OLR Bill Analysis
SB 190

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

SUMMARY

This bill generally requires a financial institution (see below) to accept an acknowledged power of attorney (POA) if it is prepared in the state statutory form for financial accounts or pursuant to the Connecticut Uniform Power of Attorney Act. A POA is a document giving authority to an agent to act on behalf of the person who grants the authority (the principal).

Under current law, anyone, including a financial institution, who is asked to accept a POA must, within seven business days of being presented with it, either accept it or ask for a certification, an English translation, or an attorney’s opinion about it. And if the person asks for one of the three documents, then the POA must be accepted within five business days after receiving the requested document.

The bill eliminates this process for financial institutions. Instead, a financial institution must accept a POA when it is presented for acceptance, regardless of whether or not the institution asks for a certification, translation, or attorney opinion. Under the bill, a financial institution may still ask for the documents, but it cannot refuse a POA or delay its acceptance without such documents. As under existing law, financial institutions may refuse to accept a POA if the POA is not in effect (see BACKGROUND).

Conforming to the bill’s requirement for a financial institution’s immediate acceptance of a POA, the bill requires the principal to cover the cost of an English translation or attorney opinion that a financial institution requests at the time the POA is presented for acceptance. Under current law, the principal must cover the expense if the request
for any such document is made within the seven business days after the POA is presented.

Under existing law, and unchanged by the bill, refusing to accept a POA in violation of the law subjects a violator to a court order requiring its acceptance and liability for reasonable attorney’s fees and costs.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2019

FINANCIAL INSTITUTION
Under the bill, “financial institutions” presumably include state banks and trust companies; national banking associations; and state or federally chartered savings banks, savings and loans associations, or credit unions. This is the definition of the term for the purposes of the laws that govern the state’s statutory POA form for financial accounts.

BACKGROUND
Liability Exceptions
By law, POAs cease if a conservator of the principal’s estate is appointed or the principal dies. The law, unchanged by the bill, exempts financial institutions from liability for paying funds held in a POA account based on the associated statutory POA unless there is written notice of its termination.

Existing law also allows financial institutions to accept POAs without liability if they do so in good faith and without actual knowledge of a falsehood or that the POA is ineffective.

COMMITTEE ACTION
Banking Committee

Joint Favorable
Yea 15  Nay 0  (03/12/2019)