 from time to time, and applicable federal regulations, in making
939 decisions related to the past, present or future payment for the
940 provision of health care consented to by the principal or anyone
941 authorized under the law of this state to consent to health care on

942 behalf of the principal;

943 (7) Continue any provision made by the principal for automobiles or
944 other means of transportation, including registering, licensing,
945 insuring and replacing them, for the individuals described in
946 subdivision (1) of this subsection;

947 (8) Maintain credit and debit accounts for the convenience of the
948 individuals described in subdivision (1) of this subsection and open
949 new accounts; and

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

953 (b) Authority with respect to personal and family maintenance is
954 neither dependent upon, nor limited by, authority that an agent may
955 or may not have with respect to gifts under sections 1 to 45, inclusive,
956 of this act.

957 Sec. 37. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
958 section, "benefits from governmental programs or civil or military
959 service" means any benefit, program or assistance provided under a
960 federal or state statute or regulation including Social Security,
961 Medicare and Medicaid.

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

966 (1) Execute vouchers in the name of the principal for allowances and
967 reimbursements payable by the United States or a foreign government
968 or by a state or subdivision of a state to the principal, including
969 allowances and reimbursements for transportation of the individuals
970 described in subdivision (1) of subsection (a) of section 36 of this act,
971 and for shipment of their household effects;

972 (2) Take possession and order the removal and shipment of
973 property of the principal from a post, warehouse, depot, dock or other
974 place of storage or safekeeping, either governmental or private, and
975 execute and deliver a release, voucher, receipt, bill of lading, shipping
976 ticket, certificate or other instrument for that purpose;

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

979 (4) Prepare, file, and maintain a claim of the principal for a benefit
980 or assistance, financial or otherwise, to which the principal may be
981 entitled under a federal or state statute or regulation;

982 (5) Initiate, participate in, submit to alternative dispute resolution,
983 settle, oppose, or propose or accept a compromise with respect to
984 litigation concerning any benefit or assistance the principal may be
985 entitled to receive under a federal or state statute or regulation; and

986 (6) Receive the financial proceeds of a claim described in
987 subdivision (4) of this subsection and conserve, invest, disburse or use
988 for a lawful purpose anything so received.

989 Sec. 38. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
990 section, "retirement plan" means a plan or account created by an
991 employer, the principal or another individual to provide retirement
992 benefits or deferred compensation of which the principal is a
993 participant, beneficiary or owner, including a plan or account under
994 the following sections of the Internal Revenue Code of 1986, or any
995 subsequent corresponding internal revenue code of the United States,
996 as amended from time to time:

997 (1) An individual retirement account under 26 USC 408, as amended
998 from time to time;

999 (2) A Roth individual retirement account under 26 USC 408A, as
1000 amended from time to time;

1001 (3) A deemed individual retirement account under 26 USC 408(q), as

1002 amended from time to time;

1003 (4) An annuity or mutual fund custodial account under 26 USC
1004 403(b), as amended from time to time;

1005 (5) A pension, profit sharing, stock bonus or other retirement plan
1006 qualified under 26 USC 401(a), as amended from time to time;

1007 (6) A plan under 26 USC 457(b), as amended from time to time; and

1008 (7) A nonqualified deferred compensation plan under 26 USC 409A,
1009 as amended from time to time.

1010 (b) Unless the power of attorney otherwise provides, language in a
1011 power of attorney granting general authority with respect to
1012 retirement plans authorizes the agent to:

1013 (1) Select the form and timing of payments under a retirement plan
1014 and withdraw benefits from a plan;

1015 (2) Make a rollover, including a direct trustee to trustee rollover, of
1016 benefits from one retirement plan to another;

1017 (3) Establish a retirement plan in the principal's name;

1018 (4) Make contributions to a retirement plan;

1019 (5) Exercise investment powers available under a retirement plan;
1020 and

1021 (6) Borrow from, sell assets to or purchase assets from a retirement
1022 plan.

1023 Sec. 39. (NEW) (*Effective October 1, 2015*) Unless the power of
1024 attorney otherwise provides, language in a power of attorney granting
1025 general authority with respect to taxes authorizes the agent to:

1026 (1) Prepare, sign and file federal, state, local and foreign income,
1027 gift, payroll, property, federal Insurance Contributions Act and other
1028 tax returns, claims for refunds, requests for extension of time, petitions

1029 regarding tax matters and any other tax related documents, including,
1030 receipts, offers, waivers, consents, including consents and agreements
1031 under 26 USC 2032A, as amended from time to time, closing
1032 agreements and any power of attorney required by the Internal
1033 Revenue Service or other taxing authority with respect to a tax year
1034 upon which the statute of limitations has not run and the following
1035 twenty-five tax years;

1036 (2) Pay taxes due, collect refunds, post bonds, receive confidential
1037 information and contest deficiencies determined by the Internal
1038 Revenue Service or other taxing authority;

1039 (3) Exercise any election available to the principal under federal,
1040 state, local or foreign tax law; and

1041 (4) Act for the principal in all tax matters for all periods before the
1042 Internal Revenue Service, or other taxing authority.

1043 Sec. 40. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
1044 section, a gift "for the benefit of" a person includes a gift to a trust, an
1045 account under the Uniform Transfers to Minors Act and a tuition
1046 savings account or prepaid tuition plan as defined under 26 USC 529,
1047 as amended from time to time.

1048 (b) Unless the power of attorney otherwise provides, language in a
1049 power of attorney granting general authority with respect to gifts
1050 authorizes the agent only to:

1051 (1) Make outright to, or for the benefit of, a person, a gift of any of
1052 the principal's property, including by the exercise of a presently
1053 exercisable general power of appointment held by the principal, in an
1054 amount per donee not to exceed the annual dollar limits of the federal
1055 gift tax exclusion under 26 USC 2503(b), as amended from time to time,
1056 without regard to whether the federal gift tax exclusion applies to the
1057 gift, or if the principal's spouse agrees to consent to a split gift
1058 pursuant to 26 USC 2513, as amended from time to time, in an amount
1059 per donee not to exceed twice the annual federal gift tax exclusion

1060 limit; and

1061 (2) Consent, pursuant to 26 USC 2513, as amended from time to
1062 time, to the splitting of a gift made by the principal's spouse in an
1063 amount per donee not to exceed the aggregate annual gift tax
1064 exclusions for both spouses.

1065 (c) An agent may make a gift of the principal's property only as the
1066 agent determines is consistent with the principal's objectives if actually
1067 known by the agent and, if unknown, as the agent determines is
1068 consistent with the principal's best interest based on all relevant
1069 factors, including:

1070 (1) The value and nature of the principal's property;

1071 (2) The principal's foreseeable obligations and need for
1072 maintenance;

1073 (3) Minimization of taxes, including income, estate, inheritance,
1074 generation skipping transfer and gift taxes;

1075 (4) Eligibility for a benefit, a program, or assistance under a federal
1076 or state statute or regulation; and

1077 (5) The principal's personal history of making or joining in making
1078 gifts.

1079 Sec. 41. (NEW) (*Effective October 1, 2015*) A document substantially
1080 in the following form may be used to create a statutory form power of
1081 attorney that has the meaning and effect prescribed by sections 1 to 45,
1082 inclusive, of this act.

1083 CONNECTICUT
1084 STATUTORY FORM POWER OF ATTORNEY
1085 IMPORTANT INFORMATION

1086 This power of attorney authorizes another person (your agent) to
1087 make decisions concerning your property for you (the principal). Your

1088 agent will be able to make decisions and act with respect to your
1089 property (including your money) whether or not you are able to act for
1090 yourself. The meaning of authority over subjects listed on this form is
1091 explained in the Connecticut Uniform Power of Attorney Act.

1092 This power of attorney does not authorize the agent to make health
1093 care decisions for you.

1094 You should select someone you trust to serve as your agent. Unless
1095 you specify otherwise, generally the agent's authority will continue
1096 until you die or revoke the power of attorney or the agent resigns or is
1097 unable to act for you.

1098 Your agent is entitled to reasonable compensation unless you state
1099 otherwise in the special instructions.

1100 This form provides for designation of one agent. If you wish to
1101 name more than one agent you may name a coagent in the special
1102 instructions. Coagents are not required to act together unless you
1103 include that requirement in the special instructions.

1104 If your agent is unable or unwilling to act for you, your power of
1105 attorney will end unless you have named a successor agent. You may
1106 also name a second successor agent.

1107 This power of attorney becomes effective immediately unless you
1108 state otherwise in the special instructions.

1109 If you have questions about the power of attorney or the authority
1110 you are granting to your agent, you should seek legal advice before
1111 signing this form.

1112 **DESIGNATION OF AGENT**

1113 I, _____, name the following person
1114 (Name of Principal)
1115
1116 as my agent:

1117 Name of Agent:_____

1118 Agent's Address:_____

1119 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

1120 If my agent is unable or unwilling to act for me, I name as my
1121 successor agent:

1122 Name of Successor Agent:_____

1123 Successor Agent's Address:_____

1124 If my successor agent is unable or unwilling to act for me, I name as
1125 my second successor agent:

1126 Name of Second Successor Agent:_____

1127 Second Successor Agent's Address:_____

1128 GRANT OF GENERAL AUTHORITY

1129 I grant my agent and any successor agent general authority to act
1130 for me with respect to the following subjects as defined in the
1131 Connecticut Uniform Power of Attorney Act, sections 1 to 45,
1132 inclusive, of this act:

1133 (INITIAL each subject you want to include in the agent's general
1134 authority. If you wish to grant general authority over all of the subjects
1135 you may initial "All Preceding Subjects" instead of initialing each
1136 subject.)

1137 () Real Property

1138 () Tangible Personal Property

1139 () Stocks and Bonds

1140 () Commodities and Options

1141 () Banks and Other Financial Institutions

- 1142 Operation of Entity or Business
- 1143 Insurance and Annuities
- 1144 Estates, Trusts and Other Beneficial Interests
- 1145 Claims and Litigation
- 1146 Personal and Family Maintenance
- 1147 Benefits from Governmental Programs or Civil or Military
1148 Service
- 1149 Retirement Plans
- 1150 Taxes
- 1151 All Preceding Subjects

1152 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

1153 My agent MAY NOT do any of the following specific acts for me
1154 UNLESS I have INITIALED the specific authority listed below:

1155 (CAUTION: Granting any of the following will give your agent the
1156 authority to take actions that could significantly reduce your property
1157 or change how your property is distributed at your death. INITIAL
1158 ONLY the specific authority you WANT to give your agent.)

1159 YOU SHOULD SEEK LEGAL ADVICE BEFORE
1160 INCLUDING THE FOLLOWING POWERS:

1161 Create, amend, revoke or terminate an inter vivos trust,
1162 provided, in the case of a trust established pursuant to 42 USC 1396p
1163 (d)(4)(A) or 42 USC 1396p (d)(4)(C), the creation of such trust by an
1164 attorney in fact shall be only as permitted by federal law
1165

1166 Make a gift, subject to the limitations of the Connecticut
1167 Uniform Power of Attorney Act and any special instructions in this
1168 power of attorney. Unless otherwise provided in the special

1169 instructions, gifts per recipient may not exceed the annual dollar limits
 1170 of the federal gift tax exclusion under Internal Revenue Code Section
 1171 2503(b), or if the principal's spouse agrees to consent to a split gift
 1172 pursuant to Internal Revenue Code Section 2513, in an amount per
 1173 recipient not to exceed twice the annual federal gift tax exclusion limit.
 1174 In addition, an agent must determine that gifts are consistent with the
 1175 principal's objectives if actually known by the agent and, if unknown,
 1176 as the agent determines is consistent with the principal's best interest
 1177 based on all relevant factors.

1178 Create or change rights of survivorship

1179 Create or change a beneficiary designation

1180 Authorize another person to exercise the authority granted
 1181 under this power of attorney

1182 Waive the principal's right to be a beneficiary of a joint and
 1183 survivor annuity, including a survivor benefit under a retirement plan

1184 Exercise fiduciary powers that the principal has authority to
 1185 delegate

1186 Disclaim or refuse an interest in property, including a power
 1187 of appointment

1188 LIMITATION ON AGENT'S AUTHORITY

1189 An agent that is not my ancestor, spouse, or descendant MAY NOT
 1190 use my property to benefit the agent or a person to whom the agent
 1191 owes an obligation of support unless I have included that authority in
 1192 the special instructions.

1193 SPECIAL INSTRUCTIONS (OPTIONAL)

1194 You may give special instructions on the following lines:

1195 _____

1196 _____

1197 _____
 1198 _____
 1199 _____
 1200 _____

1201 I approve these special instructions

1202 _____
 1203 (Your Signature) (Date)

1204 EFFECTIVE DATE

1205 This power of attorney is effective immediately unless I have stated
1206 otherwise in the special instructions.

1207 NOMINATION OF CONSERVATOR (OPTIONAL)

1208 Initial below if you want to include the following provision(s):

1209 (___) I hereby nominate the same person(s) that I have named as my
1210 agent(s) under this power of attorney as conservator(s) of my estate if
1211 it becomes necessary for a court to appoint a conservator of my estate.

1212 (___) In the event that a court appoints my agent(s) as my
1213 conservator(s), I request that my conservator(s) not be required to post
1214 a bond.

1215 RELIANCE ON THIS POWER OF ATTORNEY

1216 Any person, including my agent, may rely upon the validity of this
1217 power of attorney or a copy of it unless that person knows it has
1218 terminated or is invalid.

1219 SIGNATURE AND ACKNOWLEDGMENT

1220 Signed in the presence of:

1221 _____

1222 (Witness Signature) (Your Signature) (Date)

1223 _____

1224 (Witness Signature) (Your Signature) (Date)

1225 _____

1226 (Your Name Printed)

1227 _____

1228 _____

1229 (Your Address)

1230 _____

1231 (Your Telephone Number)

1232 State of _____

1233 County of _____

1234 This document was acknowledged before me on _____,

1235 (Date)

1236 by _____.

1237 (Name of Principal)

1238 _____ (Seal, if any)

1239 Signature of Commissioner of Superior Court/Notary

1240 My commission expires: _____

1241 IMPORTANT INFORMATION FOR AGENT

1242 Agent's Duties

1243 When you accept the authority granted under this power of

1244 attorney, a special legal relationship is created between you and the
1245 principal. This relationship continues until you resign or the power of
1246 attorney is terminated or revoked. You must:

1247 (1) Do what you know the principal reasonably expects you to do
1248 with the principal's property or, if you do not know the principal's
1249 expectations, act in the principal's best interest;

1250 (2) Act in good faith;

1251 (3) Do nothing beyond the authority granted in this power of
1252 attorney; and

1253 (4) Disclose your identity as an agent whenever you act for the
1254 principal by writing or printing the name of the principal and signing
1255 your own name as "agent" in the following manner:

1256 (Principal's Name) by (Your Signature) as Agent

1257 Unless the special instructions in this power of attorney state
1258 otherwise, you must also:

1259 (1) Act loyally for the principal's benefit;

1260 (2) Avoid conflicts that would impair your ability to act in the
1261 principal's best interest;

1262 (3) Act with care, competence, and diligence;

1263 (4) Keep a record of all receipts, disbursements, and transactions
1264 made on behalf of the principal;

1265 (5) Cooperate with any person that has authority to make health
1266 care decisions for the principal to do what you know the principal
1267 reasonably expects or, if you do not know the principal's expectations,
1268 to act in the principal's best interest; and

1269 (6) Attempt to preserve the principal's estate plan if you know the
1270 plan and preserving the plan is consistent with the principal's best

1271 interest.

1272 Termination of Agent's Authority

1273 You must stop acting on behalf of the principal if you learn of any
1274 event that terminates this power of attorney or your authority under
1275 this power of attorney. Events that terminate a power of attorney or
1276 your authority to act under a power of attorney include:

1277 (1) Death of the principal;

1278 (2) The principal's revocation of the power of attorney or your
1279 authority;

1280 (3) The occurrence of a termination event stated in the power of
1281 attorney;

1282 (4) The purpose of the power of attorney is fully accomplished; or

1283 (5) If you are married to the principal, a legal action is filed with a
1284 court to end your marriage, or for your legal separation, unless the
1285 special instructions in this power of attorney state that such an action
1286 will not terminate your authority.

1287 Liability of Agent

1288 The meaning of the authority granted to you is defined in the
1289 Connecticut Uniform Power of Attorney Act, sections 1 to 45,
1290 inclusive, of this act. If you violate the Connecticut Uniform Power of
1291 Attorney Act, sections 1 to 45, inclusive, of this act or act outside the
1292 authority granted, you may be liable for any damages caused by your
1293 violation.

1294 If there is anything about this document or your duties that you do
1295 not understand, you should seek legal advice.

1296 Sec. 42. (NEW) (*Effective October 1, 2015*) The following optional
1297 form may be used by an agent to certify facts concerning a power of
1298 attorney.

1299 AGENT'S CERTIFICATION AS TO THE
1300 VALIDITY OF POWER OF ATTORNEY
1301 AND AGENT'S AUTHORITY

1302 State of _____

1303 County of _____

1304 I, _____ (Name of Agent), certify under penalty of
1305 false statement that _____ (Name of Principal) granted
1306 me authority as an agent or successor agent in a power of attorney
1307 dated _____.

1308 I further certify that to my knowledge:

1309 (1) the Principal is alive and has not revoked the Power of Attorney
1310 or my authority to act under the Power of Attorney and the Power of
1311 Attorney and my authority to act under the Power of Attorney have
1312 not terminated;

1313 (2) if the Power of Attorney was drafted to become effective upon
1314 the happening of an event or contingency, the event or contingency
1315 has occurred;

1316 (3) if I was named as a successor agent, the prior agent is no longer
1317 able or willing to serve; and

1318 (4) _____

1319 _____

1320 _____

1321 _____

1322 (Insert other relevant statements)

1323 SIGNATURE AND ACKNOWLEDGMENT

1324 _____

1325 (Agent's Signature)

(Date)

1326 _____

1327 (Agent's Name Printed)

1328 _____

1329 _____

1330 (Agent's Address)

1331 _____

1332 (Agent's Telephone Number)

1333 This document was acknowledged before me on _____,

1334 (Date)

1335 by _____.

1336 (Name of Agent)

1337 _____ (Seal, if any)

1338 (Signature of Commissioner of Superior Court/Notary)

1339 My commission expires: _____

1340 Sec. 43. (NEW) (*Effective October 1, 2015*) In applying and construing
1341 the provisions of sections 1 to 45, inclusive, of this act, consideration
1342 must be given to the need to promote uniformity of the law with
1343 respect to its subject matter among the states that enact it.

1344 Sec. 44. (NEW) (*Effective October 1, 2015*) Sections 1 to 45, inclusive,
1345 of this act modify, limit, and supersede the federal Electronic
1346 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,
1347 but do not modify, limit, or supersede Section 101(c) of that act, 15
1348 USC 7001(c), or authorize electronic delivery of any of the notices
1349 described in Section 3(b) of that act, 15 USC 7003(b).

1350 Sec. 45. (NEW) (*Effective October 1, 2015*) (a) Except as otherwise
1351 provided in sections 1 to 45, inclusive, of this act, on October 1, 2015,
1352 said sections apply to:

- 1353 (1) A power of attorney created before, on, or after October 1, 2015;
- 1354 (2) A judicial proceeding concerning a power of attorney
1355 commenced on or after October 1, 2015; and
- 1356 (3) A judicial proceeding concerning a power of attorney
1357 commenced before October 1, 2015, unless the court finds that
1358 application of a provision of sections 1 to 45, inclusive, of this act
1359 would substantially interfere with the effective conduct of the judicial
1360 proceeding or prejudice the rights of a party, in which case that
1361 provision does not apply and the superseded law applies.

1362 (b) An act performed by an agent under a power of attorney before
1363 October 1, 2015, is not affected by sections 1 to 45, inclusive, of this act.

1364 Sec. 46. Subsection (a) of section 45a-98 of the general statutes is
1365 repealed and the following is substituted in lieu thereof (*Effective*
1366 *October 1, 2015*):

1367 (a) Courts of probate in their respective districts shall have the
1368 power to (1) grant administration of intestate estates of persons who
1369 have died domiciled in their districts and of intestate estates of persons
1370 not domiciled in this state which may be granted as provided by
1371 section 45a-303; (2) admit wills to probate of persons who have died
1372 domiciled in their districts or of nondomiciliaries whose wills may be
1373 proved in their districts as provided in section 45a-287; (3) except as
1374 provided in section 45a-98a or as limited by an applicable statute of
1375 limitations, determine title or rights of possession and use in and to
1376 any real, tangible or intangible property that constitutes, or may
1377 constitute, all or part of any trust, any decedent's estate, or any estate
1378 under control of a guardian or conservator, which trust or estate is
1379 otherwise subject to the jurisdiction of the Probate Court, including the
1380 rights and obligations of any beneficiary of the trust or estate and
1381 including the rights and obligations of any joint tenant with respect to
1382 survivorship property; (4) except as provided in section 45a-98a,
1383 construe the meaning and effect of (A) any will or trust agreement if a
1384 construction is required in connection with the administration or

1385 distribution of a trust or estate otherwise subject to the jurisdiction of
1386 the Probate Court; [or, with respect to an inter vivos trust, if that trust
1387 is or could be subject to jurisdiction of the court for an accounting
1388 pursuant to section 45a-175,] (B) an inter vivos trust upon a petition
1389 that meets the requirements for a petition for an accounting pursuant
1390 to subsection (b) or (c) of section 45a-175, as amended by this act,
1391 provided such an accounting need not be required; or (C) a power of
1392 attorney pursuant to section 16 of this act; (5) except as provided in
1393 section 45a-98a, apply the doctrine of cy pres or approximation; (6) to
1394 the extent provided for in section 45a-175, as amended by this act, call
1395 executors, administrators, trustees, guardians, conservators, persons
1396 appointed to sell the land of minors, and [attorneys-in-fact] agents
1397 acting under powers of attorney created in accordance with [section
1398 45a-562] sections 1 to 45, inclusive, of this act, to account concerning
1399 the estates entrusted to their charge or for other relief as provided in
1400 sections 1 to 45, inclusive, of this act; and (7) make any lawful orders or
1401 decrees to carry into effect the power and jurisdiction conferred upon
1402 them by the laws of this state.

1403 Sec. 47. Section 45a-175 of the general statutes is repealed and the
1404 following is substituted in lieu thereof (*Effective October 1, 2015*):

1405 (a) Courts of probate shall have jurisdiction of the interim and final
1406 accounts of testamentary trustees, trustees appointed by the courts of
1407 probate, conservators, guardians, persons appointed by probate courts
1408 to sell the land of minors, executors, administrators and trustees in
1409 insolvency, and, to the extent provided for in this section, shall have
1410 jurisdiction of accounts of the actions of trustees of inter vivos trusts
1411 and [attorneys-in-fact] agents acting under powers of attorney.

1412 (b) A trustee or settlor of an inter vivos trust [or an attorney-in-fact]
1413 or the successor of the trustee, settlor [or attorney-in-fact or the grantor
1414 of such power of attorney] or his legal representative may make
1415 application to the court of probate for the district where the trustee, or
1416 any one of them, [or the attorney-in-fact] has any place of business or
1417 to the court of probate for the district where the trustee or any one of

1418 them or the settlor [or the attorney-in-fact or the grantor of the power]
1419 resides or, in the case of a deceased settlor, [or grantor,] to the court of
1420 probate having jurisdiction over the estate of the settlor [or grantor] or
1421 for the district in which the settlor [or grantor] resided immediately
1422 prior to death for submission to the jurisdiction of the court of an
1423 account for allowance of the trustee's [or attorney's] actions under such
1424 trust. [or power.]

1425 (c) (1) Any beneficiary of an inter vivos trust may petition a court of
1426 probate having jurisdiction under this section for an accounting by the
1427 trustee or trustees. The court may, after hearing with notice to all
1428 interested parties, grant the petition and require an accounting for
1429 such periods of time as it determines are reasonable and necessary on
1430 finding that: (A) The beneficiary has an interest in the trust sufficient to
1431 entitle him to an accounting, (B) cause has been shown that an
1432 accounting is necessary, and (C) the petition is not for the purpose of
1433 harassment.

1434 (2) A court of probate shall have jurisdiction to require an
1435 accounting under subdivision (1) of this subsection if (A) a trustee of
1436 the trust resides in its district, (B) in the case of a corporate trustee, the
1437 trustee has any place of business in the district, (C) any of the trust
1438 assets are maintained or evidences of intangible property of the trust
1439 are situated in the district, or (D) the settlor resides in the district or, in
1440 the case of a deceased settlor, resided in the district immediately prior
1441 to death.

1442 (3) As used in subdivision (1) of this subsection, "beneficiary" means
1443 any person currently receiving payments of income or principal from
1444 the trust, or who may be entitled to receive income or principal or both
1445 from the trust at some future date, or the legal representative of such
1446 person.

1447 (d) Any of the persons specified in section 16 of this act may make
1448 application to the court of probate for the district where the agent has
1449 any place of business or to the court of probate for the district where
1450 the agent or the principal resides or, in the case of a deceased principal,

1451 to the court of probate having jurisdiction over the estate of the
1452 principal or for the district in which the principal resided immediately
1453 prior to death, for an accounting or other relief as provided in
1454 section 16 of this act. The court shall grant the petition if filed by the
1455 principal, agent, guardian, conservator or other fiduciary acting for the
1456 principal. The court may grant a petition filed by any other person
1457 specified in section 16 of this act if it finds that (1) the petitioner has an
1458 interest sufficient to entitle him to the relief requested, (2) cause has
1459 been shown that such relief is necessary, and (3) the petition is not for
1460 the purpose of harassment.

1461 [(d)] (e) The action to submit an accounting to the court, whether by
1462 an inter vivos trustee or [attorney] agent acting under a power of
1463 attorney or whether pursuant to petition of another party, shall not
1464 subject the trust or the power of attorney to the continuing jurisdiction
1465 of the Probate Court.

1466 [(e)] (f) If the court finds such appointment to be necessary and in
1467 the best interests of the estate, the court upon its own motion may
1468 appoint an auditor to be selected from a list provided by the Probate
1469 Court Administrator, to examine accounts over which the court has
1470 jurisdiction under this section, except those accounts on matters in
1471 which the fiduciary or cofiduciary is a corporation having trust
1472 powers. The Probate Court Administrator shall promulgate
1473 regulations in accordance with section 45a-77 concerning the
1474 compilation of a list of qualified auditors. Costs of the audit may be
1475 charged to the fiduciary, any party in interest and the estate, in such
1476 proportion as the court shall direct if the court finds such charge to be
1477 equitable. Any such share may be paid from the fund established
1478 under section 45a-82, subject to the approval of the Probate Court
1479 Administrator, if it is determined that the person obligated to pay such
1480 share is unable to pay or to charge such amount to the estate would
1481 cause undue hardship.

1482 [(f)] (g) Upon the allowance of any such account, the court shall
1483 determine the rights of the fiduciaries or the [attorney-in-fact] agent

1484 under a power of attorney rendering the account and of the parties
1485 interested in the account, including the relief authorized under section
1486 17 of this act, subject to appeal as in other cases. The court shall cause
1487 notice of the hearing on the account to be given in such manner and to
1488 such parties as it directs.

1489 [(g)] (h) In any action under this section, the Probate Court shall
1490 have, in addition to powers pursuant to this section, all the powers
1491 available to a judge of the Superior Court at law and in equity
1492 pertaining to matters under this section.

1493 Sec. 48. Subsection (b) of section 45a-645 of the general statutes is
1494 repealed and the following is substituted in lieu thereof (*Effective*
1495 *October 1, 2015*):

1496 (b) The designation shall be executed, witnessed and revoked in the
1497 same manner as provided for wills in sections 45a-251 and 45a-257, or
1498 a power of attorney executed in accordance with section 5 of this act,
1499 except that any person who is so designated as a conservator shall not
1500 qualify as a witness.

1501 Sec. 49. Section 45a-650 of the general statutes is repealed and the
1502 following is substituted in lieu thereof (*Effective October 1, 2015*):

1503 (a) At any hearing on an application for involuntary representation,
1504 before the court receives any evidence regarding the condition of the
1505 respondent or of the respondent's affairs, the court shall require clear
1506 and convincing evidence that the court has jurisdiction, that the
1507 respondent has been given notice as required in section 45a-649, and
1508 that the respondent has been advised of the right to retain an attorney
1509 pursuant to section 45a-649a and is either represented by an attorney
1510 or has waived the right to be represented by an attorney. The
1511 respondent shall have the right to attend any hearing held under this
1512 section.

1513 (b) The rules of evidence applicable to civil matters in the Superior
1514 Court shall apply to all hearings pursuant to this section. All testimony

1515 at a hearing held pursuant to this section shall be given under oath or
1516 affirmation.

1517 (c) (1) After making the findings required under subsection (a) of
1518 this section, the court shall receive evidence regarding the respondent's
1519 condition, the capacity of the respondent to care for himself or herself
1520 or to manage his or her affairs, and the ability of the respondent to
1521 meet his or her needs without the appointment of a conservator.
1522 Unless waived by the court pursuant to subdivision (2) of this
1523 subsection, medical evidence shall be introduced from one or more
1524 physicians licensed to practice medicine in this state who have
1525 examined the respondent not more than forty-five days prior to the
1526 hearing, except that for a person with intellectual disability, as defined
1527 in section 1-1g, psychological evidence may be introduced in lieu of
1528 such medical evidence from a psychologist licensed pursuant to
1529 chapter 383 who has examined the respondent not more than forty-five
1530 days prior to the hearing. The evidence shall contain specific
1531 information regarding the respondent's condition and the effect of the
1532 respondent's condition on the respondent's ability to care for himself
1533 or herself or to manage his or her affairs. The court may also consider
1534 such other evidence as may be available and relevant, including, but
1535 not limited to, a summary of the physical and social functioning level
1536 or ability of the respondent, and the availability of support services
1537 from the family, neighbors, community or any other appropriate
1538 source. Such evidence may include, if available, reports from the social
1539 work service of a general hospital, municipal social worker, director of
1540 social service, public health nurse, public health agency, psychologist,
1541 coordinating assessment and monitoring agencies, or such other
1542 persons as the court considers qualified to provide such evidence.

1543 (2) The court may waive the requirement that medical evidence be
1544 presented if it is shown that the evidence is impossible to obtain
1545 because of the absence of the respondent or the respondent's refusal to
1546 be examined by a physician or that the alleged incapacity is not
1547 medical in nature. If such requirement is waived, the court shall make
1548 a specific finding in any decree issued on the application stating why

1549 medical evidence was not required.

1550 (3) Any hospital, psychiatric, psychological or medical record or
1551 report filed with the court pursuant to this subsection shall be
1552 confidential.

1553 (d) Upon the filing of an application for involuntary representation
1554 pursuant to section 45a-648, the court shall issue an order for the
1555 disclosure of the medical information required pursuant to this section
1556 and any psychological information submitted with respect to a person
1557 with intellectual disability pursuant to subsection (c) of this section to
1558 the respondent's attorney and, upon request, to the respondent. The
1559 court may issue an order for the disclosure of such information to any
1560 other person as the court determines necessary.

1561 (e) Notwithstanding the provisions of section 45a-7, the court may
1562 hold the hearing on the application at a place other than its usual
1563 courtroom if it would facilitate attendance by the respondent.

1564 (f) (1) If the court finds by clear and convincing evidence that the
1565 respondent is incapable of managing the respondent's affairs, that the
1566 respondent's affairs cannot be managed adequately without the
1567 appointment of a conservator and that the appointment of a
1568 conservator is the least restrictive means of intervention available to
1569 assist the respondent in managing the respondent's affairs, the court
1570 may appoint a conservator of his or her estate after considering the
1571 factors set forth in subsection (g) of this section.

1572 (2) If the court finds by clear and convincing evidence that the
1573 respondent is incapable of caring for himself or herself, that the
1574 respondent cannot be cared for adequately without the appointment of
1575 a conservator and that the appointment of a conservator is the least
1576 restrictive means of intervention available to assist the respondent in
1577 caring for himself or herself, the court may appoint a conservator of his
1578 or her person after considering the factors set forth in subsection (g) of
1579 this section.

1580 (3) No conservator may be appointed if the respondent's personal
1581 needs and property management are being met adequately by an
1582 agency or individual appointed pursuant to the provisions of sections
1583 8 and 41 of this act, or section [1-43,] 19a-575a, 19a-577, 19a-580e, as
1584 amended by this act, or 19a-580g.

1585 (g) When determining whether a conservator should be appointed
1586 the court shall consider the following factors: (1) The abilities of the
1587 respondent; (2) the respondent's capacity to understand and articulate
1588 an informed preference regarding the care of his or her person or the
1589 management of his or her affairs; (3) any relevant and material
1590 information obtained from the respondent; (4) evidence of the
1591 respondent's past preferences and life style choices; (5) the
1592 respondent's cultural background; (6) the desirability of maintaining
1593 continuity in the respondent's life and environment; (7) whether the
1594 respondent had previously made adequate alternative arrangements
1595 for the care of his or her person or for the management of his or her
1596 affairs, including, but not limited to, the execution of a durable power
1597 of attorney, springing power of attorney, the appointment of a health
1598 care representative or health care agent, the execution of a living will
1599 or trust or the execution of any other similar document; (8) any
1600 relevant and material evidence from the respondent's family and any
1601 other person regarding the respondent's past practices and
1602 preferences; and (9) any supportive services, technologies or other
1603 means that are available to assist the respondent in meeting his or her
1604 needs.

1605 (h) The respondent or conserved person may appoint, designate or
1606 nominate a conservator or successor conservator pursuant to section
1607 19a-575a, 19a-580e, as amended by this act, 19a-580g or 45a-645, as
1608 amended by this act, or may, orally or in writing, nominate a
1609 conservator or successor conservator who shall be appointed unless
1610 the court finds that the appointee, designee or nominee is unwilling or
1611 unable to serve or there is substantial evidence to disqualify such
1612 person. If there is no such appointment, designation or nomination or
1613 if the court does not appoint the person appointed, designated or

1614 nominated by the respondent or conserved person, the court may
1615 appoint any qualified person, authorized public official or corporation
1616 in accordance with subsections (a) and (b) of section 45a-644. In
1617 considering whom to appoint as conservator or successor conservator,
1618 the court shall consider (1) the extent to which a proposed conservator
1619 has knowledge of the respondent's or conserved person's preferences
1620 regarding the care of his or her person or the management of his or her
1621 affairs, (2) the ability of the proposed conservator to carry out the
1622 duties, responsibilities and powers of a conservator, (3) the cost of the
1623 proposed conservatorship to the estate of the respondent or conserved
1624 person, (4) the proposed conservator's commitment to promoting the
1625 respondent's or conserved person's welfare and independence, and (5)
1626 any existing or potential conflicts of interest of the proposed
1627 conservator.

1628 (i) If the court appoints a conservator of the estate of the respondent,
1629 the court shall require a probate bond. The court may, if it considers it
1630 necessary for the protection of the respondent, require a bond of any
1631 conservator of the person appointed under this section.

1632 (j) Absent the court's order to the contrary and except as otherwise
1633 provided in subsection (b) of section 19a-580e, a conservator appointed
1634 pursuant to this section shall be bound by all health care decisions
1635 properly made by the conserved person's health care representative.

1636 (k) In assigning the duties of a conservator under this section the
1637 court may, in accordance with section 8 of this act, limit, suspend or
1638 terminate the authority of an agent designated by the conserved
1639 person to act under a power of attorney; and the court shall enter a
1640 specific order as to whether the authority of the agent is limited,
1641 suspended or terminated.

1642 [(k) A] (l) Except as provided in subsection (k) of this section, a
1643 conserved person and his agent under a power of attorney shall retain
1644 all rights and authority not expressly assigned to the conservator.

1645 [(l)] (m) The court shall assign to a conservator appointed under this

1646 section only the duties and authority that are the least restrictive
1647 means of intervention necessary to meet the needs of the conserved
1648 person. The court shall find by clear and convincing evidence that such
1649 duties and authority restrict the decision-making authority of the
1650 conserved person only to the extent necessary to provide for the
1651 personal needs or property management of the conserved person. Such
1652 personal needs and property management shall be provided in a
1653 manner appropriate to the conserved person. The court shall make a
1654 finding of the clear and convincing evidence that supports the need for
1655 each duty and authority assigned to the conservator.

1656 [(m)] (n) Nothing in this chapter shall impair, limit or diminish a
1657 conserved person's right to retain an attorney to represent such person
1658 or to seek redress of grievances in any court or administrative agency,
1659 including proceedings in the nature of habeas corpus arising out of
1660 any limitations imposed on the conserved person by court action taken
1661 under this chapter, chapter 319i, chapter 319j or section 45a-242. In any
1662 other proceeding in which the conservator has retained counsel for the
1663 conserved person, the conserved person may request the Court of
1664 Probate to direct the conservator to substitute an attorney chosen by
1665 the conserved person.

1666 Sec. 50. Section 47-5 of the general statutes is repealed and the
1667 following is substituted in lieu thereof (*Effective October 1, 2015*):

1668 (a) All conveyances of land shall be: (1) In writing; (2) if the grantor
1669 is a natural person, subscribed, with or without a seal, by the grantor
1670 with his own hand or with his mark with his name annexed to it or by
1671 his [attorney] agent authorized for that purpose by a power executed,
1672 acknowledged and witnessed in the manner provided for conveyances
1673 or, if the grantor is a corporation, limited liability company or
1674 partnership, subscribed by a duly authorized person; (3)
1675 acknowledged by the grantor, his [attorney] agent or such duly
1676 authorized person (A) to be his free act and deed, or (B) in any manner
1677 permitted under chapter 6 or chapter 8; and (4) attested to by two
1678 witnesses with their own hands.

1679 (b) A document conveying land shall also include the current
1680 mailing address of the grantee.

1681 (c) In addition to the requirements of subsection (a) of this section,
1682 the execution of a deed or other conveyance of real property pursuant
1683 to a power of attorney shall be deemed sufficient if done in
1684 substantially the following form:

1685 Name of Owner of Record

1686 By: (Signature of [Attorney-in-Fact] Agent) L.S.

1687 Name of Signatory

1688 His/Her [Attorney-in-Fact] Agent

1689 (d) Nothing in subsection (c) of this section precludes the use of any
1690 other legal form of execution of deed or other conveyance of real
1691 property.

1692 Sec. 51. Subsection (c) of section 19a-580f of the general statutes is
1693 repealed and the following is substituted in lieu thereof (*Effective*
1694 *October 1, 2015*):

1695 (c) A power of attorney for health care decisions properly executed
1696 prior to October 1, 2006, shall have the same power and effect as
1697 provided under section 1-55, of the general statutes, revision of 1958
1698 revised to January 1, 2015, in effect at the time of its execution.

1699 Sec. 52. Section 45a-582 of the general statutes is repealed and the
1700 following is substituted in lieu thereof (*Effective October 1, 2015*):

1701 An interest that exists on October 1, 1981, as to which, if a present
1702 interest, the time for delivering a disclaimer under [section 45a-562,]
1703 subsections (3) and (35) of section 45a-234, subsections (4) and (19) of
1704 section 45a-235, and sections 45a-578 to 45a-584, inclusive, has not
1705 expired or, if a future interest, the interest has not become indefeasibly
1706 vested or the taker finally ascertained, may be disclaimed within nine
1707 months after October 1, 1981.

1708 Sec. 53. Subsection (a) of section 45a-660 of the general statutes is
1709 repealed and the following is substituted in lieu thereof (*Effective*
1710 *October 1, 2015*):

1711 (a) (1) A conserved person may, at any time, petition the court of
1712 probate having jurisdiction for the termination of a conservatorship. A
1713 petition for termination of a conservatorship shall be determined by a
1714 preponderance of the evidence. The conserved person shall not be
1715 required to present medical evidence at such a hearing. A hearing on
1716 the petition shall be held not later than thirty days after the date the
1717 petition was filed in the Court of Probate, unless the hearing is
1718 continued for good cause. If such hearing is not held within such
1719 thirty-day period or continuance period, if applicable, the
1720 conservatorship shall terminate. If the court of probate having
1721 jurisdiction finds a conserved person to be capable of caring for
1722 himself or herself, the court shall, upon hearing and after notice, order
1723 that the conservatorship of the person be terminated. The court may
1724 also order the reinstatement of any authority of any agent under a
1725 power of attorney that was previously limited, suspended or
1726 terminated by the court because of the conservatorship. If the court
1727 finds upon hearing and after notice which the court prescribes, that a
1728 conserved person is capable of managing his or her own affairs, the
1729 court shall order that the conservatorship of the estate be terminated
1730 and that the remaining portion of the conserved person's property be
1731 restored to the conserved person. (2) If the court finds upon hearing
1732 and after notice which the court prescribes that a conserved person has
1733 no assets of any kind remaining except for that amount allowed by
1734 subsection (c) of section 17b-80, the court may order that the
1735 conservatorship of the estate be terminated. The court shall thereupon
1736 order distribution of the remaining assets to the conservator of the
1737 person or, if there is no conservator or the conservator declines or is
1738 unable to accept or the conservator is the Commissioner of Social
1739 Services, to some suitable person, to be determined by the court, to
1740 hold for the benefit of the conserved person, upon such conservator or
1741 person giving such probate bond, if any, as the court orders. (3) If any
1742 conserved person having a conservator dies, the conserved person's

1743 property other than property which has accrued from the sale of the
1744 conserved person's real property shall be delivered to the conserved
1745 person's executor or administrator. The unexpended proceeds of the
1746 conserved person's real property sold as aforesaid shall go into the
1747 hands of the executor or administrator, to be distributed as such real
1748 property would have been.

1749 Sec. 54. Subsection (a) of section 19a-580e of the general statutes is
1750 repealed and the following is substituted in lieu thereof (*Effective*
1751 *October 1, 2015*):

1752 (a) Except as authorized by a court of competent jurisdiction, a
1753 conservator shall comply with a conserved person's individual health
1754 care instructions and other wishes, if any, expressed while the
1755 conserved person had capacity and to the extent known to the
1756 conservator, and the conservator may not revoke the conserved
1757 person's advance health care directive or a directive executed in
1758 accordance with [subdivision (14) of section 1-52 or] section 45a-318, as
1759 amended by this act, unless the appointing court expressly so
1760 authorizes.

1761 Sec. 55. Subdivision (2) of subsection (a) of section 45a-318 of the
1762 general statutes is repealed and the following is substituted in lieu
1763 thereof (*Effective October 1, 2015*):

1764 (2) Any conservator of the person authorized pursuant to
1765 subdivision (5) of subsection (a) of section 45a-656 to act on behalf of a
1766 conserved person, or any agent authorized [pursuant to subdivision
1767 (14) of section 1-52] to act on behalf of a principal may execute in
1768 advance of such conserved person's or principal's death a written
1769 document, subscribed by such conservator or agent and attested by
1770 two witnesses, either: (A) Directing the disposition of such conserved
1771 person's or principal's body upon the death of such conserved person
1772 or principal, which document may also designate an individual to
1773 have custody and control of such conserved person's or principal's
1774 body and to act as agent to carry out such directions; or (B) if there are
1775 no directions for disposition, designating an individual to have

1776 custody and control of the disposition of such conserved person's or
 1777 principal's body upon the death of such conserved person or principal.
 1778 Such disposition shall include, but not be limited to, cremation,
 1779 incineration, disposition of cremains, burial, method of interment and
 1780 cryogenic preservation. Any such document may designate an
 1781 alternate to an individual designated under subparagraph (A) or (B) of
 1782 this subdivision. A document executed by a conservator pursuant to
 1783 this subdivision shall include provisions indicating that such
 1784 document (i) is valid if the person is under conservatorship at the time
 1785 of his or her death, and (ii) terminates upon the termination of the
 1786 conservatorship when such termination occurs prior to the death of the
 1787 conserved person.

1788 Sec. 56. Sections 1-42 to 1-56, inclusive, of the general statutes,
 1789 sections 1-56h to 1-56k, inclusive, of the general statutes and section
 1790 45a-562 of the general statutes are repealed. (*Effective October 1, 2015*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>October 1, 2015</i>	New section
Sec. 4	<i>October 1, 2015</i>	New section
Sec. 5	<i>October 1, 2015</i>	New section
Sec. 6	<i>October 1, 2015</i>	New section
Sec. 7	<i>October 1, 2015</i>	New section
Sec. 8	<i>October 1, 2015</i>	New section
Sec. 9	<i>October 1, 2015</i>	New section
Sec. 10	<i>October 1, 2015</i>	New section
Sec. 11	<i>October 1, 2015</i>	New section
Sec. 12	<i>October 1, 2015</i>	New section
Sec. 13	<i>October 1, 2015</i>	New section
Sec. 14	<i>October 1, 2015</i>	New section
Sec. 15	<i>October 1, 2015</i>	New section
Sec. 16	<i>October 1, 2015</i>	New section
Sec. 17	<i>October 1, 2015</i>	New section
Sec. 18	<i>October 1, 2015</i>	New section
Sec. 19	<i>October 1, 2015</i>	New section

Sec. 20	<i>October 1, 2015</i>	New section
Sec. 21	<i>October 1, 2015</i>	New section
Sec. 22	<i>October 1, 2015</i>	New section
Sec. 23	<i>October 1, 2015</i>	New section
Sec. 24	<i>October 1, 2015</i>	New section
Sec. 25	<i>October 1, 2015</i>	New section
Sec. 26	<i>October 1, 2015</i>	New section
Sec. 27	<i>October 1, 2015</i>	New section
Sec. 28	<i>October 1, 2015</i>	New section
Sec. 29	<i>October 1, 2015</i>	New section
Sec. 30	<i>October 1, 2015</i>	New section
Sec. 31	<i>October 1, 2015</i>	New section
Sec. 32	<i>October 1, 2015</i>	New section
Sec. 33	<i>October 1, 2015</i>	New section
Sec. 34	<i>October 1, 2015</i>	New section
Sec. 35	<i>October 1, 2015</i>	New section
Sec. 36	<i>October 1, 2015</i>	New section
Sec. 37	<i>October 1, 2015</i>	New section
Sec. 38	<i>October 1, 2015</i>	New section
Sec. 39	<i>October 1, 2015</i>	New section
Sec. 40	<i>October 1, 2015</i>	New section
Sec. 41	<i>October 1, 2015</i>	New section
Sec. 42	<i>October 1, 2015</i>	New section
Sec. 43	<i>October 1, 2015</i>	New section
Sec. 44	<i>October 1, 2015</i>	New section
Sec. 45	<i>October 1, 2015</i>	New section
Sec. 46	<i>October 1, 2015</i>	45a-98(a)
Sec. 47	<i>October 1, 2015</i>	45a-175
Sec. 48	<i>October 1, 2015</i>	45a-645(b)
Sec. 49	<i>October 1, 2015</i>	45a-650
Sec. 50	<i>October 1, 2015</i>	47-5
Sec. 51	<i>October 1, 2015</i>	19a-580f(c)
Sec. 52	<i>October 1, 2015</i>	45a-582
Sec. 53	<i>October 1, 2015</i>	45a-660(a)
Sec. 54	<i>October 1, 2015</i>	19a-580e(a)
Sec. 55	<i>October 1, 2015</i>	45a-318(a)(2)
Sec. 56	<i>October 1, 2015</i>	Repealer section

Statement of Legislative Commissioners:

In Section 47(b), the first occurrence of "or an attorney-in-fact" was bracketed for consistency with the rest of the subsection. New sections

54 and 55 were added to the bill in order to make technical conforming changes necessitated by the repeal of section 1-52.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill enacts the Uniform Power of Attorney Act and makes changes that do not result in a fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6774*****AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT.*****SUMMARY:**

This bill enacts the Uniform Power of Attorney Act and repeals current law governing powers of attorney (POA), including a statutory form for a POA, a list of powers the principal can grant an agent in different subjects, and provisions terminating a POA when a conservator of the estate is appointed for a principal who can no longer manage his or her affairs. Current law allows a principal to grant an agent authority over various subjects such as real estate, stocks and bonds, banking transactions, litigation, and personal relationships.

POAs are documents used by a person (the principal) to designate someone (the agent) to make decisions and act on the principal's behalf. POAs generally name the agent and the powers granted to him or her.

Compared to current law, the bill, among other things:

1. more extensively covers agents' authority, duties, and liabilities;
2. allows a principal to grant an agent authority over more subjects, with more specific powers for agents described under each subject than under current law;
3. makes a POA created under its provisions durable, meaning its effectiveness continues after the principal becomes incapacitated, unless the POA expressly states otherwise (§ 4);
4. allows a probate court to continue, limit, suspend, or terminate a POA when appointing a conservator;

5. authorizes certain people to petition the probate court to review a POA or an agent's conduct;
6. requires people to accept POAs in most circumstances, allows people to request information about them, and limits when people can refuse to accept POAs; and
7. provides sample POA forms to implement the bill's provisions (§§ 41 & 42).

The bill gives the probate court power to construe POAs, require agents to account to the court about estates under their control, and provide relief (§ 46).

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2015

§§ 3 & 45 — APPLICABILITY

The bill applies to all POAs except a:

1. POA to the extent it is coupled with an interest in the subject of the power, including a power given to or for a creditor's benefit in a credit transaction;
2. POA to make health care decisions;
3. proxy or other delegation of voting or management rights relating to an entity; or
4. POA created on a government form for a governmental purpose.

It generally applies to (1) POAs regardless of when they were created, (2) judicial proceedings about a POA starting on or after October 1, 2015, and (3) judicial proceedings commenced before that date unless the court finds that applying one of the bill's provisions substantially interferes with the proceeding or prejudices a party's rights. The bill does not affect an act by an agent under a POA before

October 1, 2015.

§§ 5-7 — VALIDITY OF A POA

Under the bill, a POA executed in Connecticut before October 1, 2015 is valid if it complies with legal requirements at the time of its execution. A POA executed on or after that date is valid if:

1. the principal or someone he or she directs signs the principal's name and dates the document and
2. two people witness it.

Signatures by someone other than the principal must take place in the principal's conscious presence. A signature is presumed genuine if the principal acknowledges it before a person authorized to take acknowledgements, such as a notary.

The bill makes an out-of-state POA valid in Connecticut if, at the time of execution, it complied with the requirements of (1) the jurisdiction where it was created, (2) the jurisdiction indicated in the POA, or (3) federal law if it is a military POA. Under the bill, the law of the jurisdiction where the POA was created or the jurisdiction indicated in the POA determines a POA's meaning and effect.

The bill gives a photocopy or electronic copy of the original POA the same effect as the original unless another statute or the POA provides otherwise.

§§ 8, 48-49 & 53 — CONSERVATORS

The bill allows a principal to nominate a conservator of the estate or person in a POA. By law, a probate court can appoint a (1) conservator of the estate for someone who is incapable of managing his or her affairs and (2) conservator of the person for someone who is incapable of caring for himself or herself.

If the principal is the subject of a protective proceeding after executing the POA, the bill requires the court to appoint the person most recently nominated as conservator in a POA unless (1) the person

is unwilling or unable to serve or (2) substantial evidence shows he or she should be disqualified.

If a court appoints a conservator of the estate or another fiduciary to manage some or all of the principal's property, the court may continue, limit, suspend, or terminate the POA and must enter a specific order on whether the agent's authority is limited, suspended, or terminated. If the POA continues, the agent is accountable to the fiduciary and principal. The court can continue certain provisions of the POA while excluding others. The bill reinstates a suspended POA when the principal regains capacity and the conservatorship ends and allows the court to reinstate an agent's authority if it was limited, suspended, or terminated.

§ 9 — WHEN A POA BECOMES EFFECTIVE

Under the bill, a POA is effective when executed unless the POA specifies otherwise.

The principal may, in any POA effective based on a future event or contingency, authorize someone to determine in a record that the event or contingency occurred. If the contingency is the principal's incapacity and the POA does not designate anyone to determine the principal's incapacity or the authorized person is unable or unwilling to do so, the bill requires the determination in a record from:

1. two independent physicians stating that the principal has a mental, emotional, or physical condition that makes him or her unable to receive and evaluate information or make or communicate decisions or
2. a judge or an appropriate government official stating that the principal is missing, detained (including incarcerated), or outside the U.S. and unable to return.

The bill authorizes a person chosen to determine incapacity in a POA to act as the principal's personal representative under the federal Health Insurance Portability and Accountability Act (HIPAA) and

regulations to access health care information and communicate with health care providers.

The bill provides a sample affidavit form if the POA authorizes someone to determine that an event or contingency occurred.

§§ 10 & 11 — TERMINATING A POA OR AGENT'S AUTHORITY

POA

A POA terminates when the:

1. principal dies;
2. principal becomes incapacitated, if the POA is not durable;
3. principal revokes it;
4. POA states that it terminates;
5. POA's purpose is accomplished;
6. principal revokes the agent's authority or the agent dies, is incapacitated, or resigns and the POA does not provide for another agent; or
7. court decides to terminate the POA in connection with a conservatorship proceeding.

A principal's execution of a subsequent POA does not revoke a previous one unless the new one specifies that it does or states that it revokes all previous POAs.

Agent's Authority

Unless the POA provides otherwise, an agent may exercise his or her authority until the authority terminates, regardless of the amount of time since execution of the POA.

The bill terminates an agent's authority when the:

1. principal revokes the authority;

2. court appoints a conservator and chooses to terminate the agent's authority;
3. agent dies, resigns, or becomes incapacitated;
4. agent is the principal's spouse and an action is filed to dissolve or annul the agent's marriage to the principal or for legal separation (the POA can provide that this provision does not apply); or
5. POA terminates.

Unless the POA provides otherwise, an agent is incapacitated when there is a determination in a record that the agent:

1. has a mental, emotional, or physical condition that makes him or her unable to receive and evaluate information or make or communicate decisions, from (a) a judge in a court proceeding, (b) two independent physicians, or (c) a successor agent if the primary agent refuses to be examined by a physician or fails to execute a release of medical information or
2. is missing, detained (including incarcerated), or outside the U.S. and unable to return, from a judge or an appropriate government official.

Binding Actions After Termination

The principal and his or her successors are bound by an agent's actions after an agent's authority or the POA terminates when the agent or other person does not know of the termination and acts in good faith under the POA. This also applies when a POA that is not durable terminates due to the principal's incapacity. But a principal is not bound by acts that are otherwise invalid or unenforceable.

§§ 6, 11-14 & 18—AGENTS

§ 11 — Coagents

A POA may designate two or more coagents who can exercise their authority independently, unless the POA provides otherwise. A

person who in good faith accepts an acknowledged POA from a coagent without knowing the POA or the agent's authority is void, invalid, or terminated or the agent is exceeding or improperly using his or her authority, can rely on the POA .

§ 11 — Successor Agents

The POA can also designate successor agents to replace an agent who resigns, dies, is incapacitated, is unqualified, or declines to serve. The POA can grant authority to designate successor agents to (1) an agent or (2) a person designated by name, office, or function. Unless the POA provides otherwise, a successor agent has the same authority as the original agent and cannot act until there are no predecessor agents.

§ 12 — Compensation

Unless the POA provides otherwise, an agent is entitled to (1) reimbursement for expenses reasonably incurred on the principal's behalf and (2) reasonable compensation.

§ 13 — Accepting Appointments

Unless the POA provides otherwise, a person accepts an appointment as agent if he or she uses the agent's authority, performs the agent's duties, or takes other actions indicating acceptance.

§ 14 — Duties

Regardless of the POA's provisions, an agent who accepts an appointment must act:

1. according to the principal's reasonable expectations, make reasonable efforts to determine them if they are unknown, and otherwise act in the principal's best interest;
2. in good faith; and
3. within the POA's granted authority.

The bill sets additional rules for agents, but allows the POA to alter

these provisions. Unless the POA provides otherwise, the agent must:

1. act loyally for the principal's benefit;
2. avoid conflicts of interest that impair the agent's ability to act impartially in the principal's best interest;
3. act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;
4. keep records of receipts, disbursements, and transactions made on the principal's behalf;
5. cooperate with someone who has authority to make the principal's health care decisions to carry out the principal's reasonable expectations if actually known and otherwise act in the principal's best interest; and
6. attempt to preserve the principal's estate plan if the agent actually knows about it and it is consistent with the principal's best interest based on all relevant factors.

For actions regarding the principal's estate, the agent must consider factors including (1) the property's value and nature; (2) the principal's foreseeable obligations and need for maintenance; (3) minimizing taxes; and (4) eligibility for federal or state benefits, programs, or assistance.

§ 14(h) — Disclosing Certain Records

Unless the POA provides otherwise, an agent is not required to disclose receipts, disbursements, or transactions unless ordered by a court or requested by:

1. the principal;
2. a guardian, conservator, or other fiduciary acting for the principal;
3. a representative of the Department of Social Services' (DSS)

Division of Protective Services for the Elderly; or

4. the personal representative or successor in interest of the principal's estate after the principal's death.

An agent must (1) comply with a request for these documents within 30 days or (2) explain in a record why he or she needs additional time and comply within 30 days of providing the record.

§ 18 — Resignation

Unless the POA provides a different method, an agent may resign by notifying the principal. If the principal is incapacitated, the agent must notify:

1. any appointed guardian, conservator of the estate or person, and any coagent or successor agent or
2. if none of the above exist, the principal's spouse and children, someone reasonably believed to have sufficient interest in the principal's welfare, or a representative of DSS' Division of Protective Services for the Elderly.

§§ 11, 14-15 & 17 — AGENT LIABILITY

Protections

The bill protects an agent from liability under certain circumstances. Specifically, he or she is not liable:

1. to beneficiaries of an estate plan for failing to preserve it if he or she acts in good faith;
2. solely because he or she also benefits from an act or has an interest or conflict about the principal's property or affairs if the agent acts with care, competence, and diligence for the principal's best interest;
3. if the principal's property declines in value unless the agent breached a duty;

4. for the acts, errors, or defaults of someone to whom the agent delegates his or her authority or engages on the principal's behalf, if the agent selected and monitored the person using care, competence, and diligence; and
5. for the actions of another agent if he or she did not participate in or conceal the other agent's breach of fiduciary duty, unless the POA provides otherwise. An agent with knowledge of a breach or an imminent breach must, unless the POA provides otherwise, notify the principal and take reasonable steps to safeguard an incapacitated principal's interests. An agent who fails to take these actions related to another agent's theft or misappropriation of the principal's property is liable for reasonably foreseeable damages that could have been avoided by taking the required action.

Special Skills

When determining whether an agent acted appropriately under the circumstances, the bill requires considering an agent's special skills or expertise if he or she was selected as agent because of them or in reliance on the agent's representations about them.

Waiving Liability

The bill makes binding a POA provision relieving an agent of liability for breaching a duty unless it:

1. relates to a breach involving dishonesty, improper motive, or reckless indifference to the POA's purpose or the principal's best interest or
2. was included because of an abuse of a confidential or fiduciary relationship with the principal.

Liability to Principal and Successors

An agent who violates the bill's provisions is liable to the principal or his or her successors in interest for:

1. an amount required to restore the value of the principal's property to what it would have been if the violation did not occur and
2. reasonable attorneys' fees and costs paid on the agent's behalf.

§§ 16 & 47 — PETITIONING PROBATE COURT TO REVIEW POA OR AGENT'S CONDUCT

The following people may petition the probate court to construe a POA, review an agent's conduct, or obtain relief such as an accounting:

1. the principal or agent;
2. a guardian, conservator, or other fiduciary acting for the principal;
3. a person authorized to make the principal's health care decisions;
4. the principal's spouse, parent, descendant, or caregiver;
5. an individual who (a) would qualify as the principal's presumptive heir or (b) demonstrates sufficient interest in the principal's welfare, such as a caregiver;
6. a person named as a beneficiary to receive property, a benefit, or a contractual right when the principal dies or a trust beneficiary with a financial interest in the principal's estate;
7. a representative of DSS' Division of Protective Services for the Elderly; or
8. a person asked to accept the POA.

The person must apply to the probate court in the district (1) where the agent has a place of business; (2) where the agent or principal resides; or (3) if the principal is deceased, with jurisdiction over the estate or where the principal resided immediately before death.

The bill requires the probate court to grant the petition if it is filed by the principal, agent, guardian, conservator, or other fiduciary. It may do so for any of the people listed above if (1) the petitioner has sufficient interest to be entitled to relief, (2) there is cause shown for the relief requested, and (3) the petition is not intended to harass. The court must dismiss a petition on the principal's motion unless he or she is incapacitated.

§§ 19 & 20 — ACCEPTING A POA

Acknowledged POA

A person who in good faith accepts an acknowledged POA may rely on the bill's presumption that the signature on the POA is genuine (see § 5), as long as the person accepting it does not know that the signature is not genuine. Such a person can rely on the POA if he or she does not know that the (1) POA or the agent's authority is void, invalid, or terminated or (2) agent is exceeding or improperly exercising his or her authority.

Requesting Information

A person asked to accept an acknowledged POA may request and rely on:

1. an agent's certification under penalty of perjury of any fact concerning the principal, agent, or POA;
2. an English translation of any part of the POA in another language; and
3. a counsel's opinion regarding any legal matter involving the POA if the reason for the request is put in a record.

The principal must pay the expense of a translation or opinion if the request for one is made within seven days of presenting the POA for acceptance.

Actual Knowledge of Facts Relating to the POA

A person or business entity that conducts activities through an

employee does not have actual knowledge of a fact involving the POA, principal, or agent if the employee conducting the activity does not know the fact.

Accepting a POA

A person must either accept an acknowledged POA or request information as described above within seven business days of being presented with the POA. If information is requested, the person must accept the POA within five business days of receiving the response.

No one may require an additional or different POA regarding the same authority in a presented POA.

Refusing a POA

A person may refuse to accept an acknowledged POA if:

1. the principal is not eligible or qualified to engage in the transaction;
2. he or she knows that the agent's authority or the POA terminated;
3. the transaction would violate state or federal law;
4. a request for information as described above was refused;
5. he or she has a good faith belief the POA is invalid or the agent lacks authority regarding a particular act, whether or not the person requests or receives additional information through the above process; or
6. he or she makes or knows someone has made a report to DSS' Bureau of Aging with a good faith belief that the principal is subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or someone connected to the agent.

But a probate court or the Superior Court can require a person who refuses to accept an acknowledged POA in violation of the bill to

accept it. The court can also award reasonable attorneys' fees and costs that the prevailing party incurred in the action.

§§ 24-40 — AGENT'S POWERS

An agent may perform the following activities if the POA expressly grants authority and exercising the authority is not prohibited by another agreement or instrument to which the authority or property is subject, such as a trust:

1. create, change, revoke, or terminate an inter vivos trust (one created and effective during a person's lifetime), but certain trusts for disabled people must only be created according to federal law;
2. make a gift;
3. create or change survivorship rights or a beneficiary designation;
4. delegate authority under the POA;
5. waive the principal's right to be a beneficiary of a joint and survivor annuity;
6. exercise fiduciary powers that the principal can delegate; or
7. disclaim property.

An agent who is not the principal's ancestor, spouse, or descendant may not create an interest in the principal's property in the agent or someone the agent is legally obligated to support. But the bill allows the POA to specify otherwise.

The bill also includes the following provisions:

1. When authorities granted an agent are similar or overlap, the broadest authority controls.
2. An agent can exercise authority over property the principal has when executing the POA or that is acquired later regardless of

which state it is in or whether the POA is executed in Connecticut.

3. An agent's act under a POA binds the principal and his or her successors as if the principal performed the act.

§§ 24-26 — Incorporating Powers in a POA

A POA granting an agent authority to do all the acts the principal could do gives the agent the general authority to perform all the functions for the subjects listed below in Table 1, except a grant of authority regarding gifts is subject to the bill's provisions unless the POA provides otherwise.

The bill gives an agent all of the authority described above and in Table 1 below if the POA refers to general authority and uses the descriptive terms for the subjects or cites the relevant sections of the bill for those subjects. Such a reference regarding a subject or citation incorporates all of the provisions regarding that subject. The bill allows a principal to modify authority incorporated by reference.

The bill provides that a POA incorporating the subjects listed in Table 1 by reference or granting an agent authority to do all the acts that the principal could do authorizes the agent, for each subject, to take a number of actions such as:

1. demanding, receiving, or using money the principal is entitled to;
2. entering and changing contracts;
3. executing documents;
4. seeking court or government assistance;
5. hiring and paying professionals such as lawyers and advisors;
6. initiating, participating in, and settling legal claims;
7. communicating with government officials;

8. accessing and making the principal's communications; and
9. doing other lawful acts.

But the bill allows the POA to provide otherwise.

§§ 27-40 — Granting Authority by Subject

The bill describes the specific actions an agent can perform when a POA grants an agent general authority over a subject. But the bill allows a POA to provide otherwise. Table 1 lists each subject covered by the bill and provides examples of the authority the bill gives to an agent under each subject.

Table 1: Agent's Powers Authorized by the Bill, by Subject

Subject (§)	Examples of Agent's Specific Authority Regarding the Subject
Real property (§ 27)	Selling and making certain property transfers, applying for government permits, mortgaging the property and taking other credit-related actions, and using or altering structures
Tangible personal property (§ 28)	Selling and making certain property transfers, granting security interests, and managing the property
Stocks and bonds (§ 29)	Buying and selling stocks and bonds, changing accounts related to them, using them to borrow money, and exercising voting rights
Commodities and options (§ 30)	Buying and selling commodities and options and changing accounts related to them
Banks and financial institutions (§ 31)	Making changes to accounts or contracting for services with these institutions, using safe deposit boxes, borrowing money, and using checks or other forms of payment
Operating an entity or business (§ 32)	Subject to a document or agreement governing an entity or ownership interest: operating or making changes to ownership interests, performing duties or discharging liabilities, exercising rights, taking certain actions when the principal is the sole owner, adding capital to the entity, and taking part in certain transactions
Insurance and annuities (§ 33)	Paying premiums and making changes to insurance contracts and annuities, acquiring loans based on an insurance or annuity contract, exercising elections and investment powers, determining payments from insurance contracts or annuities, and paying related taxes
Estates, trusts, and other beneficial interests (§ 34)	Accepting and disposing of payments from a trust, estate, or beneficial interest; exercising a power of appointment; and transferring securities to the trustee of a revocable trust
Claims and litigation (§ 35)	Asserting claims before courts and administrative agencies, seeking relief and satisfying judgments, accepting service of process, acting for the principal in bankruptcy proceedings, paying judgments, and settling claims

Personal and family maintenance (§ 36)	Acting to maintain the customary standard of living and providing living quarters for the principal and certain others, making support payments required by law or agreement, paying health care expenses, and providing for transportation and other needs and expenses
Benefits from government programs and civil or military service (§ 37)	Making changes regarding the principal's enrollment in benefit programs, making benefit claims, and receiving claim proceeds
Retirement plans (§ 38)	Determining how to receive payments from plans, creating and contributing to plans, making investments, and making decisions regarding assets
Taxes (§ 39)	Preparing and filing income, gift, payroll, and other taxes; paying taxes and claiming refunds; receiving confidential information from taxing authorities; and acting for the principal in all matters before taxing authorities
Gifts (§ 40)	Making gifts with consideration of certain federal tax consequences and consistent with the principal's objectives, if known, or as the agent determines are in the principal's best interest based on certain factors

§§ 21-23 & 43-44 — OTHER PROVISIONS

Under the bill:

1. the principles of law and equity generally supplement the bill's provisions (§ 21);
2. the bill's provisions do not supersede other laws on financial institutions and other entities, and the other laws control if they are inconsistent with the bill (§ 22); and
3. the bill's remedies do not limit other rights and remedies under state law (§ 23).

In applying and construing the bill's provisions, consideration must be given to the need to promote uniformity with respect to its subject matter among states that enact the uniform provisions (§ 43).

The bill provides that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (E-SIGN). But it does not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices that are not subject to E-SIGN (§ 44). The bill does

not specify how it relates to the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to -286), which also validates the use of electronic records and signatures.

The probate court generally has jurisdiction to construe the meaning and effect of an inter vivos trust if the court could order an accounting. The bill limits this jurisdiction to cases where a trust beneficiary petitions the court for this purpose (§ 46).

BACKGROUND

Related Bill

sSB 1005, File 201, favorably reported by the Aging Committee, also adopts the Uniform Power of Attorney Act.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 31 Nay 11 (04/06/2015)