

**MARYLAND STATE BAR ASSOCIATION
ESTATE AND TRUST LAW SECTION**

2009 Legislative Agenda

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A. Description of the Issue Addressed and the Section Council’s Proposal

B. Proposed Text of New Subtitle 8 (captioned “Modified Judicial Review”) for Title 5 of the Maryland Code’s Estates and Trusts Article.

2. Limited Use of Attorney Trustee Accounts for Estate Funds and Expenditures

New Section 7-101(d) of the Maryland Code Estates and Trusts Article to allow the use of an attorney’s trust account for up to 5 estate disbursements.

A. Description of the Issue Addressed and the Section Council’s Proposal

B. Blackline Version Showing Statutory Text Changes Proposed

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- A. Description of the Issue Addressed and the Section Council's Proposal
- B. Blackline Version Showing Statutory Text Changes Proposed
- C. Proposed New Statutory Language (without blackline formatting)

4. Direct Filing of Maryland Estate Tax Returns with the Comptroller (as an Alternative to Filing with Registers of Wills)

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- A. Description of the Issue Addressed and the Section Council's Proposal
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- B. 1008 House Bill 412 as amended by HB0412/292011/1 (04/04/08 at 10:41 a.m.)

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New Section 7-202(g) of the Maryland Code Estates and Trusts Article to allow valuation of real property for inheritance tax purposes by reference to a settlement statement for an arm's length contract of sale if settlement occurs within 9 months of the decedent's death.

- A. Description of the Issue Addressed and the Section Council's Proposal
- B. Blackline Version Showing Statutory Text Changes Proposed
- C. Proposed New Statutory Language (without blackline formatting)

7. Statutory Authority for Personal Representatives and Trustees to Become Limited Partnership Limited Partners and Limited Liability Company Members

Amendments to Section 7-401(u) and 15-102(q) of the Maryland Code Estates and Trusts Article expressly stating personal representative and trustee authority to invest as limited partners and/or as LLC members.

- A. Description of the Issue Addressed and the Section Council's Proposal
- B. Copy of 2007 Session Senate Bill 435 that included the amendments proposed.

8. Clarify Effect of Divorce on the Will of a Divorced Person

Amendment to Section 4-105(4) of the Maryland Code Estates and Trusts Article to expressly state that, unless otherwise provided in the will or divorce decree, all property or other benefits passing to the surviving divorced spouse under the will shall be treated as if the surviving divorced spouse had died before the execution of the will.

- A. Description of the Issue Addressed and the Section Council's Proposal
- B. Blackline Version Showing Statutory Text Changes Proposed
- C. Proposed New Statutory Language (without blackline formatting)

9. Estates and Trusts Article Cross-Reference to Criminal Statute Prohibiting Estate Distributions to Persons Convicted of Abusing Vulnerable Adults

New subsection (b) of Maryland Code Estates and Trusts Article Section 3-111 to cross-reference Criminal Law Article Section 8-801. (The current text of Section 3-111 would become subsection (a)).

- A. Description of the Issue Addressed and the Section Council's Proposal
- B. Blackline Version Showing Statutory Text Changes Proposed
- C. Proposed New Statutory Language (without blackline formatting)

1. Petition for Modified Judicial Probate of a Copy of an Original Executed Will

The Issue Addressed: At the present time, questions exist as to whether a copy of an original executed will can be admitted to probate in the absence of the original. This issue is currently is addressed differently in separate jurisdictions. In some, the Register of Wills admits copies in the place of originals as a matter of course. In some, such admission requires the commencement of judicial probate with all ensuing proceedings requiring continued judicial probate (and required formal hearings).

The MSBA Estate and Trust Law Section Council's Proposal: At the request of the Orphans' Court Judges and the Registers of Wills, Section Council members (led by Attorney Allan Gibber) propose a modified judicial probate procedure for the admission of copies of original executed wills in situations where all legatees and heirs at law consent. In these situations, the Orphans' Court would be authorized to decide whether to issue an order authorizing the petitioner to proceed with administrative probate or an order requiring the filing of judicial probate for the estate.

**LEGISLATIVE CHANGE
TITLE 5
SUBTITLE 8**

MODIFIED JUDICIAL REVIEW

SECTION 5-801 – NATURE OF PROCEEDING

Modified judicial review is a proceeding instituted by the filing of a petition for modified judicial review by an interested person for the probate of a copy of an executed will. Notice to interested persons of the filing of the petition is not required.

SECTION 5-802 – WHEN AVAILABLE

A proceeding for modified judicial review may be instituted at any time before administrative or judicial probate if:

- a. it is alleged that the original executed will was lost or destroyed,
- b. there is offered for probate a duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and the witnesses, and
- c. all the heirs at law and legatees named in the offered will execute a consent in the manner set forth in Sec 5-803.

SECTION 5-803 – CONSENT

The consent required in Sec 5-802 shall be in substantially the following form:

**CONSENT TO PROBATE OF COPY OF EXECUTED
LAST WILL AND TESTAMENT**

The undersigned _____ and _____, being all the heirs at law of the decedent and all the legatees named in that certain will executed by the decedent on _____, hereby consent to the probate of the copy of said executed will, it having been determined, after an extensive search of the decedent's personal records, that an original of the said will cannot be located. By signing this Consent each of the undersigned affirms that it is his or her belief that the will executed by the decedent on _____, is the last valid will executed by the decedent and was not revoked and that the copy of said will, as submitted herewith, represents a true and correct copy of such will.

We do affirm under the penalties of perjury that the facts set forth in this Consent are true and correct to the best of our knowledge, information, and belief.

DATE	SIGNATURE	PRINT NAME AND RELATIONSHIP
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

SECTION 5-804 – ACTION ON PETITION

Within the court’s discretion, the court may:

- a. without a hearing, issue an order authorizing the petitioner to proceed with administrative probate in accordance with the provisions of Subtitle 3 and for the register to accept the copy of the will for administrative probate, or
- b. require the filing of judicial probate in accordance with the provisions of Subtitle 4.

2. Limited Use of Attorney Trustee Accounts for Estate Funds and Expenditures

The Issue Addressed: At the present time, current case law precludes the deposit of estate funds in the general trust (“IOLTA”) account of the estate’s attorney. *See, e.g., Attorney Grievance Commission of Maryland v. Mason*, 295 Md. 49, 453 A.2d 143 (1982); *Attorney Grievance Commission v. Boehm*, 293 Md. 476, 479 at n.2, 446 A.2d 52,54 (1982). This presents a hardship for the personal representative when the personal representative is required to open and maintain a separate bank account for a very limited number of transactions, when the attorney is required or expected to pay certain estate expenses (such as the costs of publication or appraisals obtained for the personal representative), or when funds are discovered or received after the closing of the estate accounts.

The MSBA Estate and Trust Law Section Council’s Proposal: The Section Council’s proposal explicitly requires estate funds to be deposited into separate estate accounts clearly identified in the name of the personal representative in his fiduciary capacity. At the same time, however, limited deposits and disbursements of estate funds into and from attorney trust accounts would be authorized when the total number of disbursements will number five or less.

LEGISLATIVE CHANGE
SECTION 7-101(d)
ESTATES AND TRUSTS ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

§ 7-101. General functions

(a) A personal representative is a fiduciary. He is under a general duty to settle and distribute the estate of the decedent in accordance with the terms of the will and the estates of decedents law as expeditiously and with as little sacrifice of value as is reasonable under the circumstances. He shall use the authority conferred upon him by the estates of decedents law, by the terms of the will, by orders in proceedings to which he is party, and by the equitable principles generally applicable to fiduciaries, fairly considering the interests of all interested persons and creditors.

(b) Unless the time of distribution is extended by order of court for good cause shown, the personal representative shall distribute all the assets of the estate of which he has taken possession or control within the time provided in § 7-305 for rendering his first account.

(c) The personal representative does not incur any personal liability by his payment of claims or distribution of assets even if he does not consider claims for injuries to the person prosecuted under the provisions of § 8-103(e) or § 8-104, if at the time of payment or distribution:

- (1) He had no actual knowledge of the claim; and
- (2) The plaintiff had not filed on time his claim with the register.

(D) DEPOSIT OF ESTATE FUNDS.- FUNDS OF THE ESTATE SHALL BE DEPOSITED INTO ONE OR MORE SEPARATE ESTATE ACCOUNTS CLEARLY IDENTIFIED BY THE NAME OF THE PERSONAL REPRESENTATIVE IN HIS FIDUCIARY CAPACITY. ESTATE FUNDS MAY ALSO BE ADMINISTERED ON BEHALF OF THE ESTATE AS A PART OF AN ATTORNEY'S GENERAL TRUST ACCOUNT IF THE TOTAL NUMBER OF ESTATE DISBURSEMENTS FROM THE TRUST ACCOUNT IS FIVE OR LESS.

Modified Judicial Probate of a Copy
of an Original Executed Will

Note:

Deletions from the existing statutory text is shown as stricken, ~~such as this~~.

Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

LEGISLATIVE CHANGE
SECTION 7-101
ESTATES AND TRUSTS ARTICLE

Proposed New Statutory Language

§ 7-101. General functions

(a) A personal representative is a fiduciary. He is under a general duty to settle and distribute the estate of the decedent in accordance with the terms of the will and the estates of decedents law as expeditiously and with as little sacrifice of value as is reasonable under the circumstances. He shall use the authority conferred upon him by the estates of decedents law, by the terms of the will, by orders in proceedings to which he is party, and by the equitable principles generally applicable to fiduciaries, fairly considering the interests of all interested persons and creditors.

(b) Unless the time of distribution is extended by order of court for good cause shown, the personal representative shall distribute all the assets of the estate of which he has taken possession or control within the time provided in § 7-305 for rendering his first account.

(c) The personal representative does not incur any personal liability by his payment of claims or distribution of assets even if he does not consider claims for injuries to the person prosecuted under the provisions of § 8-103(e) or § 8-104, if at the time of payment or distribution:

- (1) He had no actual knowledge of the claim; and
- (2) The plaintiff had not filed on time his claim with the register.

(d) *Deposit of estate funds.*- Funds of the estate shall be deposited into one or more separate estate accounts clearly identified by the name of the personal representative in his fiduciary capacity. Estate funds may also be administered on behalf of the estate as a part of an attorney's general trust account if the total number of estate disbursements from the trust account is five or less.

3. Increase in Jurisdictional Limit for Orphans' Court Determination of Questions of Title to Personal Property

The Issue Addressed: At the present time, current law limits Orphans' Court jurisdiction for determinations of title to personal property to questions of title involving personal property not exceeding \$20,000 in value. This jurisdictional limit is now too low to allow Orphans' Courts efficiently to determine many personal property controversies and requires interested persons instead to take these controversies to Circuit Court. Such Circuit Court litigation can take much longer and be much more expensive than alternative Orphans' Court determinations.

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council's proposal increases the Orphans' Court jurisdiction for the determination of personal property questions of title to matters involving personal property not exceeding \$50,000 in value.

LEGISLATIVE CHANGE
SECTION 1-301
ESTATES AND TRUSTS ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

§ 1-301. All decedent's property included

(a) *In general.*- All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

(b) *Personal property.*- The court may determine questions of title to personal property not exceeding \$~~20,000~~ **50,000** in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

Jurisdiction for Orphans Court Determination
of Questions of Title to Personal Property

Note:

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LEGISLATIVE CHANGE
SECTION 1-301
ESTATES AND TRUSTS ARTICLE

Proposed New Statutory Language

§ 1-301. All decedent's property included

(a) *In general.*- All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

(b) *Personal property.*- The court may determine questions of title to personal property not exceeding \$50,000 in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

4. Direct Filing of Maryland Estate Tax Returns with the Comptroller (as an Alternative to Filing with Registers of Wills)

The Issue Addressed: Currently, even though the Revenue Administration Division of the Comptroller of the Treasury administers the estate tax, Maryland estate tax returns and inheritance tax returns must be filed with the county Register of Wills where the decedent resided at the time of death. Upon receipt of Maryland estate tax returns, the Register must certify the amount of inheritance tax paid with respect to the decedent and then transmit the entire package to the Comptroller's office. In many cases, there are no inheritance taxes to certify because all estate property passes to exempt persons or charitable entities. In addition, Maryland estate tax returns include lengthy required attachments (including a complete copy of the federal estate tax return) explaining the matters reported. There is no apparent need for the filing of such voluminous estate tax returns with the Register and for the Register's subsequent transmission of the return to the Comptroller when the return could more efficiently be filed directly with the Comptroller.

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council's proposal would allow the filing of Maryland estate tax returns directly with either the Comptroller or the county Register of Wills where the decedent resided at the time of death. For returns filed directly with the Comptroller, Registers of Wills would merely

be required to certify to the Comptroller the inheritance taxes paid when requested to do so by the interested parties.

Representatives of the Orphans' Court judges, Registers of Wills, the MSBA Estate and Trust Law Section, and the Attorney General's office meet three times per year to discuss legislation and other issues. At the most recent meeting on September 25th, all parties agreed to support this proposal, provided the filing of a Maryland estate tax return with the Register remains an available alternative.

A similar bill, House Bill 1168 was drafted in 2007. However, House Bill 1168 did not include the alternative of filing a Maryland estate tax return with the Register .

LEGISLATIVE CHANGE
SECTIONS 2-232, 7-305, AND 7-306
TAX-GENERAL ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

7-232. Payment certified

Each register shall certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register **OR FOR WHOM THE REGISTER RECEIVES A REQUEST FOR THE CERTIFICATION FROM:**

(1) THE COMPTROLLER;

(2) THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE;
OR

(3) ANY PERSON REQUIRED TO FILE A MARYLAND ESTATE TAX RETURN WITH REGARD TO PROPERTY PASSING FROM THE DECEDENT.

7-305. Filing return

(a) If a federal estate tax return is required to be filed, the person responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the **COMPTROLLER OR THE** register 9 months after the date of the death of a decedent.

(b) If a federal estate tax return is not required to be filed but a federal estate tax return would be required to be filed if the applicable exclusion amount under § 2010(c) of the Internal Revenue Code were no greater than \$1,000,000, the person who would be responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the **COMPTROLLER OR THE** register 9 months after the date of the death of the decedent.

Direct Filing of Maryland Estate Tax Return
with the Comptroller (or the Register of Wills)

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Note:

Deletions from the existing statutory text is shown as stricken, ~~such as this~~.

Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

(c)(1) After a person files a Maryland estate tax return, the person shall file an amended Maryland estate tax return with the ~~register~~ **COMPTROLLER** if the Maryland estate tax liability is increased because of:

(i) a change in the federal gross estate, federal taxable estate, federal estate tax, or other change as determined under the Internal Revenue Code;

(ii) after-discovered property;

(iii) a correction to the value of previously reported property;

(iv) a correction to the amount of previously claimed deductions; or

(v) any other correction to a previously filed return.

(2) The amended return shall be filed within 90 days after the later to occur of the date of the event that caused the increase in the Maryland estate tax liability or the date on which the person required to file an amended Maryland estate tax return learned or reasonably should have learned of the increase in the Maryland estate tax liability.

§ 7-306. Payment of tax

(a) Except as provided in § 7-307 of this subtitle, the person responsible for filing the Maryland estate tax return under § 7-305 of this subtitle shall pay the Maryland estate tax to the Comptroller no later than 9 months after the date of the death of the decedent.

(b) An extension of time to file the Maryland estate tax return granted by the Comptroller under § 7-305.1 of this subtitle does not extend the time for remitting the Maryland estate tax.

(c) If an amended Maryland estate tax return is filed pursuant to § 7-305(c) of this subtitle, the person responsible for filing the amended Maryland estate tax return shall pay the additional Maryland estate tax developed on the amended Maryland estate tax return to the Comptroller when the amended Maryland estate tax return is filed with the ~~register~~ **COMPTROLLER**.

Note:

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Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

LEGISLATIVE CHANGES
SECTIONS 2-232, 7-305, AND 7-306
TAX-GENERAL ARTICLE

Proposed New Statutory Language

7-232. Payment certified

Each register shall certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register or for whom the register receives a request for the certification from:

- (1) the Comptroller;
- (2) the personal representative of the decedent's estate; or
- (3) any person required to file a Maryland estate tax return with regard to property passing from the decedent.

7-305. Filing return

(a) If a federal estate tax return is required to be filed, the person responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the Comptroller or the register 9 months after the date of the death of a decedent.

(b) If a federal estate tax return is not required to be filed but a federal estate tax return would be required to be filed if the applicable exclusion amount under § 2010(c) of the Internal Revenue Code were no greater than \$1,000,000, the person who would be responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the Comptroller or the register 9 months after the date of the death of the decedent.

(c)(1) After a person files a Maryland estate tax return, the person shall file an amended Maryland estate tax return with the Comptroller if the Maryland estate tax liability is increased because of:

- (i) a change in the federal gross estate, federal taxable estate, federal estate tax, or other change as determined under the Internal Revenue Code;
- (ii) after-discovered property;
- (iii) a correction to the value of previously reported property;

- (iv) a correction to the amount of previously claimed deductions; or
- (v) any other correction to a previously filed return.

(2) The amended return shall be filed within 90 days after the later to occur of the date of the event that caused the increase in the Maryland estate tax liability or the date on which the person required to file an amended Maryland estate tax return learned or reasonably should have learned of the increase in the Maryland estate tax liability.

§ 7-306. Payment of tax

(a) Except as provided in § 7-307 of this subtitle, the person responsible for filing the Maryland estate tax return under § 7-305 of this subtitle shall pay the Maryland estate tax to the Comptroller no later than 9 months after the date of the death of the decedent.

(b) An extension of time to file the Maryland estate tax return granted by the Comptroller under § 7-305.1 of this subtitle does not extend the time for remitting the Maryland estate tax.

(c) If an amended Maryland estate tax return is filed pursuant to § 7-305(c) of this subtitle, the person responsible for filing the amended Maryland estate tax return shall pay the additional Maryland estate tax developed on the amended Maryland estate tax return to the Comptroller when the amended Maryland estate tax return is filed with the Comptroller.

5. Uniform Power of Attorney Act

The Issues Addressed: Currently, very little law exists concerning the enforceability and nature of the relationships created under powers of attorney. Hardships are often created for Maryland residents who wish to rely on such powers of attorney to avoid time-consuming and expensive guardianship court proceedings. At the same time, the standing of interested parties to protect vulnerable adults from the fraudulent use of powers of attorneys is non-existent or, at best, unclear. The Uniform Power of Attorney Act seeks to address these problems while at the same time suggesting a standard form power of attorney that will allow Maryland residents to inexpensively, conveniently, and comprehensively plan for disability without the use of court-supervised guardians

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council again supports enactment of the version of the Uniform Power of Attorney Act that includes the compromise changes worked out during the 2008 General Assembly among legislators and the estates and trusts, elder law, banking, and business law communities. This version is shown in the attached copy of 2008 House Bill 412 (as amended by HB0412/292011/1 (04/04/08 at 10:41 a.m.))

UNOFFICIAL COPY OF HOUSE BILL 412

HOUSE BILL 412

N2
SB 185/07 - JPR

8lr2308
CF SB 87

By: **Delegate Dumais**
Introduced and read first time: January 28, 2008
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Power of Attorney Act - Loretta's Law**

3 FOR the purpose of repealing certain provisions of law relating to durable powers of
4 attorney; establishing the Maryland Uniform Power of Attorney Act;
5 establishing certain exceptions to the application of this Act; establishing that a
6 power of attorney created under this Act is durable unless the power of attorney
7 contains a certain provision; requiring a power of attorney to be signed by the
8 principal or a certain other individual; providing that the signature on a power
9 of attorney is presumed genuine under certain circumstances; providing for the
10 validity of certain powers of attorney under certain circumstances; providing
11 that a certain photocopy or electronically transmitted copy of an original power
12 of attorney has a certain effect under certain circumstances; providing for the meaning and effect
of a certain
13 power of attorney in certain circumstances; authorizing a principal, in a power
14 of attorney, to make a certain nomination; ~~requiring a court to make a certain~~
15 ~~appointment~~; establishing the accountability of a certain agent under certain
16 circumstances; establishing that, with certain exceptions, a certain court
17 appointment does not terminate a power of attorney; establishing that a power
18 of attorney is effective under certain circumstances; authorizing a principal in a
19 power of attorney to authorize certain persons to make a certain determination;
20 establishing that a certain power of attorney may become effective on a certain
21 determination by a certain individual; establishing certain circumstances under
22 which a certain person may act as the principal's personal representative for
23 certain purposes; establishing certain circumstances under which a power of
24 attorney terminates; providing that a certain agent's authority remains
25 exercisable, notwithstanding certain circumstances; establishing that the
26 termination of an agent's authority or a power of attorney is not effective as to
27 certain persons under certain circumstances; establishing that certain persons
28 are bound by certain acts; establishing that the incapacity of a certain principal
29 in a power of attorney does not have a certain effect; establishing that the
30 execution of a power of attorney does not revoke a previously executed power of
31 attorney, with certain exceptions; authorizing a principal in a power of attorney

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UNOFFICIAL COPY OF HOUSE BILL 412

1 to designate a certain number of coagents for certain purposes; authorizing a
2 principal in a power of attorney to make certain designations and grant a
3 certain authority; establishing the authority of a certain successor agent in
4 certain circumstances; limiting the liability of a certain agent for the actions of
5 another agent in certain circumstances; requiring a certain agent with certain
6 knowledge to take certain actions; establishing liability of a certain agent for
7 failure to take certain actions in certain circumstances; establishing the
8 entitlement of a certain agent to a certain reimbursement of expenses in certain
9 circumstances; providing for the acceptance of a certain appointment by an
10 agent under certain circumstances; requiring a certain agent that has accepted
11 a certain appointment to act in a certain manner; providing for the liability of a
12 certain agent under certain circumstances; establishing that a certain agent is
13 not required to disclose certain information, with certain exceptions; requiring a
14 certain agent to comply with a certain request within a certain time period,
15 under certain circumstances; establishing that a certain provision in a power of
16 attorney is binding on certain persons; authorizing certain persons to petition a
17 court for certain purposes; requiring a court to dismiss a certain petition;
18 providing for the liability of a certain agent for a certain amount; authorizing a
19 certain agent to resign by giving a certain notice; ~~authorizing a certain person to~~
20 ~~rely on a certain presumption~~ providing that a person who accepts a certain power of attorney under
21 certain circumstances is not liable for a claim concerning a certain signature; authorizing a
22 certain person to rely on a certain power of attorney without liability under certain
23 circumstances; authorizing a certain
24 person to request and rely on a certain certification, translation, or opinion,
25 without further investigation and without liability under certain circumstances; establishing that
26 a certain person is without
27 actual knowledge of a certain fact under certain circumstances; requiring a
28 person to either accept a certain power of attorney or request a certain
29 certification, translation, or opinion of counsel within a certain period after
30 presentation of the power of attorney, except under certain circumstances;
31 requiring a person to accept a certain power of attorney within a certain period
32 after receiving the certification, translation, or opinion of counsel, except under
33 certain circumstances; prohibiting a person from requiring a certain additional
34 or different power of attorney under certain circumstances; providing that a
35 person that refuses to accept a certain power of attorney in violation of this Act
36 is subject to a certain court order and liability for certain fees and costs incurred
37 in a certain action; providing that a court may award certain fees and costs if a proceeding to mandate
38 acceptance of a power of attorney was brought other than in good faith; establishing that this Act
39 does not supersede and is
40 controlled by certain other laws; authorizing a certain agent to do certain acts
41 only under certain circumstances; prohibiting an agent that is not an ancestor,
42 spouse, or descendent of the principal from exercising a certain authority;
43 providing that a certain power of attorney provides a certain agent with certain
44 authority; subjecting a certain grant of authority to certain limitations of this
45 Act; providing for a certain controlling authority under certain circumstances;
46 establishing certain circumstances under which a certain authority is
47 exercisable with respect to certain property; establishing that a certain act
48 performed by a certain agent has a certain effect and inures to the benefit of
and binds certain persons; establishing that a certain agent has authority
described in this Act under certain circumstances; providing that a certain
reference in a power of attorney incorporates a certain provision of this Act as if
set out in full; authorizing a certain principal to modify a certain authority;
providing that a principal, by executing a certain power of attorney, authorizes

3 **UNOFFICIAL COPY OF HOUSE BILL 412**

1 an agent to do certain acts; establishing that certain language authorizes a
2 certain agent to do certain acts; establishing that certain language in a power of
3 attorney, subject to the terms of a certain document or agreement, authorizes
4 the agent to do certain acts; establishing that certain language in a power of
5 attorney authorizes the agent to do only certain acts; establishing that a
6 document substantially in a certain form may be used to create a certain
7 statutory form power of attorney; establishing that a certain optional form may
8 be used by an agent to certify certain facts concerning a power of attorney;
9 authorizing the use of the title of this Act in certain circumstances; requiring
10 that, in applying and construing this Act, a certain consideration be given;
11 establishing that this Act modifies, limits, and supersedes a provision of a
12 certain federal law, but not certain other provisions; providing for the
13 application of this Act; defining certain terms; and generally relating to powers
14 of attorney.

15 BY repealing

16 Article - Estates and Trusts
17 Section 13-601 through 13-603 and the subtitle "Subtitle 6. Powers of Attorney"
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2007 Supplement)

20 BY adding to

21 Article - Estates and Trusts
22 Section 17-101 through 17-404 to be under the new title "Title 17. Maryland
23 Uniform Power of Attorney Act"
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2007 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article - Estates and Trusts**

29 **[Subtitle 6. Powers of Attorney.]**

30 **[13-601.**

31 (a) In this section, "durable power of attorney" means a power of attorney by
32 which a principal designates another as an attorney in fact or agent and the authority
33 is exercisable notwithstanding the principal's subsequent disability or incapacity.

34 (b) Except as provided in subsection (e) of this section, when a principal
35 designates another as an attorney in fact or agent by a power of attorney in writing, it
36 is a durable power of attorney unless otherwise provided by its terms.

37 (c) Any act done by the attorney in fact or agent pursuant to the power
38 during any period of disability or incompetence or uncertainty as to whether the

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1 principal is dead or alive has the same effect and inures to the benefit of and binds the
2 principal as if the principal were alive, competent, and not disabled.

3 (d) If a guardian is appointed for the principal, the attorney in fact or agent
4 shall account to the guardian rather than the principal. The guardian has the same
5 power the principal would have but for his disability or incompetence to revoke,
6 suspend, or terminate all or any part of the power of attorney or agency.

7 (e) (1) This section does not apply to an instrument or portion of an
8 instrument that is an advance directive appointing a health care agent under Title 5,
9 Subtitle 6 of the Health - General Article.

10 (2) An instrument or portion of an instrument that is an advance
11 directive appointing a health care agent is subject to the provisions of Title 5, Subtitle
12 6 of the Health - General Article.]

13 [13-602.

14 (a) The death, disability, or incompetence of a principal who has executed a
15 power of attorney in writing does not revoke or terminate the agency as to the
16 attorney in fact, agent, or other person who, without actual knowledge of the death,
17 disability, or incompetence of the principal, acts in good faith under the power of
18 attorney or agency. Unless otherwise invalid or unenforceable, any action taken binds
19 the principal and his heirs, legatees, and personal representatives.

20 (b) In the absence of fraud, an affidavit executed by the attorney in fact or
21 agent and stating that he did not have, at the time of doing an act pursuant to the
22 power of attorney, actual knowledge of the revocation or termination of the power of
23 attorney by death, disability, or incompetence, is conclusive proof of the nonrevocation
24 or nontermination of the power at that time. If the exercise of the power requires
25 execution and delivery of any instrument which is recordable, the affidavit when
26 authenticated for record is likewise recordable.

27 (c) This section may not be construed to alter or affect any provision for
28 revocation or termination contained in the power of attorney.]

29 [13-603.

30 If any member of the armed services of the United States has executed a power
31 of attorney, the fact that the person has been reported or listed, officially or otherwise,
32 as "missing in action", as that phrase is used in military parlance, may not operate to
33 revoke the power of attorney, unless the instrument otherwise provides.]

34 **TITLE 17. MARYLAND UNIFORM POWER OF ATTORNEY ACT.**

35 **SUBTITLE 1. GENERAL PROVISIONS.**

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1 17-101.

2 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) (1) "AGENT" MEANS A PERSON GRANTED AUTHORITY TO ACT FOR
5 A PRINCIPAL UNDER A POWER OF ATTORNEY, WHETHER DENOMINATED AN
6 AGENT, ATTORNEY-IN-FACT, OR OTHERWISE.

7 (2) "AGENT" INCLUDES AN ORIGINAL AGENT, COAGENT,
8 SUCCESSOR AGENT, AND A PERSON TO WHICH AN AGENT'S AUTHORITY IS
9 DELEGATED.

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

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

15 (E) "GOOD FAITH" MEANS HONESTY IN FACT.

16 (F) "INCAPACITY" MEANS INABILITY OF AN INDIVIDUAL TO MANAGE
17 PROPERTY OR BUSINESS AFFAIRS EFFECTIVELY BECAUSE THE INDIVIDUAL:

18 (1) MEETS THE GROUNDS REQUIRED FOR THE APPOINTMENT OF
19 A GUARDIAN OF THE PROPERTY OF A DISABLED PERSON DESCRIBED IN § 13-201
20 OF THIS ARTICLE; OR

21 (2) IS:

22 (I) MISSING;

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

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

27 (G) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
28 TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,
29 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR
30 GOVERNMENTAL SUBDIVISION, AGENCY, INSTRUMENTALITY, OR OTHER LEGAL
31 OR COMMERCIAL ENTITY.

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

4 (I) (1) "PRESENTLY EXERCISABLE GENERAL POWER OF
5 APPOINTMENT" MEANS, WITH RESPECT TO PROPERTY OR A PROPERTY
6 INTEREST SUBJECT TO A POWER OF APPOINTMENT, POWER EXERCISABLE AT
7 THE TIME IN QUESTION TO VEST ABSOLUTE OWNERSHIP IN THE PRINCIPAL
8 INDIVIDUALLY, THE PRINCIPAL'S ESTATE, THE PRINCIPAL'S CREDITORS, OR
9 THE CREDITORS OF THE PRINCIPAL'S ESTATE.

10 (2) "PRESENTLY EXERCISABLE GENERAL POWER OF
11 APPOINTMENT" INCLUDES A POWER OF APPOINTMENT NOT EXERCISABLE UNTIL
12 THE OCCURRENCE OF A SPECIFIED EVENT, THE SATISFACTION OF AN
13 ASCERTAINABLE STANDARD, OR THE PASSAGE OF A SPECIFIED PERIOD ONLY
14 AFTER THE OCCURRENCE OF THE SPECIFIED EVENT, THE SATISFACTION OF THE
15 ASCERTAINABLE STANDARD, OR THE PASSAGE OF THE SPECIFIED PERIOD.

16 (3) "PRESENTLY EXERCISABLE GENERAL POWER OF
17 APPOINTMENT" DOES NOT INCLUDE A POWER EXERCISABLE IN A FIDUCIARY
18 CAPACITY OR ONLY BY WILL.

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

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

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

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

29 (1) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

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

32 (N) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
33 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY

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1 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
2 UNITED STATES.

3 (o) (1) "STOCKS AND BONDS" MEANS STOCKS, BONDS, MUTUAL
4 FUNDS, AND ALL OTHER TYPES OF SECURITIES AND FINANCIAL INSTRUMENTS,
5 WHETHER HELD DIRECTLY, INDIRECTLY, OR IN ANOTHER MANNER.

6 (2) "STOCKS AND BONDS" DOES NOT INCLUDE COMMODITY
7 FUTURES CONTRACTS AND CALL OR PUT OPTIONS ON STOCKS OR STOCK
8 INDEXES.

9 17-102.

10 THIS TITLE APPLIES TO ALL POWERS OF ATTORNEY EXCEPT:

11 (1) A POWER TO THE EXTENT THE POWER IS COUPLED WITH AN
12 INTEREST IN THE SUBJECT OF THE POWER, IS GIVEN AS SECURITY, OR IS GIVEN FOR
CONSIDERATION,

REGARDLESS OF WHETHER THE POWER IS HELD FOR THE BENEFIT OF THE AGENT OR ANOTHER
PERSON, INCLUDING A

POWER GIVEN TO OR
13 FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A CREDIT
14 TRANSACTION;

15 (2) A POWER TO MAKE HEALTH CARE DECISIONS;

16 (3) A PROXY OR OTHER DELEGATION TO EXERCISE ANY AND ALL RIGHTS WITH RESPECT
TO AN

ENTITY, INCLUDING VOTING
17 RIGHTS OR MANAGEMENT RIGHTS ~~WITH RESPECT TO AN ENTITY, AND~~ OR BOTH, OR A
DELEGATION OF

AUTHORITY TO EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT
GOVERNING AN ENTITY OR ENTITY
OWNERSHIP INTEREST;

18 (4) A POWER CREATED ON A FORM PRESCRIBED BY A
19 GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR
20 INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE ;

(5) A POWER CREATED AS PART OF, OR IN CONNECTION WITH, AN AGREEMENT
ESTABLISHING AN ATTORNEY AND CLIENT RELATIONSHIP; AND

(6) A POWER OF ATTORNEY THAT STATES THAT IT IS NOT SUBJECT TO THIS
TITLE.

21 17-103.

22 A POWER OF ATTORNEY CREATED UNDER THIS TITLE IS DURABLE UNLESS
23 THE POWER OF ATTORNEY EXPRESSLY PROVIDES THAT THE POWER OF
24 ATTORNEY IS TERMINATED BY THE INCAPACITY OF THE PRINCIPAL.

25 17-104.

26 (A) A POWER OF ATTORNEY SHALL BE SIGNED BY THE PRINCIPAL OR IN
27 THE PRINCIPAL'S CONSCIOUS PRESENCE BY ANOTHER INDIVIDUAL DIRECTED
28 BY THE PRINCIPAL TO SIGN THE PRINCIPAL'S NAME ON THE POWER OF

29 ATTORNEY.

30 (B) A SIGNATURE ON A POWER OF ATTORNEY IS PRESUMED TO BE
31 GENUINE IF THE PRINCIPAL ACKNOWLEDGES THE SIGNATURE BEFORE A

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1 NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE
2 ACKNOWLEDGMENTS.

3 17-105.

4 (A) A POWER OF ATTORNEY EXECUTED IN THIS STATE ON OR AFTER
5 OCTOBER 1, 2008, IS VALID IF THE EXECUTION OF THE POWER OF ATTORNEY
6 COMPLIES WITH § 17-104 OF THIS SUBTITLE.

7 (B) A POWER OF ATTORNEY EXECUTED IN THIS STATE BEFORE
8 OCTOBER 1, 2008, IS VALID IF THE EXECUTION OF THE POWER OF ATTORNEY
9 COMPLIED WITH THE LAW OF THIS STATE AS THE LAW EXISTED AT THE TIME OF
10 EXECUTION.

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

14 (1) THE LAW OF THE JURISDICTION THAT DETERMINES THE
15 MEANING AND EFFECT OF THE POWER OF ATTORNEY IN ACCORDANCE WITH §
16 17-106 OF THIS SUBTITLE; OR

17 (2) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY
18 IN ACCORDANCE WITH 10 U.S.C. § 1044B.

19 (D) (1) EXCEPT AS OTHERWISE PROVIDED BY STATUTE OTHER THAN THIS
20 TITLE AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PHOTOCOPY OR
ELECTRONICALLY TRANSMITTED COPY OF AN
21 ORIGINAL POWER OF ATTORNEY HAS THE SAME EFFECT AS THE ORIGINAL.

(2) A CLERK OF A COURT MAY REFUSE TO RECORD A PHOTOCOPY OR
ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY.

22 17-106.

23 THE MEANING AND EFFECT OF A POWER OF ATTORNEY IS DETERMINED
24 BY THE LAW OF THE JURISDICTION INDICATED IN THE POWER OF ATTORNEY
25 AND, IN THE ABSENCE OF AN INDICATION OF JURISDICTION, BY THE LAW OF THE
26 JURISDICTION IN WHICH THE POWER OF ATTORNEY WAS EXECUTED.

27 17-107.

28 ~~(A) (1) IN A POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A
29 GUARDIAN OF THE PRINCIPAL'S ESTATE OR GUARDIAN OF THE PRINCIPAL'S
30 PERSON FOR CONSIDERATION BY THE COURT IF PROTECTIVE PROCEEDINGS
31 FOR THE PRINCIPAL'S ESTATE OR PERSON ARE BEGUN AFTER THE PRINCIPAL
32 EXECUTES THE POWER OF ATTORNEY.~~

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~~(2) EXCEPT FOR GOOD CAUSE SHOWN OR DISQUALIFICATION,
THE COURT SHALL MAKE AN APPOINTMENT IN ACCORDANCE WITH THE
PRINCIPAL'S MOST RECENT NOMINATION.~~

(A) IN A POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A GUARDIAN OF THE
PRINCIPAL'S ESTATE IN ACCORDANCE WITH THE PROVISIONS OF § 13-207 OF THIS ARTICLE.

(B) IF A COURT APPOINTS A GUARDIAN OF THE PRINCIPAL'S ESTATE OR
OTHER FIDUCIARY CHARGED WITH THE MANAGEMENT OF SOME OR ALL OF THE
PRINCIPAL'S PROPERTY AFTER A PRINCIPAL EXECUTES A POWER OF ATTORNEY:

(1) THE AGENT IS ACCOUNTABLE TO THE FIDUCIARY AS WELL AS
TO THE PRINCIPAL;

(2) THE POWER OF ATTORNEY IS NOT TERMINATED; AND

(3) THE AGENT'S AUTHORITY CONTINUES UNLESS LIMITED,
SUSPENDED, OR TERMINATED BY THE COURT.

17-108.

(A) A POWER OF ATTORNEY IS EFFECTIVE WHEN EXECUTED UNLESS
THE PRINCIPAL PROVIDES IN THE POWER OF ATTORNEY THAT THE POWER OF
ATTORNEY BECOMES EFFECTIVE AT A FUTURE DATE OR ON THE OCCURRENCE
OF A FUTURE EVENT OR CONTINGENCY.

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

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

(1) TWO LICENSED PHYSICIANS WHO HAVE EXAMINED THE
PRINCIPAL OR ONE LICENSED PHYSICIAN WHO HAS EXAMINED THE PRINCIPAL
AND ONE LICENSED PSYCHOLOGIST WHO HAS EVALUATED THE PRINCIPAL THAT
THE PRINCIPAL IS INCAPACITATED WITHIN THE MEANING OF § 17-101(F)(1) OF
THIS SUBTITLE; OR

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1 (2) AN ATTORNEY AT LAW, A JUDGE, OR AN APPROPRIATE
2 GOVERNMENTAL OFFICIAL THAT THE PRINCIPAL IS INCAPACITATED WITHIN
3 THE MEANING OF § 17-101(F)(2) OF THIS SUBTITLE.

4 (D) A PERSON AUTHORIZED BY THE PRINCIPAL IN THE POWER OF
5 ATTORNEY TO DETERMINE THAT THE PRINCIPAL IS INCAPACITATED MAY ACT AS
6 THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN ACCORDANCE WITH THE
7 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, §§ 1171
8 THROUGH 1179 OF THE SOCIAL SECURITY ACT, 42 U.S.C. § 1320D, AND
9 APPLICABLE REGULATIONS, TO OBTAIN ACCESS TO THE PRINCIPAL'S
10 HEALTH CARE INFORMATION AND COMMUNICATE WITH THE PRINCIPAL'S
11 HEALTH CARE PROVIDER.

12 17-109.

13 (A) A POWER OF ATTORNEY TERMINATES WHEN:

14 (1) THE PRINCIPAL DIES;

15 (2) THE PRINCIPAL BECOMES INCAPACITATED, IF THE POWER OF
16 ATTORNEY IS NOT DURABLE;

17 (3) THE PRINCIPAL REVOKES THE POWER OF ATTORNEY;

18 (4) THE POWER OF ATTORNEY PROVIDES THAT IT TERMINATES;

19 (5) THE PURPOSE OF THE POWER OF ATTORNEY IS
20 ~~ACCOMPLISHED~~ FULLY ACCOMPLISHED, IF THE POWER OF ATTORNEY EXPRESSLY STATES THAT
IT IS GIVEN FOR
A SPECIFIC PURPOSE; OR

21 (6) THE PRINCIPAL REVOKES THE AGENT'S AUTHORITY OR THE
22 AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS, AND THE POWER OF
23 ATTORNEY DOES NOT PROVIDE FOR ANOTHER AGENT TO ACT UNDER THE
24 POWER OF ATTORNEY.

25 (B) AN AGENT'S AUTHORITY TERMINATES WHEN:

26 (1) THE PRINCIPAL REVOKES THE AUTHORITY;

27 (2) THE AGENT DIES, BECOMES INCAPACITATED, OR RESIGNS;

28 (3) AN ACTION IS FILED FOR THE DISSOLUTION OR ANNULMENT OF THE AGENT'S
29 MARRIAGE TO THE PRINCIPAL OR THEIR LEGAL SEPARATION, UNLESS THE
30 POWER OF ATTORNEY OTHERWISE PROVIDES; OR

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1 (4) THE POWER OF ATTORNEY TERMINATES.

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

6 (D) (1) TERMINATION OF AN AGENT'S AUTHORITY OR OF A POWER OF
7 ATTORNEY IS NOT EFFECTIVE AS TO THE AGENT OR ANOTHER PERSON THAT,
8 WITHOUT ACTUAL KNOWLEDGE OF THE TERMINATION, ACTS IN GOOD FAITH
9 UNDER THE POWER OF ATTORNEY.

10 (2) AN ACT PERFORMED AS DESCRIBED IN PARAGRAPH (1) OF
11 THIS SUBSECTION, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS
12 THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.

13 (E) (1) INCAPACITY OF THE PRINCIPAL OF A POWER OF ATTORNEY
14 THAT IS NOT DURABLE DOES NOT REVOKE OR TERMINATE THE POWER OF
15 ATTORNEY AS TO AN AGENT OR OTHER PERSON THAT, WITHOUT ACTUAL
16 KNOWLEDGE OF THE INCAPACITY, ACTS IN GOOD FAITH UNDER THE POWER OF
17 ATTORNEY.

18 (2) AN ACT PERFORMED AS DESCRIBED IN PARAGRAPH (1) OF
19 THIS SUBSECTION, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS
20 THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST.

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

26 17-110.

27 (A) (1) A PRINCIPAL MAY DESIGNATE TWO OR MORE PERSONS TO ACT
28 AS COAGENTS.

29 (2) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES,
30 EACH COAGENT MAY EXERCISE THE COAGENT'S AUTHORITY INDEPENDENTLY.

31 (B) (1) A PRINCIPAL MAY DESIGNATE ONE OR MORE SUCCESSOR
32 AGENTS TO ACT IF AN AGENT RESIGNS, DIES, BECOMES INCAPACITATED, IS NOT
33 QUALIFIED TO SERVE, OR DECLINES TO SERVE.

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1 (2) A PRINCIPAL MAY GRANT AUTHORITY TO DESIGNATE ONE OR
2 MORE SUCCESSOR AGENTS TO AN AGENT OR OTHER PERSON DESIGNATED BY
3 NAME, OFFICE, OR FUNCTION.

4 (3) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A
5 SUCCESSOR AGENT:

6 (I) HAS THE SAME AUTHORITY AS THAT GRANTED TO THE
7 ORIGINAL AGENT; AND

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

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

16 (D) (1) AN AGENT THAT HAS ACTUAL KNOWLEDGE OF A BREACH OR
17 IMMINENT BREACH OF FIDUCIARY DUTY BY ANOTHER AGENT SHALL NOTIFY
18 THE PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED, TAKE ANY ACTION
19 REASONABLY APPROPRIATE IN THE CIRCUMSTANCES TO SAFEGUARD THE
20 PRINCIPAL'S BEST INTEREST.

21 (2) AN AGENT THAT FAILS TO NOTIFY THE PRINCIPAL OR TAKE
22 ACTION AS REQUIRED BY THIS SUBSECTION IS LIABLE FOR THE REASONABLY
23 FORESEEABLE DAMAGES THAT COULD HAVE BEEN AVOIDED IF THE AGENT HAD
24 NOTIFIED THE PRINCIPAL OR TAKEN THE ACTION.

25 17-111.

26 (A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN AGENT IS
27 ENTITLED TO REIMBURSEMENT OF EXPENSES REASONABLY INCURRED ON
28 BEHALF OF THE PRINCIPAL ~~AND TO COMPENSATION THAT IS REASONABLE~~
29 ~~UNDER THE CIRCUMSTANCES~~, BUT IS NOT ENTITLED TO COMPENSATION.

(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT THE AGENT IS ENTITLED TO COMPENSATION, THE AGENT MAY RECEIVE COMPENSATION BASED ON WHAT IS REASONABLE UNDER THE CIRCUMSTANCES OR ON SUCH OTHER BASIS AS MAY BE SET FORTH IN THE POWER OF ATTORNEY.

30 17-112.

31 EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, A
32 PERSON ACCEPTS APPOINTMENT AS AN AGENT UNDER A POWER OF ATTORNEY
33 BY EXERCISING AUTHORITY OR PERFORMING DUTIES AS AN AGENT OR BY
34 ANOTHER ASSERTION OR CONDUCT INDICATING ACCEPTANCE.

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1 17-113.

2 (A) NOTWITHSTANDING PROVISIONS IN THE POWER OF ATTORNEY, AN
3 AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:

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

7 (2) ACT IN GOOD FAITH; AND

8 (3) ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN
9 THE POWER OF ATTORNEY.

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

12 (1) ACT LOYALLY FOR THE PRINCIPAL'S BENEFIT;

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

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

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

20 (5) COOPERATE WITH A PERSON THAT HAS AUTHORITY TO MAKE
21 HEALTH CARE DECISIONS FOR THE PRINCIPAL TO CARRY OUT THE PRINCIPAL'S
22 REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY THE AGENT
23 AND, OTHERWISE, ACT IN THE PRINCIPAL'S BEST INTEREST; AND

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

28 (i) THE VALUE AND NATURE OF THE PRINCIPAL'S
29 PROPERTY;

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

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

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

7 (C) AN AGENT THAT ACTS IN GOOD FAITH IS NOT LIABLE TO A
8 BENEFICIARY OF THE PRINCIPAL'S ESTATE PLAN FOR FAILURE TO PRESERVE
9 THE PLAN.

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

15 (E) IF AN AGENT IS SELECTED BY THE PRINCIPAL BECAUSE OF SPECIAL
16 SKILLS OR EXPERTISE POSSESSED BY THE AGENT OR IN RELIANCE ON THE
17 AGENT'S REPRESENTATION THAT THE AGENT HAS SPECIAL SKILLS OR
18 EXPERTISE, THE SPECIAL SKILLS OR EXPERTISE SHALL BE CONSIDERED IN
19 DETERMINING WHETHER THE AGENT HAS ACTED WITH CARE, COMPETENCE,
20 AND DILIGENCE UNDER THE CIRCUMSTANCES.

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

23 (G) AN AGENT THAT EXERCISES AUTHORITY TO DELEGATE TO ANOTHER
24 PERSON THE AUTHORITY GRANTED BY THE PRINCIPAL OR THAT ENGAGES
25 ANOTHER PERSON ON BEHALF OF THE PRINCIPAL IS NOT LIABLE FOR AN ACT,
26 ERROR OF JUDGMENT, OR DEFAULT OF THAT PERSON IF THE AGENT EXERCISES
27 CARE, COMPETENCE, AND DILIGENCE IN SELECTING AND MONITORING THE
28 PERSON.

29 (H) (1) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF
30 ATTORNEY, AN AGENT IS NOT REQUIRED TO DISCLOSE RECEIPTS,
31 DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE
32 PRINCIPAL UNLESS ORDERED BY A COURT OR REQUESTED BY THE PRINCIPAL, A
33 GUARDIAN, A CONSERVATOR, ANOTHER FIDUCIARY ACTING FOR THE
34 PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY TO PROTECT THE
35 WELFARE OF THE PRINCIPAL, OR, ON THE DEATH OF THE PRINCIPAL, BY THE

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1 PERSONAL REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S
2 ESTATE.

3 (2) IF A REQUEST AS DESCRIBED IN PARAGRAPH (1) OF THIS
4 SUBSECTION IS MADE, WITHIN 30 DAYS THE AGENT SHALL COMPLY WITH THE
5 REQUEST OR PROVIDE A WRITING OR OTHER RECORD SUBSTANTIATING WHY
6 ADDITIONAL TIME IS NEEDED AND SHALL COMPLY WITH THE REQUEST WITHIN
7 AN ADDITIONAL 30 DAYS.

8 17-114.

9 A PROVISION IN A POWER OF ATTORNEY RELIEVING AN AGENT OF
10 LIABILITY FOR BREACH OF DUTY IS BINDING ON THE PRINCIPAL AND THE
11 PRINCIPAL'S SUCCESSORS IN INTEREST EXCEPT TO THE EXTENT THE
12 PROVISION:

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

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

19 17-115.

20 (A) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A
21 POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND GRANT
22 APPROPRIATE RELIEF:

23 (1) THE PRINCIPAL OR THE AGENT;

24 (2) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING
25 FOR THE PRINCIPAL;

26 (3) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS
27 FOR THE PRINCIPAL;

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

29 (5) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE
30 HEIR OF THE PRINCIPAL;

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

5 (7) A GOVERNMENTAL AGENCY HAVING REGULATORY
6 AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;

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

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

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

14 17-116.

15 AN AGENT THAT VIOLATES THIS TITLE IS LIABLE TO THE PRINCIPAL OR
16 THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE AMOUNT REQUIRED TO:

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

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

22 17-117.

23 UNLESS THE POWER OF ATTORNEY PROVIDES A DIFFERENT METHOD FOR
24 AN AGENT'S RESIGNATION, AN AGENT MAY RESIGN BY GIVING NOTICE TO THE
25 PRINCIPAL AND, IF THE PRINCIPAL IS INCAPACITATED:

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

28 (2) IF THERE IS NO PERSON AS DESCRIBED IN ITEM (1) OF THIS
29 SECTION, TO:

30 (i) THE PRINCIPAL'S CAREGIVER;

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

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

5 17-118.

6 (A) IN THIS SECTION, "ACKNOWLEDGED" MEANS PURPORTEDLY
7 VERIFIED BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED TO
8 TAKE ACKNOWLEDGEMENTS.

9 (B) A PERSON THAT IN GOOD FAITH ACCEPTS AN ACKNOWLEDGED
10 POWER OF ATTORNEY WITHOUT ACTUAL KNOWLEDGE THAT THE SIGNATURE IS
11 NOT GENUINE MAY RELY ON THE ~~PRESUMPTION UNDER~~ PRESUMPTIONS SET FORTH IN § 17-
12 104(B) OF THIS
13 THIS

14 SUBTITLE , AND IS NOT LIABLE FOR A CLAIM BASED ON THE FACT THAT THE SIGNATURE IS
15 NOT GENUINE.

16 (C) A PERSON THAT IN GOOD FAITH ACCEPTS AN ACKNOWLEDGED
17 POWER OF ATTORNEY WITHOUT ACTUAL KNOWLEDGE THAT THE POWER OF
18 ATTORNEY IS VOID, INVALID, OR TERMINATED, THAT THE PURPORTED AGENT'S
19 AUTHORITY IS VOID, INVALID, OR TERMINATED, OR THAT THE AGENT IS
20 EXCEEDING OR IMPROPERLY EXERCISING THE AGENT'S AUTHORITY MAY RELY
21 ON THE POWER OF ATTORNEY WITHOUT LIABILITY AS IF:

22 (1) THE POWER OF ATTORNEY WERE GENUINE, VALID, AND STILL
23 IN EFFECT;

24 (2) THE AGENT'S AUTHORITY WERE GENUINE, VALID, AND STILL
25 IN EFFECT; AND

26 (3) THE AGENT HAD NOT EXCEEDED AND HAD PROPERLY
27 EXERCISED THE AUTHORITY.

28 (D) A PERSON THAT IS ASKED TO ACCEPT AN ACKNOWLEDGED POWER
29 OF ATTORNEY MAY REQUEST, AND RELY ON, WITHOUT FURTHER
30 INVESTIGATION AND WITHOUT ANY LIABILITY FOR THE RELIANCE:

31 (1) AN AGENT'S CERTIFICATION UNDER PENALTY OF PERJURY OF
32 A FACTUAL MATTER CONCERNING THE PRINCIPAL, AGENT, OR POWER OF
33 ATTORNEY;

34 (2) AN ENGLISH TRANSLATION OF THE POWER OF ATTORNEY IF
35 THE POWER OF ATTORNEY CONTAINS, IN WHOLE OR IN PART, LANGUAGE OTHER
36 THAN ENGLISH; AND

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

4 (E) FOR PURPOSES OF THIS SECTION, A PERSON THAT CONDUCTS
5 ACTIVITIES THROUGH EMPLOYEES IS WITHOUT ACTUAL KNOWLEDGE OF A FACT
6 RELATING TO A POWER OF ATTORNEY, A PRINCIPAL, OR AN AGENT IF THE
7 EMPLOYEE CONDUCTING THE TRANSACTION INVOLVING THE POWER OF
8 ATTORNEY IS WITHOUT ACTUAL KNOWLEDGE OF THE FACT.

9 17-119.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
11 MEANINGS INDICATED.

12 (2) "ACKNOWLEDGED" HAS THE MEANING STATED IN § 17-118 OF
13 THIS SUBTITLE.

14 (3) "STATUTORY FORM POWER OF ATTORNEY" MEANS A POWER
15 OF ATTORNEY SUBSTANTIALLY IN THE FORM PROVIDED IN § 17-301 OF THIS
16 TITLE OR THAT MEETS THE REQUIREMENTS FOR A MILITARY POWER OF
17 ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.

18 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION:

19 (1) A PERSON SHALL EITHER ACCEPT AN ACKNOWLEDGED
20 STATUTORY FORM POWER OF ATTORNEY OR REQUEST A CERTIFICATION, A
21 TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17-118(D) OF THIS
22 SUBTITLE NO LATER THAN 7 BUSINESS DAYS AFTER PRESENTATION OF THE
23 POWER OF ATTORNEY FOR ACCEPTANCE;

24 (2) IF A PERSON REQUESTS A CERTIFICATION, A TRANSLATION,
25 OR AN OPINION OF COUNSEL UNDER § 17-118(D) OF THIS SUBTITLE, THE
26 PERSON SHALL ACCEPT THE STATUTORY FORM POWER OF ATTORNEY NO LATER
27 THAN 5 BUSINESS DAYS AFTER RECEIPT OF THE CERTIFICATION, TRANSLATION,
28 OR OPINION OF COUNSEL; AND

29 (3) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT
30 FORM OF POWER OF ATTORNEY FOR AUTHORITY GRANTED IN THE STATUTORY
31 FORM POWER OF ATTORNEY THAT WAS PRESENTED.

32 (C) A PERSON IS NOT REQUIRED TO ACCEPT AN ACKNOWLEDGED
33 STATUTORY FORM POWER OF ATTORNEY IF:

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1 (1) THE PERSON IS NOT OTHERWISE REQUIRED TO ENGAGE IN A
2 TRANSACTION WITH THE PRINCIPAL UNDER THE SAME CIRCUMSTANCES;

3 (2) ENGAGING IN A TRANSACTION WITH THE AGENT OR THE
4 PRINCIPAL UNDER THE SAME CIRCUMSTANCES WOULD BE INCONSISTENT WITH
5 FEDERAL LAW;

6 (3) THE PERSON HAS ACTUAL KNOWLEDGE OF THE TERMINATION
7 OF THE AUTHORITY OF THE AGENT OR OF THE POWER OF ATTORNEY BEFORE
8 EXERCISE OF THE POWER OF ATTORNEY;

9 (4) A REQUEST FOR A CERTIFICATION, A TRANSLATION, OR AN
10 OPINION OF COUNSEL UNDER § 17-118(D) OF THIS SUBTITLE IS REFUSED;

11 (5) THE PERSON IN GOOD FAITH BELIEVES THAT THE POWER OF
12 ATTORNEY IS NOT VALID OR THAT THE AGENT DOES NOT HAVE AUTHORITY TO
13 PERFORM THE ACT REQUESTED, WHETHER OR NOT A CERTIFICATION, A
14 TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17-118(D) OF THIS
15 SUBTITLE HAS BEEN REQUESTED OR PROVIDED; OR

16 (6) THE PERSON MAKES, OR HAS ACTUAL KNOWLEDGE THAT
17 ANOTHER PERSON HAS MADE, A REPORT TO THE LOCAL DEPARTMENT OF
18 SOCIAL SERVICES OFFICE STATING A GOOD FAITH BELIEF THAT THE PRINCIPAL
19 MAY BE SUBJECT TO PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION,
20 OR ABANDONMENT BY THE AGENT OR A PERSON ACTING FOR OR WITH THE
21 AGENT.

22 (D) A PERSON THAT REFUSES IN VIOLATION OF THIS SECTION TO
23 ACCEPT AN ACKNOWLEDGED STATUTORY FORM POWER OF ATTORNEY IS
24 SUBJECT TO:

25 (1) A COURT ORDER MANDATING ACCEPTANCE OF THE POWER OF
26 ATTORNEY; AND

27 (2) LIABILITY FOR REASONABLE ATTORNEY'S FEES AND COSTS
28 INCURRED IN AN ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF
29 THE POWER OF ATTORNEY OR MANDATES ACCEPTANCE OF THE POWER OF
30 ATTORNEY.

(E) IF A COURT DETERMINES THAT A PROCEEDING TO MANDATE ACCEPTANCE OF A
POWER OF ATTORNEY WAS BROUGHT OTHER THAN IN GOOD FAITH, THE COURT MAY AWARD
REASONABLE ATTORNEY'S FEES AND COSTS TO THE PREVAILING PARTY.

31 17-120.

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1 THIS TITLE DOES NOT SUPERSEDE OTHER LAWS APPLICABLE TO
2 FINANCIAL INSTITUTIONS OR OTHER ENTITIES, AND THE OTHER LAWS CONTROL
3 IF INCONSISTENT WITH THIS TITLE.

4 SUBTITLE 2. AUTHORITY.

5 17-201.

6 (A) AN AGENT UNDER A POWER OF ATTORNEY MAY DO THE FOLLOWING
7 ON BEHALF OF THE PRINCIPAL OR WITH THE PRINCIPAL'S PROPERTY ONLY IF
8 THE POWER OF ATTORNEY EXPRESSLY GRANTS THE AGENT THE AUTHORITY
9 AND EXERCISE OF THE AUTHORITY IS NOT OTHERWISE PROHIBITED BY
10 ANOTHER AGREEMENT OR INSTRUMENT TO WHICH THE AUTHORITY OR
11 PROPERTY IS SUBJECT:

12 ~~(1) CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS~~
13 ~~TRUST;~~

(1) (I) CREATE A NEW INTER VIVOS TRUST; OR

(II) IF AN EXISTING INTER VIVOS TRUST EXPRESSLY AUTHORIZES THE
ACTION BY AN AGENT, AMEND, REVOKE, OR TERMINATE THE EXISTING INTER VIVOS TRUST;

14 (2) MAKE A GIFT;

15 (3) CREATE OR CHANGE RIGHTS OF SURVIVORSHIP;

16 (4) CREATE OR CHANGE A BENEFICIARY DESIGNATION;

17 (5) DELEGATE AUTHORITY GRANTED UNDER THE POWER OF
18 ATTORNEY;

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

22 (7) EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS
23 AUTHORITY TO DELEGATE.

24 (B) NOTWITHSTANDING A GRANT OF AUTHORITY TO DO AN ACT
25 DESCRIBED IN SUBSECTION (A) OF THIS SECTION, UNLESS THE POWER OF
26 ATTORNEY OTHERWISE PROVIDES, AN AGENT THAT IS NOT AN ANCESTOR,
27 SPOUSE, OR DESCENDANT OF THE PRINCIPAL MAY NOT EXERCISE AUTHORITY
28 UNDER A POWER OF ATTORNEY TO CREATE IN THE AGENT, OR IN AN INDIVIDUAL
29 TO WHOM THE AGENT OWES A LEGAL OBLIGATION OF SUPPORT, AN INTEREST IN
30 THE PRINCIPAL'S PROPERTY, WHETHER BY GIFT, RIGHT OF SURVIVORSHIP,
31 BENEFICIARY DESIGNATION, DISCLAIMER, OR OTHERWISE.

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1 (C) SUBJECT TO SUBSECTIONS (A), (B), (D), AND (E) OF THIS SECTION,
2 IF A POWER OF ATTORNEY GRANTS TO AN AGENT AUTHORITY TO DO ALL ACTS
3 THAT A PRINCIPAL COULD DO, THE AGENT HAS THE GENERAL AUTHORITY
4 DESCRIBED IN §§ 17-204 THROUGH 17-216 OF THIS SUBTITLE.

5 (D) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, A GRANT
6 OF AUTHORITY TO MAKE A GIFT IS SUBJECT TO § 17-217 OF THIS SUBTITLE.

7 (E) SUBJECT TO SUBSECTIONS (A), (B), AND (D) OF THIS SECTION, IF
8 THE SUBJECTS OVER WHICH AUTHORITY IS GRANTED IN A POWER OF ATTORNEY
9 ARE SIMILAR OR OVERLAP, THE BROADEST AUTHORITY CONTROLS.

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

15 (G) AN ACT PERFORMED BY AN AGENT IN ACCORDANCE WITH A POWER
16 OF ATTORNEY HAS THE SAME EFFECT, AND INURES TO THE BENEFIT OF AND
17 BINDS THE PRINCIPAL AND THE PRINCIPAL'S SUCCESSORS IN INTEREST, AS IF
18 THE PRINCIPAL HAD PERFORMED THE ACT.

19 17-202.

20 (A) AN AGENT HAS AUTHORITY DESCRIBED IN THIS TITLE IF THE
21 POWER OF ATTORNEY REFERS TO GENERAL AUTHORITY WITH RESPECT TO THE
22 DESCRIPTIVE TERM FOR THE SUBJECTS STATED IN §§ 17-204 THROUGH 17-217
23 OF THIS SUBTITLE OR CITES THE SECTION IN WHICH THE AUTHORITY IS
24 DESCRIBED.

25 (B) A REFERENCE IN A POWER OF ATTORNEY TO GENERAL AUTHORITY
26 WITH RESPECT TO THE DESCRIPTIVE TERM FOR A SUBJECT IN §§ 17-204
27 THROUGH 17-217 OF THIS SUBTITLE OR A CITATION TO A SECTION OF §§ 17-204
28 THROUGH 17-217 OF THIS SUBTITLE INCORPORATES THE ENTIRE SECTION AS
29 IF THE SECTION WERE SET OUT IN FULL IN THE POWER OF ATTORNEY.

30 (C) A PRINCIPAL MAY MODIFY AUTHORITY INCORPORATED BY
31 REFERENCE.

32 17-203.

33 EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, BY
34 EXECUTING A POWER OF ATTORNEY THAT INCORPORATES BY REFERENCE A

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1 SUBJECT DESCRIBED IN §§ 17-204 THROUGH 17-217 OF THIS SUBTITLE OR
2 THAT GRANTS TO AN AGENT AUTHORITY TO DO ALL ACTS THAT A PRINCIPAL
3 COULD DO IN ACCORDANCE WITH § 17-201(C) OF THIS SUBTITLE, A PRINCIPAL
4 AUTHORIZES THE AGENT, WITH RESPECT TO THAT SUBJECT, TO:

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

10 (2) CONTRACT WITH ANOTHER PERSON, ON TERMS AGREEABLE
11 TO THE AGENT, TO ACCOMPLISH A PURPOSE OF A TRANSACTION AND PERFORM,
12 RESCIND, CANCEL, TERMINATE, REFORM, RESTATE, RELEASE, OR MODIFY THE
13 CONTRACT OR ANOTHER CONTRACT MADE BY OR ON BEHALF OF THE
14 PRINCIPAL;

15 (3) EXECUTE, ACKNOWLEDGE, SEAL, DELIVER, FILE, OR RECORD
16 ANY INSTRUMENT OR COMMUNICATION THE AGENT CONSIDERS DESIRABLE TO
17 ACCOMPLISH A PURPOSE OF A TRANSACTION, INCLUDING CREATING A
18 SCHEDULE CONTEMPORANEOUSLY OR AT A LATER TIME LISTING SOME OR ALL
19 OF THE PRINCIPAL'S PROPERTY AND ATTACHING THE SCHEDULE TO THE
20 POWER OF ATTORNEY;

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

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

28 (6) ENGAGE, COMPENSATE, AND DISCHARGE AN ATTORNEY,
29 ACCOUNTANT, DISCRETIONARY INVESTMENT MANAGER, EXPERT WITNESS, OR
30 OTHER ADVISOR;

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

34 (8) COMMUNICATE WITH REPRESENTATIVES OR EMPLOYEES OF
35 A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR
36 INSTRUMENTALITY, ON BEHALF OF THE PRINCIPAL;

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

4 (10) DO LAWFUL ACTS WITH RESPECT TO THE SUBJECT AND ALL
5 PROPERTY RELATED TO THE SUBJECT.

6 17-204.

7 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
8 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
9 REAL PROPERTY AUTHORIZES THE AGENT TO:

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

13 (2) SELL, EXCHANGE, CONVEY WITH OR WITHOUT COVENANTS,
14 REPRESENTATIONS, OR WARRANTIES, QUITCLAIM, RELEASE, SURRENDER,
15 RETAIN TITLE FOR SECURITY, ENCUMBER, PARTITION, CONSENT TO
16 PARTITIONING, SUBJECT TO AN EASEMENT OR COVENANT, SUBDIVIDE, APPLY
17 FOR ZONING OR OTHER GOVERNMENTAL PERMITS, PLAT OR CONSENT TO
18 PLATTING, DEVELOP, GRANT AN OPTION CONCERNING, LEASE, SUBLEASE,
19 CONTRIBUTE TO AN ENTITY IN EXCHANGE FOR AN INTEREST IN THAT ENTITY,
20 OR OTHERWISE GRANT OR DISPOSE OF AN INTEREST IN REAL PROPERTY OR A
21 RIGHT INCIDENT TO REAL PROPERTY;

22 (3) PLEDGE OR MORTGAGE AN INTEREST IN REAL PROPERTY OR
23 RIGHT INCIDENT TO REAL PROPERTY AS SECURITY TO BORROW MONEY OR PAY,
24 RENEW, OR EXTEND THE TIME OF PAYMENT OF A DEBT OF THE PRINCIPAL OR A
25 DEBT GUARANTEED BY THE PRINCIPAL, INCLUDING A REVERSE MORTGAGE;

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

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

33 (i) INSURING AGAINST LIABILITY OR CASUALTY OR OTHER
34 LOSS;

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

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

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

8 (6) USE, DEVELOP, ALTER, REPLACE, REMOVE, ERECT, OR
9 INSTALL STRUCTURES OR OTHER IMPROVEMENTS ON REAL PROPERTY IN OR
10 INCIDENT TO WHICH THE PRINCIPAL HAS, OR CLAIMS TO HAVE, AN INTEREST OR
11 RIGHT;

12 (7) PARTICIPATE IN A REORGANIZATION WITH RESPECT TO REAL
13 PROPERTY OR AN ENTITY THAT OWNS AN INTEREST IN OR RIGHT INCIDENT TO
14 REAL PROPERTY AND RECEIVE, HOLD, AND ACT WITH RESPECT TO STOCKS AND
15 BONDS OR OTHER PROPERTY RECEIVED IN A PLAN OF REORGANIZATION,
16 INCLUDING:

17 (I) SELLING OR OTHERWISE DISPOSING OF THE STOCKS
18 AND BONDS OR OTHER PROPERTY;

19 (II) EXERCISING OR SELLING AN OPTION, RIGHT OF
20 CONVERSION, OR SIMILAR RIGHT WITH RESPECT TO THE STOCKS AND BONDS OR
21 OTHER PROPERTY; AND

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

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

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

28 17-205.

29 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
30 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
31 TANGIBLE PERSONAL PROPERTY AUTHORIZES THE AGENT TO:

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

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

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

14 (4) RELEASE, ASSIGN, SATISFY, OR ENFORCE BY LITIGATION OR
15 OTHERWISE, A SECURITY INTEREST, LIEN, OR OTHER CLAIM ON BEHALF OF THE
16 PRINCIPAL, WITH RESPECT TO TANGIBLE PERSONAL PROPERTY OR AN
17 INTEREST IN TANGIBLE PERSONAL PROPERTY;

18 (5) MANAGE OR CONSERVE TANGIBLE PERSONAL PROPERTY OR
19 AN INTEREST IN TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE
20 PRINCIPAL, INCLUDING:

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

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

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

28 (IV) MOVING THE PROPERTY FROM PLACE TO PLACE;

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

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

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1 (6) CHANGE THE FORM OF TITLE OF AN INTEREST IN TANGIBLE
2 PERSONAL PROPERTY.

3 17-206.

4 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
5 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
6 STOCKS AND BONDS AUTHORIZES THE AGENT TO:

7 (1) BUY, SELL, AND EXCHANGE STOCKS AND BONDS;

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

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

12 (4) RECEIVE CERTIFICATES AND OTHER EVIDENCES OF
13 OWNERSHIP WITH RESPECT TO STOCKS AND BONDS; AND

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

17 17-207.

18 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
19 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
20 COMMODITIES AND OPTIONS AUTHORIZES THE AGENT TO:

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

24 (2) ESTABLISH, CONTINUE, MODIFY, AND TERMINATE OPTION
25 ACCOUNTS.

26 17-208.

27 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
28 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
29 BANKS AND OTHER FINANCIAL INSTITUTIONS AUTHORIZES THE AGENT TO:

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

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

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

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

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

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

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

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

27 (9) RECEIVE FOR THE PRINCIPAL AND ACT ON A SIGHT DRAFT,
28 WAREHOUSE RECEIPT, OTHER DOCUMENT OF TITLE WHETHER TANGIBLE OR
29 ELECTRONIC, OR OTHER NEGOTIABLE OR NONNEGOTIABLE INSTRUMENT;

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

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

4 17-209.

5 SUBJECT TO THE TERMS OF A DOCUMENT OR AN AGREEMENT GOVERNING
6 AN ENTITY OR AN ENTITY OWNERSHIP INTEREST, AND UNLESS THE POWER OF
7 ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN A POWER OF ATTORNEY
8 GRANTING GENERAL AUTHORITY WITH RESPECT TO OPERATION OF AN ENTITY
9 OR BUSINESS AUTHORIZES THE AGENT TO:

10 (1) OPERATE, BUY, SELL, ENLARGE, REDUCE, OR TERMINATE AN
11 OWNERSHIP INTEREST;

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

15 (3) ENFORCE THE TERMS OF AN OWNERSHIP AGREEMENT;

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

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

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

27 (7) WITH RESPECT TO AN ENTITY OR BUSINESS OWNED SOLELY
28 BY THE PRINCIPAL:

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

33 (ii) DETERMINE:

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1 1. THE LOCATION OF THE OPERATION OF THE
2 ENTITY OR BUSINESS;

3 2. THE NATURE AND EXTENT OF THE BUSINESS OF
4 THE ENTITY OR BUSINESS;

5 3. THE METHODS OF MANUFACTURING, SELLING,
6 MERCHANDISING, FINANCING, ACCOUNTING, AND ADVERTISING EMPLOYED IN
7 THE OPERATION OF THE ENTITY OR BUSINESS;

8 4. THE AMOUNT AND TYPES OF INSURANCE CARRIED
9 BY THE ENTITY OR BUSINESS; AND

10 5. THE MODE OF ENGAGING, COMPENSATING, AND
11 DEALING WITH THE EMPLOYEES AND ACCOUNTANTS, ATTORNEYS, OR OTHER
12 ADVISORS OF THE ENTITY OR BUSINESS;

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

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

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

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

25 (10) SELL OR LIQUIDATE ALL OR PART OF AN ENTITY OR
26 BUSINESS;

27 (11) ESTABLISH THE VALUE OF AN ENTITY OR BUSINESS UNDER A
28 BUYOUT AGREEMENT TO WHICH THE PRINCIPAL IS A PARTY;

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

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1 (13) PAY, COMPROMISE, OR CONTEST TAXES, ASSESSMENTS,
2 FINES, OR PENALTIES AND PERFORM OTHER ACTS TO PROTECT THE PRINCIPAL
3 FROM ILLEGAL OR UNNECESSARY TAXATION, ASSESSMENTS, FINES, OR
4 PENALTIES, WITH RESPECT TO AN ENTITY OR BUSINESS, INCLUDING ATTEMPTS
5 TO RECOVER, AS PERMITTED BY LAW, MONEY PAID BEFORE OR AFTER THE
6 EXECUTION OF THE POWER OF ATTORNEY.

7 17-210.

8 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
9 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
10 INSURANCE AND ANNUITIES AUTHORIZES THE AGENT TO:

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

16 (2) PROCURE NEW, DIFFERENT, AND ADDITIONAL CONTRACTS OF
17 INSURANCE AND ANNUITIES FOR THE PRINCIPAL AND THE PRINCIPAL'S
18 SPOUSE, CHILDREN, AND OTHER DEPENDENTS, AND SELECT THE AMOUNT, TYPE
19 OF INSURANCE OR ANNUITY, AND MODE OF PAYMENT;

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

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

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

27 (6) EXERCISE AN ELECTION;

28 (7) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A
29 CONTRACT OF INSURANCE OR ANNUITY;

30 (8) CHANGE THE MANNER OF PAYING PREMIUMS ON A CONTRACT
31 OF INSURANCE OR ANNUITY;

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

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

7 (11) COLLECT, SELL, ASSIGN, HYPOTHECATE, BORROW AGAINST,
8 OR PLEDGE THE INTEREST OF THE PRINCIPAL IN A CONTRACT OF INSURANCE
9 OR ANNUITY;

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

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

18 17-211.

19 (A) IN THIS SECTION, "ESTATES, TRUSTS, AND OTHER BENEFICIAL
20 INTERESTS" MEANS A TRUST, PROBATE ESTATE, GUARDIANSHIP,
21 CONSERVATORSHIP, ESCROW, OR CUSTODIANSHIP OR A FUND FROM WHICH THE
22 PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED TO A SHARE OR
23 PAYMENT.

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

28 (1) ACCEPT, RECEIVE, RECEIPT FOR, SELL, ASSIGN, PLEDGE, OR
29 EXCHANGE A SHARE IN OR PAYMENT FROM THE FUND DESCRIBED IN
30 SUBSECTION (A) OF THIS SECTION;

31 (2) DEMAND OR OBTAIN MONEY OR ANOTHER THING OF VALUE
32 TO WHICH THE PRINCIPAL IS, MAY BECOME, OR CLAIMS TO BE ENTITLED BY
33 REASON OF THE FUND DESCRIBED IN SUBSECTION (A) OF THIS SECTION, BY
34 LITIGATION OR OTHERWISE;

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

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

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

12 (6) CONSERVE, INVEST, DISBURSE, OR USE ANYTHING RECEIVED
13 FOR AN AUTHORIZED PURPOSE;

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

19 (8) REJECT, RENOUNCE, DISCLAIM, RELEASE, OR CONSENT TO A
20 REDUCTION IN OR MODIFICATION OF A SHARE IN OR PAYMENT FROM THE FUND
21 DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

22 17-212.

23 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
24 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
25 CLAIMS AND LITIGATION AUTHORIZES THE AGENT TO:

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

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

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

5 (4) MAKE OR ACCEPT A TENDER, OFFER OF JUDGMENT, OR
6 ADMISSION OF FACTS, SUBMIT A CONTROVERSY ON AN AGREED STATEMENT OF
7 FACTS, CONSENT TO EXAMINATION, AND BIND THE PRINCIPAL IN LITIGATION;

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

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

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

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

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

32 17-213.

33 (A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES,
34 LANGUAGE IN A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH
35 RESPECT TO PERSONAL AND FAMILY MAINTENANCE AUTHORIZES THE AGENT
36 TO:

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

5 (I) THE PRINCIPAL'S CHILDREN;

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

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

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

13 (3) PROVIDE LIVING QUARTERS FOR THE INDIVIDUALS
14 DESCRIBED IN ITEM (1) OF THIS SUBSECTION BY:

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

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

19 (4) PROVIDE NORMAL DOMESTIC HELP, USUAL VACATIONS AND
20 TRAVEL EXPENSES, AND FUNDS FOR SHELTER, CLOTHING, FOOD, APPROPRIATE
21 EDUCATION, INCLUDING POSTSECONDARY AND VOCATIONAL EDUCATION, AND
22 OTHER CURRENT LIVING COSTS FOR THE INDIVIDUALS DESCRIBED IN ITEM (1)
23 OF THIS SUBSECTION;

24 (5) PAY EXPENSES FOR NECESSARY HEALTH CARE AND
25 CUSTODIAL CARE ON BEHALF OF THE INDIVIDUALS DESCRIBED IN ITEM (1) OF
26 THIS SUBSECTION;

27 (6) ACT AS THE PRINCIPAL'S PERSONAL REPRESENTATIVE IN
28 ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND
29 ACCOUNTABILITY ACT, §§ 1171 THROUGH 1179 OF THE SOCIAL SECURITY ACT,
30 42 U.S.C. § 1320D, AND APPLICABLE REGULATIONS IN MAKING DECISIONS
31 RELATED TO THE PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF
32 HEALTH CARE CONSENTED TO BY THE PRINCIPAL OR ANYONE AUTHORIZED

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1 UNDER THE LAW OF THIS STATE TO CONSENT TO HEALTH CARE ON BEHALF OF
2 THE PRINCIPAL;

3 (7) CONTINUE PROVISIONS MADE BY THE PRINCIPAL FOR
4 AUTOMOBILES OR OTHER MEANS OF TRANSPORTATION, INCLUDING
5 REGISTERING, LICENSING, INSURING, AND REPLACING THE MEANS OF
6 TRANSPORTATION, FOR THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS
7 SUBSECTION;

8 (8) MAINTAIN CREDIT AND DEBIT ACCOUNTS FOR THE
9 CONVENIENCE OF THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS
10 SUBSECTION AND OPEN NEW ACCOUNTS; AND

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

15 (B) AUTHORITY WITH RESPECT TO PERSONAL AND FAMILY
16 MAINTENANCE IS NEITHER DEPENDENT ON, NOR LIMITED BY, AUTHORITY THAT
17 AN AGENT MAY OR MAY NOT HAVE WITH RESPECT TO GIFTS UNDER THIS
18 SUBTITLE.

19 17-214.

20 (A) IN THIS SECTION, "BENEFITS FROM GOVERNMENTAL PROGRAMS OR
21 CIVIL OR MILITARY SERVICE" MEANS ANY BENEFIT, PROGRAM, OR ASSISTANCE
22 PROVIDED UNDER A STATUTE OR REGULATION INCLUDING SOCIAL SECURITY,
23 MEDICARE, AND MEDICAID.

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

28 (1) EXECUTE VOUCHERS IN THE NAME OF THE PRINCIPAL FOR
29 ALLOWANCES AND REIMBURSEMENTS PAYABLE BY THE UNITED STATES OR A
30 FOREIGN GOVERNMENT OR BY A STATE OR SUBDIVISION OF A STATE TO THE
31 PRINCIPAL, INCLUDING ALLOWANCES AND REIMBURSEMENTS FOR
32 TRANSPORTATION OF THE INDIVIDUALS DESCRIBED IN § 17-213(A)(1) OF THIS
33 SUBTITLE, AND FOR SHIPMENT OF THE HOUSEHOLD EFFECTS OF THOSE
34 INDIVIDUALS;

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1 (2) TAKE POSSESSION AND ORDER THE REMOVAL AND SHIPMENT
2 OF PROPERTY OF THE PRINCIPAL FROM A POST, WAREHOUSE, DEPOT, DOCK, OR
3 OTHER PLACE OF STORAGE OR SAFEKEEPING, EITHER GOVERNMENTAL OR
4 PRIVATE, AND EXECUTE AND DELIVER A RELEASE, VOUCHER, RECEIPT, BILL OF
5 LADING, SHIPPING TICKET, CERTIFICATE, OR OTHER INSTRUMENT FOR THAT
6 PURPOSE;

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

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

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

17 (6) RECEIVE THE FINANCIAL PROCEEDS OF A CLAIM DESCRIBED
18 IN ITEM (4) OF THIS SUBSECTION AND CONSERVE, INVEST, DISBURSE, OR USE
19 FOR A LAWFUL PURPOSE ANYTHING SO RECEIVED.

20 17-215.

21 (A) IN THIS SECTION, "RETIREMENT PLAN" MEANS A PLAN OR ACCOUNT
22 CREATED BY AN EMPLOYER, THE PRINCIPAL, OR ANOTHER INDIVIDUAL TO
23 PROVIDE RETIREMENT BENEFITS OR DEFERRED COMPENSATION OF WHICH THE
24 PRINCIPAL IS A PARTICIPANT, BENEFICIARY, OR OWNER, INCLUDING A PLAN OR
25 ACCOUNT UNDER THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE
26 CODE:

27 (1) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER INTERNAL
28 REVENUE CODE SECTION 408, 26 U.S.C. § 408;

29 (2) A ROTH INDIVIDUAL RETIREMENT ACCOUNT UNDER
30 INTERNAL REVENUE CODE SECTION 408A, 26 U.S.C. § 408A;

31 (3) A DEEMED INDIVIDUAL RETIREMENT ACCOUNT UNDER
32 INTERNAL REVENUE CODE SECTION 408(Q), 26 U.S.C. § 408(Q);

33 (4) AN ANNUITY OR MUTUAL FUND CUSTODIAL ACCOUNT UNDER
34 INTERNAL REVENUE CODE SECTION 403(B), 26 U.S.C. § 403(B);

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1 (5) A PENSION, PROFIT-SHARING, STOCK BONUS, OR OTHER
2 RETIREMENT PLAN QUALIFIED UNDER INTERNAL REVENUE CODE SECTION
3 401(A), 26 U.S.C. § 401(A);

4 (6) A PLAN UNDER INTERNAL REVENUE CODE SECTION 457(B),
5 26 U.S.C. § 457(B); AND

6 (7) A NONQUALIFIED DEFERRED COMPENSATION PLAN UNDER
7 INTERNAL REVENUE CODE SECTION 409A, 26 U.S.C. § 409A.

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

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

13 (2) MAKE A ROLLOVER, INCLUDING A DIRECT
14 TRUSTEE-TO-TRUSTEE ROLLOVER, OF BENEFITS FROM ONE RETIREMENT PLAN
15 TO ANOTHER;

16 (3) ESTABLISH A RETIREMENT PLAN IN THE PRINCIPAL'S NAME;

17 (4) MAKE CONTRIBUTIONS TO A RETIREMENT PLAN;

18 (5) EXERCISE INVESTMENT POWERS AVAILABLE UNDER A
19 RETIREMENT PLAN; AND

20 (6) BORROW FROM, SELL ASSETS TO, OR PURCHASE ASSETS
21 FROM A RETIREMENT PLAN.

22 17-216.

23 UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, LANGUAGE IN
24 A POWER OF ATTORNEY GRANTING GENERAL AUTHORITY WITH RESPECT TO
25 TAXES AUTHORIZES THE AGENT TO:

26 (1) PREPARE, SIGN, AND FILE FEDERAL, STATE, LOCAL, AND
27 FOREIGN INCOME, GIFT, PAYROLL, PROPERTY, FEDERAL INSURANCE
28 CONTRIBUTIONS ACT, AND OTHER TAX RETURNS, CLAIMS FOR REFUNDS,
29 REQUESTS FOR EXTENSION OF TIME, PETITIONS REGARDING TAX MATTERS, AND
30 OTHER TAX-RELATED DOCUMENTS, INCLUDING RECEIPTS, OFFERS, WAIVERS,
31 CONSENTS, INCLUDING CONSENTS AND AGREEMENTS UNDER INTERNAL

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1 REVENUE CODE SECTION 2032A, 26 U.S.C. § 2032A, CLOSING AGREEMENTS,
2 AND OTHER POWERS OF ATTORNEY REQUIRED BY THE INTERNAL REVENUE
3 SERVICE OR OTHER TAXING AUTHORITY WITH RESPECT TO A TAX YEAR ON
4 WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN AND THE FOLLOWING 25
5 TAX YEARS;

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

9 (3) EXERCISE ELECTIONS AVAILABLE TO THE PRINCIPAL UNDER
10 FEDERAL, STATE, LOCAL, OR FOREIGN TAX LAW; AND

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

14 17-217.

15 (A) IN THIS SECTION, A GIFT "FOR THE BENEFIT OF" A PERSON
16 INCLUDES A GIFT TO A TRUST, AN ACCOUNT UNDER THE UNIFORM TRANSFERS
17 TO MINORS ACT, AND A TUITION SAVINGS ACCOUNT OR PREPAID TUITION PLAN
18 AS DEFINED UNDER INTERNAL REVENUE CODE SECTION 529, 26 U.S.C. § 529.

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

22 (1) MAKE OUTRIGHT TO, OR FOR THE BENEFIT OF, A PERSON, A
23 GIFT OF PART OR ALL OF THE PRINCIPAL'S PROPERTY, INCLUDING BY THE
24 EXERCISE OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT
25 HELD BY THE PRINCIPAL, IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE
26 ANNUAL DOLLAR LIMITS OF THE FEDERAL GIFT TAX EXCLUSION UNDER
27 INTERNAL REVENUE CODE SECTION 2503(B), 26 U.S.C. § 2503(B), WITHOUT
28 REGARD TO WHETHER THE FEDERAL GIFT TAX EXCLUSION APPLIES TO THE
29 GIFT, OR IF THE PRINCIPAL'S SPOUSE AGREES TO CONSENT TO A SPLIT GIFT
30 PURSUANT TO INTERNAL REVENUE CODE SECTION 2513, 26 U.S.C. § 2513, IN
31 AN AMOUNT FOR EACH DONEE NOT TO EXCEED TWICE THE ANNUAL FEDERAL
32 GIFT TAX EXCLUSION LIMIT; AND

33 (2) CONSENT, PURSUANT TO INTERNAL REVENUE CODE
34 SECTION 2513, 26 U.S.C. § 2513, TO THE SPLITTING OF A GIFT MADE BY THE
35 PRINCIPAL'S SPOUSE IN AN AMOUNT FOR EACH DONEE NOT TO EXCEED THE
36 AGGREGATE ANNUAL GIFT TAX EXCLUSIONS FOR BOTH SPOUSES.

39 UNOFFICIAL COPY OF HOUSE BILL 412

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

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

7 (2) THE PRINCIPAL'S FORESEEABLE OBLIGATIONS AND NEED
8 FOR MAINTENANCE;

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

11 (4) ELIGIBILITY FOR A BENEFIT, A PROGRAM, OR ASSISTANCE
12 UNDER A STATUTE OR REGULATION; AND

13 (5) THE PRINCIPAL'S PERSONAL HISTORY OF MAKING OR
14 JOINING IN MAKING GIFTS.

15 SUBTITLE 3. STATUTORY FORMS.

16 17-301.

17 A DOCUMENT SUBSTANTIALLY IN THE FOLLOWING FORM MAY BE USED TO
18 CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING
19 AND EFFECT PRESCRIBED BY THIS TITLE:

20 "MARYLAND
21 STATUTORY FORM POWER OF ATTORNEY

22 IMPORTANT INFORMATION

23 THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR AGENT) TO
24 MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU (THE PRINCIPAL).
25 YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO
26 YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE
27 TO ACT FOR YOURSELF. THE MEANING OF AUTHORITY OVER SUBJECTS LISTED
28 ON THIS FORM IS EXPLAINED IN THE MARYLAND UNIFORM POWER OF
29 ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE.

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

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

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

YOUR AGENT IS NOT ENTITLED TO COMPENSATION UNLESS YOU INDICATE OTHERWISE IN
THIS POWER OF ATTORNEY. IF YOU INDICATE THAT YOUR AGENT IS TO RECEIVE
COMPENSATION, YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION OR
COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS.

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

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

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

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

19 DESIGNATION OF AGENT

20 I, _____, NAME THE
21 (NAME OF PRINCIPAL)
22 FOLLOWING PERSON AS MY AGENT:

23 NAME OF
24 AGENT: _____
25 AGENT'S
26 ADDRESS: _____
27 AGENT'S TELEPHONE
28 NUMBER: _____

29 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

32 NAME OF SUCCESSOR AGENT: _____

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1 **SUCCESSOR AGENT'S ADDRESS:** _____

2 **SUCCESSOR AGENT'S TELEPHONE**

3 **NUMBER:** _____

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

5 **MY SECOND SUCCESSOR AGENT:**

6 **NAME OF SECOND SUCCESSOR**

7 **AGENT:** _____

8 **SECOND SUCCESSOR AGENT'S**

9 **ADDRESS:** _____

10 **SECOND SUCCESSOR AGENT'S TELEPHONE**

11 **NUMBER:** _____

12 **GRANT OF GENERAL AUTHORITY**

13 **I GRANT MY AGENT AND ANY SUCCESSOR AGENT GENERAL AUTHORITY TO ACT**

14 **FOR ME WITH RESPECT TO THE FOLLOWING SUBJECTS AS DEFINED IN THE**

15 **MARYLAND UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES**

16 **AND TRUSTS ARTICLE:**

17 **(INITIAL EACH SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL**

18 **AUTHORITY. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER ALL OF THE**

19 **SUBJECTS YOU MAY INITIAL "ALL PRECEDING SUBJECTS" INSTEAD OF**

20 **INITIALING EACH SUBJECT.)**

21 **REAL PROPERTY**

22 **TANGIBLE PERSONAL PROPERTY**

23 **STOCKS AND BONDS**

24 **COMMODITIES AND OPTIONS**

25 **BANKS AND OTHER FINANCIAL INSTITUTIONS**

26 **OPERATION OF ENTITY OR BUSINESS**

27 **INSURANCE AND ANNUITIES**

28 **ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS**

29 **CLAIMS AND LITIGATION**

30 **PERSONAL AND FAMILY MAINTENANCE**

31 **BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY**

32 **SERVICE**

33 **RETIREMENT PLANS**

34 **TAXES**

35 **ALL PRECEDING SUBJECTS**

42

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1 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

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

8 CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS TRUST

9 MAKE A GIFT, SUBJECT TO THE LIMITATIONS OF THE MARYLAND

10 UNIFORM POWER OF ATTORNEY ACT, § 17-217 OF THE ESTATES AND

11 TRUSTS ARTICLE, AND ANY SPECIAL INSTRUCTIONS IN THIS POWER OF

12 ATTORNEY

13 CREATE OR CHANGE RIGHTS OF SURVIVORSHIP

14 CREATE OR CHANGE A BENEFICIARY DESIGNATION

15 AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED

16 UNDER THIS POWER OF ATTORNEY

17 WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND

18 SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A

19 RETIREMENT PLAN

20 EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO

21 DELEGATE

22 DISCLAIM OR REFUSE AN INTEREST IN PROPERTY, INCLUDING A POWER

23 OF APPOINTMENT

COMPENSATION OF AGENT

MY AGENT IS TO SERVE WITHOUT COMPENSATION

**MY AGENT IS TO RECEIVE COMPENSATION THAT IS REASONABLE UNDER THE
CIRCUMSTANCES OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS**

24 LIMITATION ON AGENT'S AUTHORITY

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

29 SPECIAL INSTRUCTIONS (OPTIONAL)

30 YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

31 _____

32 _____

33 _____

34 _____

35 _____

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1 _____
2 _____

3 EFFECTIVE DATE

4 THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED
5 OTHERWISE IN THE SPECIAL INSTRUCTIONS.

6 NOMINATION OF GUARDIAN (OPTIONAL)

7 IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY
8 ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S)
9 FOR APPOINTMENT:

10 NAME OF NOMINEE FOR GUARDIAN OF MY ESTATE:

11 _____

12 NOMINEE'S ADDRESS: _____

13 NOMINEE'S TELEPHONE NUMBER: _____

14 NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:

15 _____

16 NOMINEE'S ADDRESS: _____

17 NOMINEE'S TELEPHONE NUMBER: _____

18 RELIANCE ON THIS POWER OF ATTORNEY

19 ANY PERSON, INCLUDING MY AGENT, MAY RELY ON THE VALIDITY OF THIS
20 POWER OF ATTORNEY OR A COPY OF IT UNLESS THAT PERSON KNOWS IT HAS
21 TERMINATED OR IS INVALID.

22 SIGNATURE AND ACKNOWLEDGMENT

23 _____

24 YOUR SIGNATURE DATE

25 _____

26 YOUR NAME PRINTED

27 _____

28 _____

29 YOUR ADDRESS

30 _____

31 YOUR TELEPHONE NUMBER

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1 STATE OF MARYLAND
2 (COUNTY) OF _____

3 THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON
4 _____,
5 (DATE)

6 BY _____
7 (NAME OF PRINCIPAL)

8 _____ (SEAL, IF ANY)

9 SIGNATURE OF NOTARY
10 MY COMMISSION EXPIRES: _____

11 THIS DOCUMENT PREPARED BY:

12 _____
13 _____

14 IMPORTANT INFORMATION FOR AGENT

15 AGENT'S DUTIES

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

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

30 _____
31 (PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT

45 **UNOFFICIAL COPY OF HOUSE BILL 412**

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

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

17 **TERMINATION OF AGENT'S AUTHORITY**

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

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

33 **LIABILITY OF AGENT**

34 **THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN THE**
35 **MARYLAND UNIFORM POWER OF ATTORNEY ACT, TITLE 17 OF THE ESTATES**
36 **AND TRUSTS ARTICLE. IF YOU VIOLATE THE MARYLAND UNIFORM POWER OF**
37 **ATTORNEY ACT, TITLE 17 OF THE ESTATES AND TRUSTS ARTICLE, OR ACT**

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1 OUTSIDE THE AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES
2 CAUSED BY YOUR VIOLATION.

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

5 17-302.

6 THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY
7 FACTS CONCERNING A POWER OF ATTORNEY:

8 "AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF
9 ATTORNEY AND AGENT'S AUTHORITY

10 STATE OF MARYLAND
11 (COUNTY) OF _____

12 I, _____ (NAME OF AGENT), CERTIFY
13 UNDER PENALTY OF PERJURY THAT
14 _____ (NAME OF PRINCIPAL) GRANTED
15 ME AUTHORITY AS AN AGENT OR SUCCESSOR AGENT IN A POWER OF ATTORNEY
16 DATED _____.

17 I FURTHER CERTIFY THAT TO MY KNOWLEDGE:

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

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

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

27 (4)
28 _____
29 _____
30 _____
31 _____

32 (INSERT OTHER RELEVANT STATEMENTS)

47
1

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SIGNATURE AND ACKNOWLEDGMENT**

2 _____
3 **AGENT'S SIGNATURE** **DATE**

4 _____
5 **AGENT'S NAME PRINTED**

6 _____
7 _____

8 **AGENT'S ADDRESS**

9 _____
10 **AGENT'S TELEPHONE NUMBER**

11 **THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON**

12 _____,

13 **(DATE)**

14 **BY** _____.

15 **(NAME OF AGENT)**

16 _____ **(SEAL, IF ANY)**

17 **SIGNATURE OF NOTARY**

18 **MY COMMISSION EXPIRES:** _____

19 **THIS DOCUMENT PREPARED BY:**

20 _____"

21 **SUBTITLE 4. MISCELLANEOUS PROVISIONS.**

22 **17-401.**

23 **THIS TITLE MAY BE CITED AS THE MARYLAND UNIFORM POWER OF**
24 **ATTORNEY ACT.**

25 **17-402.**

26 **IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT,**
27 **CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF**
28 **THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE**
29 **STATES THAT ENACT THE LAW.**

30 **17-403.**

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1 THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL
2 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15
3 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION
4 7001(C) OF THAT ACT, 15 U.S.C. § 7001(C), OR AUTHORIZE ELECTRONIC
5 DELIVERY OF THE NOTICES DESCRIBED IN SECTION 7003(B) OF THAT ACT, 15
6 U.S.C. § 7003(B).

7 17-404.

8 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ON OCTOBER 1, 2008:

9 (1) THIS TITLE APPLIES TO A POWER OF ATTORNEY CREATED
10 BEFORE, ON, OR AFTER OCTOBER 1, 2008;

11 (2) THIS TITLE APPLIES TO A JUDICIAL PROCEEDING
12 CONCERNING A POWER OF ATTORNEY COMMENCED ON OR AFTER OCTOBER 1,
13 2008;

14 (3) THIS TITLE APPLIES TO A JUDICIAL PROCEEDING
15 CONCERNING A POWER OF ATTORNEY COMMENCED BEFORE OCTOBER 1, 2008,
16 UNLESS THE COURT FINDS THAT APPLICATION OF A PROVISION OF THIS TITLE
17 WOULD SUBSTANTIALLY INTERFERE WITH THE EFFECTIVE CONDUCT OF THE
18 JUDICIAL PROCEEDING OR PREJUDICE THE RIGHTS OF A PARTY, IN WHICH CASE
19 THAT PROVISION DOES NOT APPLY AND THE SUPERSEDED LAW APPLIES; AND

20 (4) AN ACT DONE BEFORE OCTOBER 1, 2008, IS NOT AFFECTED
21 BY THIS TITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2008.

6. Proof of Value of Real Property
for Probate and Inheritance Tax Purposes
by a Settlement Statement
for an Arm's Length Contract
That Settles Within 9 Months of Decedent's Death

The Issue Addressed: At present, real property must be valued for inheritance tax purposes on the basis of a professional independent appraisal of fair market value or at the full cash value for property tax assessment purposes as of the most recent date of finality.

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council's proposal would add a new method for valuing real property for probate and inheritance tax purposes by allowing valuation on the basis of a settlement statement's recited contract sale price for an arm's length contract of sale that settles within nine months of the decedent's death.

LEGISLATIVE CHANGE
SECTION 7-202
ESTATES AND TRUSTS ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

§ 7-202. Making of appraisals; fees

(a)(1) Subject to the provisions of this section, the value of each item listed in the inventory shall be fairly appraised as of the date of death and stated in the inventory.

(2) The personal representative may appraise the corporate stocks listed on a national or regional exchange or over the counter securities and items in § 7-201(4) and (5) of this subtitle.

(3) The personal representative shall secure an independent appraisal of the items in all of the other categories.

(4) The personal representative may select one of the methods specified in this section.

(b) The personal representative may apply for appraisal by appraisers designated by the register under § 2-301(a) or § 2-302 of this article.

(c)(1) Except as provided in paragraph (2) of this subsection, instead of an appraisal of the fair market value, real and leasehold property may be valued at the full cash value for property tax assessment purposes as of the most recent date of finality.

(2) Paragraph (1) of this subsection does not apply to property assessed for property tax purposes on the basis of its use value.

...

(G) SETTLEMENT STATEMENT FOR CERTAIN CONTRACTS OF SALE.-
INSTEAD OF AN APPRAISAL OF THE FAIR MARKET VALUE, REAL AND
LEASEHOLD PROPERTY MAY BE VALUED AT THE CONTRACT SALES
PRICE SET FORTH ON A SETTLEMENT STATEMENT FOR AN ARM'S
LENGTH CONTRACT OF SALE, PROVIDED SETTLEMENT ON THE
CONTRACT OCCURS WITHIN NINE MONTHS OF THE DECEDENT'S
DEATH.

Inheritance Tax Valuation of Real Property by Settlement Statement
for an Arm's Length Contract of Sale

Note:

Deletions from the existing statutory text is shown as stricken, ~~such as this~~.

Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

LEGISLATIVE CHANGE
SECTION 7-202
ESTATES AND TRUSTS ARTICLE

Proposed New Statutory Language

§ 7-202. Making of appraisals; fees

(a)(1) Subject to the provisions of this section, the value of each item listed in the inventory shall be fairly appraised as of the date of death and stated in the inventory.

(2) The personal representative may appraise the corporate stocks listed on a national or regional exchange or over the counter securities and items in § 7-201(4) and (5) of this subtitle.

(3) The personal representative shall secure an independent appraisal of the items in all of the other categories.

(4) The personal representative may select one of the methods specified in this section.

(b) The personal representative may apply for appraisal by appraisers designated by the register under § 2-301(a) or § 2-302 of this article.

(c)(1) Except as provided in paragraph (2) of this subsection, instead of an appraisal of the fair market value, real and leasehold property may be valued at the full cash value for property tax assessment purposes as of the most recent date of finality.

(2) Paragraph (1) of this subsection does not apply to property assessed for property tax purposes on the basis of its use value.

...

(g) *Settlement statement for certain contracts of sale.*- Instead of an appraisal of the fair market value, real and leasehold property may be valued at the contract sales price set forth on a settlement statement for an arm's length contract of sale, provided settlement on the contract occurs within nine months of the decedent's death.

7. Statutory Authority for Personal Representatives and Trustees to Become Limited Partnership Limited Partners and Limited Liability Company Members

The Issue Addressed: At present, Section 15-102(q) of the Estates and Trusts Article provides that a fiduciary “may continue as or become a limited partner in any partnership.” No authority is given there for a fiduciary to become a member of a limited liability company. Similarly, Section 7-401(u) of the Estates and Trusts Article currently provides that a personal representative “may convert a sole proprietorship the decedent was engaged in at the time of his death to a limited liability company”. No authority is given there for a personal representative to become a limited partner in a partnership or a member of a limited liability company with respect to any business not engaged in by the decedent as a sole proprietorship.

The MSBA Estate and Trust Law Section Council’s Proposal: The Section Council’s proposal amend Sections 15-102(q) and 7-401(u) to allow fiduciaries (including personal representatives) to become members of limited liability companies (including single member limited liability companies). This proposal is the same as that first proposed as 2007 Senate Bill 435.

The proposal would modernize Sections 15-102(q) and 7-401(u) to apply to limited liability companies as well as to limited partnerships and would facilitate the formation of limited liability companies for estate and business planning purposes. Often, a trust or estate owns just part of a family business with other heirs or family members. Without an express statutory power authorizing fiduciary membership in limited liability companies, these fiduciaries may feel that participating in such limited liability companies places them at risk of challenge from beneficiaries or may refuse so to participate without first obtaining a court order approving the transaction. The Section Council's proposal obviates the need to obtain any such prior court approval.

SENATE BILL 435

N2

71r2022

By: **Senator Frosh**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 14, 2007

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts - Personal Representatives and Fiduciaries - Powers**

3 FOR the purpose of authorizing a personal representative to become a limited partner
4 in any partnership or a member in any limited liability company, including a
5 single member limited liability company; authorizing a fiduciary to continue as
6 or become a member in any limited liability company, including a single
7 member limited liability company; and generally relating to the powers of
8 personal representatives and fiduciaries.

9 BY repealing and reenacting, with amendments,

10 Article - Estates and Trusts

11 Section 7-401(u) and 15-102(q)

12 Annotated Code of Maryland

13 (2001 Replacement Volume and 2006 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Estates and Trusts**

17 7-401.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (u) He may convert a sole proprietorship the decedent was engaged in at the
 2 time of his death to a limited liability company **AND MAY BECOME A LIMITED**
 3 **PARTNER IN ANY PARTNERSHIP OR A MEMBER IN ANY LIMITED LIABILITY**
 4 **COMPANY, INCLUDING A SINGLE MEMBER LIMITED LIABILITY COMPANY.**

5 15-102.

6 (q) He may continue as or become a limited partner in any partnership **OR A**
 7 **MEMBER IN ANY LIMITED LIABILITY COMPANY, INCLUDING A SINGLE MEMBER**
 8 **LIMITED LIABILITY COMPANY.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 10 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

8. Clarify the Effect of Divorce on the Will of a Divorced Person

The Issue Addressed: Questions have arisen as to the effect of Section 4-105(4) of the Estates and Trusts Article with regard to will provisions passing property to a decedent's former spouse after their absolute divorce or annulment. For example, if all provisions of the will relating to the spouse are revoked, what impact does this have on the inheritance rights of the spouse's legatees and descendants?

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council's proposal clarifies that when a will leaves property to a spouse in a marriage where a divorce or annulment subsequently occurs, the will is interpreted as if the surviving (former) spouse had died before the execution of the will.

LEGISLATIVE CHANGE
SECTION 4-105(4)
ESTATES AND TRUSTS ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

§ 4-105. Procedures to revoke will

A will, or any part of it, may not be revoked in a manner other than as provided in this section.

(1) *Subsequent will.*- By provision in a subsequent, validly executed will which (i) revokes any prior will or part of it either expressly or by necessary implication, or (ii) expressly republishes an earlier will that had been revoked by an intermediate will but is still in existence;

(2) *Destruction.*- By burning, cancelling, tearing, or obliterating the same, by the testator himself, or by some other person in his presence and by his express direction and consent;

(3) *Subsequent marriage and issue.*- By the subsequent marriage of the testator followed by the birth, adoption, or legitimation of a child by him, provided such child or his descendant survives the testator; and all wills executed prior to such marriage shall be revoked; or

(4) *Divorce or annulment.*- By an absolute divorce of a testator and his spouse or the annulment of the marriage, either of which occurs subsequent to the execution of the testator's will; and all ~~provisions in the will relating to the spouse, and only those provisions, shall be revoked~~ **PROPERTY OR OTHER BENEFITS WHICH WOULD HAVE PASSED TO THE SURVIVING SPOUSE UNDER THE WILL SHALL BE TREATED AS IF THE SURVIVING SPOUSE HAD DIED BEFORE THE EXECUTION OF THE WILL,** unless otherwise provided in the will or decree.

Clarification of Effect of Divorce on the Will of a Divorced Person

Note:

Deletions from the existing statutory text is shown as stricken, ~~such as this~~.

Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

LEGISLATIVE CHANGE
SECTION 4-105(4)
ESTATES AND TRUSTS ARTICLE

Proposed New Statutory Language

§ 4-105. Procedures to revoke will

A will, or any part of it, may not be revoked in a manner other than as provided in this section.

(1) *Subsequent will.*- By provision in a subsequent, validly executed will which (i) revokes any prior will or part of it either expressly or by necessary implication, or (ii) expressly republishes an earlier will that had been revoked by an intermediate will but is still in existence;

(2) *Destruction.*- By burning, cancelling, tearing, or obliterating the same, by the testator himself, or by some other person in his presence and by his express direction and consent;

(3) *Subsequent marriage and issue.*- By the subsequent marriage of the testator followed by the birth, adoption, or legitimation of a child by him, provided such child or his descendant survives the testator; and all wills executed prior to such marriage shall be revoked; or

(4) *Divorce or annulment.*- By an absolute divorce of a testator and his spouse or the annulment of the marriage, either of which occurs subsequent to the execution of the testator's will; and all property or other benefits which would have passed to the surviving spouse under the will shall be treated as if the surviving spouse had died before the execution of the will, unless otherwise provided in the will or decree.

9. Estates and Trusts Article Cross-Reference to Criminal Statute Prohibiting Estate Distributions to Persons Convicted of Abusing Vulnerable Adults

The Issue Addressed: Existing Section 8-801 of the Criminal Law Article disqualifies persons convicted of exploiting a vulnerable adult from inheriting, receiving property from, or otherwise benefiting from the estate of the vulnerable adult who was exploited. Persons dealing with estates of Maryland residents may not be aware of this statute.

The MSBA Estate and Trust Law Section Council's Proposal: The Section Council's proposal will make sure that more Maryland citizens and other persons dealing with the estates of Maryland residents become aware of the disqualification in Criminal Law Section 8-801 of persons convicted of exploiting a vulnerable adult from inheriting, receiving property from, or otherwise benefiting from the estate of the vulnerable adult who was exploited. The proposal will add a cross-reference to Criminal Law Section 8-801 in the Estates and Trusts Article.

LEGISLATIVE CHANGE
SECTION 3-111
ESTATES AND TRUSTS ARTICLE

Blackline Version Showing Statutory Text Changes Proposed

§ 3-111. Intestate succession; surviving parent not entitled to PROHIBITION OF DISTRIBUTION UPON COMMITMENT OF CERTAIN CRIMES OR ACTS.

(A) CHILD ABUSE.- A surviving parent is not entitled under § 3-104 of this subtitle to a distribution of the net estate of a child of the parent if:

- (1) (i) The parent is convicted under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article; or
- (ii) The parent committed any act prohibited under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article;
- (2) The other parent of the child is the victim of the crime or act described under item (1) of this section; and
- (3) The other parent of the child is a child of the parent.

(B) EXPLOITATION OF A VULNERABLE ADULT.- A PERSON CONVICTED OF EXPLOITATION OF A VULNERABLE ADULT UNDER CRIMINAL LAW ARTICLE §8-801 SHALL BE DISQUALIFIED FROM INHERITING, RECEIVING OR OTHERWISE BENEFITING FROM THE ESTATE OF THE VULNERABLE ADULT, EXCEPT AS PROVIDED IN CRIMINAL LAW ARTICLE §8-801(E).

Estates and Trust Article Cross-Reference
of Criminal Statute Prohibiting Estate Distributions
to Persons Convicted of Abusing Vulnerable Adults

Note:

Deletions from the existing statutory text is shown as stricken, ~~such as this~~.

Text added to the existing statutory text is shown in capitalized, bold underlined text, **SUCH AS THIS**.

LEGISLATIVE CHANGE
SECTION 3-111
ESTATES AND TRUSTS ARTICLE

Proposed New Statutory Language

§ 3-111. Prohibition of distribution upon commitment of certain crimes or acts.

- (a) *Child Abuse.*- A surviving parent is not entitled under § 3-104 of this subtitle to a distribution of the net estate of a child of the parent if:
 - (1) (i) The parent is convicted under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article; or
 - (ii) The parent committed any act prohibited under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article;
 - (2) The other parent of the child is the victim of the crime or act described under item (1) of this section; and
 - (3) The other parent of the child is a child of the parent.
- (b) *Exploitation of a Vulnerable Adult.*- A person convicted of exploitation of a vulnerable adult under Criminal Law Article §8-801 shall be disqualified from inheriting, receiving or otherwise benefiting from the estate of the vulnerable adult, except as provided in Criminal Law Article §8-801(e).