



1 "Good faith" means honesty in fact.

2 "Incapacitated" or "incapacity" means the inability of an  
3 individual to manage property or business affairs because the  
4 individual:

5 (1) Has an impairment in the ability to receive and  
6 evaluate information or make or communicate decisions  
7 even with the use of technological assistance; or

8 (2) (A) Is missing;

9 (B) Is detained, including being incarcerated in a  
10 penal system; or

11 (C) Is outside the United States and unable to  
12 return.

13 "Person" means an individual, corporation, business trust,  
14 estate, trust, partnership, limited liability company,  
15 association, joint venture, public corporation, government or  
16 governmental subdivision, agency, or instrumentality, or any  
17 other legal or commercial entity.

18 "Power of attorney" means a writing or other record that  
19 grants authority to an agent to act in the place of the  
20 principal, regardless of whether the term power of attorney is  
21 used.



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

14 "Principal" means an individual who grants authority to an  
15 agent in a power of attorney.

16 "Property" means anything that may be the subject of  
17 ownership, whether real or personal, or legal or equitable, or  
18 any interest or right therein.

19 "Record" means information that is inscribed on a tangible  
20 medium or that is stored in an electronic or other medium and is  
21 retrievable in perceivable form.



1 "Sign" means, with present intent to authenticate or adopt  
2 a record, to:

3 (1) Execute or adopt a tangible symbol; or

4 (2) Attach to or logically associate with the record an  
5 electronic sound, symbol, or process.

6 "State" means a state of the United States, the District of  
7 Columbia, Puerto Rico, the United States Virgin Islands, or any  
8 territory or insular possession subject to the jurisdiction of  
9 the United States.

10 "Stocks and bonds" means stocks, bonds, mutual funds, and  
11 all other types of securities and financial instruments, whether  
12 held directly, indirectly, or in any other manner. The term  
13 does not include commodity futures contracts and call or put  
14 options on stocks or stock indexes.

15 **§ -2 Applicability.** This chapter applies to all powers  
16 of attorney except:

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

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



- 1 (3) A proxy or other delegation to exercise voting rights  
2 or management rights with respect to an entity;
- 3 (4) A power created on a form prescribed by a government  
4 or governmental subdivision, agency, or  
5 instrumentality for a governmental purpose; and
- 6 (5) A power created by a legal parent or legal guardian  
7 placing the care of a minor or a disabled adult under  
8 another person.

9 **§ -3 Power of attorney.** (a) A power of attorney  
10 created under this chapter shall be durable unless it expressly  
11 provides that it is terminated by the incapacity of the  
12 principal.

13 (b) A power of attorney shall be signed by the principal  
14 or in the principal's conscious presence by another individual  
15 directed by the principal to sign the principal's name on the  
16 power of attorney. A signature on a power of attorney shall be  
17 presumed to be genuine if the principal acknowledges the  
18 signature before a notary public or other individual authorized  
19 by law to take acknowledgments.

20 (c) A power of attorney executed in Hawaii on or after  
21 January 1, 2015, shall be valid if its execution complied with  
22 the law of this State as it existed at the time of execution.



1 (d) A power of attorney executed outside Hawaii shall be  
2 valid in this State if, when the power of attorney was executed,  
3 the execution complied with:

4 (1) The law of the jurisdiction that determines the  
5 meaning and effect of the power of attorney pursuant  
6 to subsection (f); or

7 (2) The requirements for a military power of attorney  
8 pursuant to title 10 U.S.C. section 1044b, as amended.

9 (e) Except as otherwise provided by statute other than  
10 this chapter, a photocopy or electronically transmitted copy of  
11 an original power of attorney has the same effect as the  
12 original.

13 (f) The meaning and effect of a power of attorney shall be  
14 determined by the law of the jurisdiction indicated in the power  
15 of attorney and, in the absence of an indication of  
16 jurisdiction, by the law of the jurisdiction in which the power  
17 of attorney was executed.

18 **§ -4 Nomination of conservator or guardian; relation of**  
19 **agent to court-appointed fiduciary.** (a) In a power of  
20 attorney, a principal may nominate a conservator or guardian of  
21 the principal's estate, or conservator or guardian of the  
22 principal's person for consideration by the court if protective



1 proceedings for the principal's estate or person are begun after  
2 the principal executes the power of attorney. Except for good  
3 cause shown or disqualification, the court shall make its  
4 appointment in accordance with the principal's most recent  
5 nomination.

6 (b) If, after a principal executes a power of attorney, a  
7 court appoints a guardian of the principal's estate or other  
8 fiduciary charged with the management of some or all of the  
9 principal's property, the agent shall be accountable to the  
10 fiduciary as well as to the principal. The power of attorney  
11 shall not be terminated, and the agent's authority continues  
12 unless limited, suspended, or terminated by the court.

13 **§ -5 Effective date of power of attorney.** (a) A power  
14 of attorney shall be effective when executed unless the  
15 principal provides in the power of attorney that it becomes  
16 effective at a future date or upon the occurrence of a future  
17 event or contingency.

18 (b) If a power of attorney becomes effective upon the  
19 occurrence of a future event or contingency, the principal, in  
20 the power of attorney, may authorize one or more persons to  
21 determine in a writing or other record that the event or  
22 contingency has occurred.

1 (c) If a power of attorney becomes effective upon the  
2 principal's incapacity and the principal has not authorized a  
3 person to determine whether the principal is incapacitated, or  
4 the person authorized is unable or unwilling to make the  
5 determination, the power of attorney becomes effective upon a  
6 determination in a writing or other record by:

7 (1) A physician or licensed psychologist that the  
8 principal has an impairment in the ability to receive  
9 and evaluate information or make or communicate  
10 decisions even with the use of technological  
11 assistance; or

12 (2) An attorney at law, a judge, or an appropriate  
13 governmental official that the principal is  
14 incapacitated.

15 (d) A person authorized by the principal in the power of  
16 attorney to determine that the principal is incapacitated may  
17 act as the principal's personal representative pursuant to the  
18 Health Insurance Portability and Accountability Act, sections  
19 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d),  
20 as amended, and applicable regulations, to obtain access to the  
21 principal's health care information and communicate with the  
22 principal's health care provider.





1           **§ -6 Termination of power of attorney or agent's**

2 **authority.** (a) A power of attorney terminates when:

3           (1) The principal dies;

4           (2) The principal becomes incapacitated, if the power of  
5 attorney is not durable;

6           (3) The principal revokes the power of attorney;

7           (4) The power of attorney provides that it terminates;

8           (5) The purpose of the power of attorney is accomplished;

9           or

10          (6) The principal revokes the agent's authority or the  
11 agent dies, becomes incapacitated, or resigns, and the  
12 power of attorney does not provide for another agent  
13 to act under the power of attorney.

14          (b) An agent's authority terminates when:

15          (1) The principal revokes the authority;

16          (2) The agent dies, becomes incapacitated, or resigns;

17          (3) An action is filed for the dissolution or annulment of  
18 the agent's marriage to the principal or their legal  
19 separation, unless the power of attorney otherwise  
20 provides; or

21          (4) The power of attorney terminates.



1 (c) Unless the power of attorney otherwise provides, an  
2 agent's authority is exercisable until the authority terminates  
3 under subsection (b), notwithstanding a lapse of time since the  
4 execution of the power of attorney.

5 (d) Termination of an agent's authority or of a power of  
6 attorney is not effective as to the agent or another person  
7 that, without actual knowledge of the termination, acts in good  
8 faith under the power of attorney. An act so performed, unless  
9 otherwise invalid or unenforceable, binds the principal and the  
10 principal's successors in interest.

11 (e) Incapacity of the principal of a power of attorney  
12 that is not durable does not revoke or terminate the power of  
13 attorney as to an agent or other person that, without actual  
14 knowledge of the incapacity, acts in good faith under the power  
15 of attorney. An act so performed, unless otherwise invalid or  
16 unenforceable, binds the principal and the principal's  
17 successors in interest.

18 (f) The execution of a power of attorney does not revoke a  
19 power of attorney previously executed by the principal unless  
20 the subsequent power of attorney provides that the previous  
21 power of attorney is revoked or that all other powers of  
22 attorney are revoked.



1           **§ -7 Co-agents and successor agents.** (a) A principal  
2 may designate two or more persons to act as co-agents. Unless  
3 the power of attorney otherwise provides, each co-agent may  
4 exercise the co-agent's authority independently.

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

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

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

16           (c) Except as otherwise provided in the power of attorney  
17 and subsection (d), an agent that does not participate in or  
18 conceal a breach of fiduciary duty committed by another agent,  
19 including a predecessor agent, shall not be liable for the  
20 actions of the other agent.

21           (d) An agent that has actual knowledge of a breach or  
22 imminent breach of fiduciary duty by another agent shall notify



1 the principal and, if the principal is incapacitated, take any  
2 action reasonably appropriate in the circumstances to safeguard  
3 the principal's best interest. An agent that fails to notify  
4 the principal or take action as required by this subsection  
5 shall be liable for the reasonably foreseeable damages that  
6 could have been avoided if the agent had notified the principal  
7 or taken such action.

8       **§ -8 Reimbursement and compensation of agent.** Unless  
9 the power of attorney otherwise provides, an agent shall be  
10 entitled to reimbursement of expenses reasonably incurred on  
11 behalf of the principal and to compensation that is reasonable  
12 under the circumstances.

13       **§ -9 Agent's acceptance.** Except as otherwise provided  
14 in the power of attorney, a person accepts appointment as an  
15 agent under a power of attorney by exercising authority or  
16 performing duties as an agent or by any other assertion or  
17 conduct indicating acceptance.

18       **§ -10 Agent's duties.** (a) Notwithstanding provisions  
19 in the power of attorney, an agent that has accepted appointment  
20 shall:



- 1 (1) Act in accordance with the principal's reasonable  
2 expectations to the extent actually known by the agent  
3 and, otherwise, in the principal's best interest;
- 4 (2) Act in good faith; and
- 5 (3) Act only within the scope of authority granted in the  
6 power of attorney.
- 7 (b) Except as otherwise provided in the power of attorney,  
8 an agent that has accepted appointment shall:
- 9 (1) Act loyally for the principal's benefit;
- 10 (2) Act so as not to create a conflict of interest that  
11 impairs the agent's ability to act impartially in the  
12 principal's best interest;
- 13 (3) Act with the care, competence, and diligence  
14 ordinarily exercised by agents in similar  
15 circumstances;
- 16 (4) Keep a record of all receipts, disbursements, and  
17 transactions made on behalf of the principal;
- 18 (5) Cooperate with a person that has authority to make  
19 health care decisions for the principal to carry out  
20 the principal's reasonable expectations to the extent  
21 actually known by the agent and, otherwise, act in the  
22 principal's best interest; and



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

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

6           (B) The principal's foreseeable obligations and need  
7           for maintenance;

8           (C) Minimization of taxes, including income, estate,  
9           inheritance, generation-skipping transfer, and  
10          gift taxes; and

11          (D) Eligibility for a benefit, a program, or  
12          assistance under a statute or regulation.

13          (c) An agent that acts in good faith shall not be liable  
14          to any beneficiary of the principal's estate plan for failure to  
15          preserve the plan.

16          (d) An agent that acts with care, competence, and  
17          diligence for the best interest of the principal shall not be  
18          liable solely because the agent also benefits from the act or  
19          has an individual or conflicting interest in relation to the  
20          property or affairs of the principal.

21          (e) If an agent is selected by the principal because of  
22          special skills or expertise possessed by the agent or in

1 reliance on the agent's representation that the agent has  
2 special skills or expertise, the special skills or expertise  
3 shall be considered in determining whether the agent has acted  
4 with care, competence, and diligence under the circumstances.

5 (f) Absent a breach of duty to the principal, an agent  
6 shall not be liable if the value of the principal's property  
7 declines.

8 (g) An agent that exercises authority to delegate to  
9 another person the authority granted by the principal or that  
10 engages another person on behalf of the principal shall not be  
11 liable for an act, error of judgment, or default of that person  
12 if the agent exercises care, competence, and diligence in  
13 selecting and monitoring the person.

14 (h) Except as otherwise provided in the power of attorney,  
15 an agent shall not be required to disclose receipts,  
16 disbursements, or transactions conducted on behalf of the  
17 principal unless ordered by a court or requested by the  
18 principal, a guardian, a conservator, another fiduciary acting  
19 for the principal, a governmental agency having authority to  
20 protect the welfare of the principal, or, upon the death of the  
21 principal, by the personal representative or successor in  
22 interest of the principal's estate. If so requested, within



1 thirty days, the agent shall comply with the request or provide  
2 a writing or other record substantiating why additional time is  
3 needed and shall comply with the request within an additional  
4 thirty days.

5       **§ -11 Exoneration of agent.** A provision in a power of  
6 attorney relieving an agent of liability for breach of duty  
7 shall be binding on the principal and the principal's successors  
8 in interest except to the extent the provision:

9           (1) Relieves the agent of liability for breach of duty  
10           committed dishonestly, with an improper motive, or  
11           with reckless indifference to the purposes of the  
12           power of attorney or the best interest of the  
13           principal; or

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

16       **§ -12 Judicial relief.** (a) The following persons may  
17 petition a court to construe a power of attorney or review the  
18 agent's conduct, and grant appropriate relief:

19           (1) The principal or the agent;

20           (2) A guardian, conservator, or other fiduciary acting for  
21           the principal;





- 1           (3) A person authorized to make health care decisions for  
2           the principal;
- 3           (4) The principal's spouse, parent, or descendant;
- 4           (5) An individual who would qualify as a presumptive heir  
5           of the principal;
- 6           (6) A person named as a beneficiary to receive any  
7           property, benefit, or contractual right on the  
8           principal's death or as a beneficiary of a trust  
9           created by or for the principal that has a financial  
10          interest in the principal's estate;
- 11          (7) A governmental agency having regulatory authority to  
12          protect the welfare of the principal;
- 13          (8) The principal's caregiver or another person that  
14          demonstrates sufficient interest in the principal's  
15          welfare; and
- 16          (9) A person asked to accept the power of attorney.
- 17          (b) Upon motion by the principal, the court shall dismiss  
18 a petition filed under this section, unless the court finds that  
19 the principal lacks capacity to revoke the agent's authority or  
20 the power of attorney.



1           **§ -13 Agent's liability.** An agent that violates this  
2 chapter shall be liable to the principal or the principal's  
3 successors in interest for the amount required to:

- 4           (1) Restore the value of the principal's property to what  
5               it would have been had the violation not occurred; and  
6           (2) Reimburse the principal or the principal's successors  
7               in interest for the attorney's fees and costs paid on  
8               the agent's behalf.

9           **§ -14 Agent's resignation; notice.** Unless the power of  
10 attorney provides a different method for an agent's resignation,  
11 an agent may resign by giving notice to the principal and, if  
12 the principal is incapacitated:

- 13           (1) To the conservator or guardian, if one has been  
14               appointed for the principal, and a co-agent or  
15               successor agent; or  
16           (2) If there is no person described in paragraph (1), to:  
17               (A) The principal's caregiver;  
18               (B) Another person reasonably believed by the agent  
19               to have sufficient interest in the principal's  
20               welfare; or  
21               (C) A governmental agency having authority to protect  
22               the welfare of the principal.



1           **§ -15 Acceptance of and reliance upon acknowledged power**

2 **of attorney.** (a) For purposes of this section and section

3 -16, "acknowledged" means purportedly verified before a

4 notary public or other individual authorized to take

5 acknowledgements.

6           (b) A person that in good faith accepts an acknowledged

7 power of attorney without actual knowledge that the signature is

8 not genuine may rely upon the presumption under section -3(b)

9 that the signature is genuine.

10           (c) A person that in good faith accepts an acknowledged

11 power of attorney without actual knowledge that the power of

12 attorney is void, invalid, or terminated; that the purported

13 agent's authority is void, invalid, or terminated; or that the

14 agent is exceeding or improperly exercising the agent's

15 authority, may rely upon the power of attorney as if the power

16 of attorney were genuine, valid, and still in effect; the

17 agent's authority were genuine, valid, and still in effect; and

18 the agent had not exceeded and had properly exercised the

19 authority.

20           (d) A person that is asked to accept an acknowledged power

21 of attorney may request, and rely upon, without further

22 investigation:



- 1           (1) An agent's certification under penalty of perjury of  
2           any factual matter concerning the principal, agent, or  
3           power of attorney;
- 4           (2) An English translation of the power of attorney if the  
5           power of attorney contains, in whole or in part, any  
6           language other than English; and
- 7           (3) An opinion of counsel as to any matter of law  
8           concerning the power of attorney if the person making  
9           the request provides in a writing or other record the  
10          reason for the request.
- 11          (e) An English translation or an opinion of counsel  
12          requested under this section shall be provided at the  
13          principal's expense unless the request is made more than seven  
14          business days after the power of attorney is presented for  
15          acceptance.
- 16          (f) For purposes of this section and section       -16, a  
17          person that conducts activities through employees is without  
18          actual knowledge of a fact relating to a power of attorney, a  
19          principal, or an agent if the employee conducting the  
20          transaction involving the power of attorney is without actual  
21          knowledge of the fact.



1           **§ -16 Liability for refusal to accept acknowledged power**

2 **of attorney.** (a) Except as otherwise provided in subsection

3 (b):

4           (1) A person shall either accept an acknowledged power of  
5 attorney or request a certification, a translation, or  
6 an opinion of counsel under section -15(d) no later  
7 than seven business days after presentation of the  
8 power of attorney for acceptance;

9           (2) If a person requests a certification, a translation,  
10 or an opinion of counsel under section -15(d), the  
11 person shall accept the power of attorney no later  
12 than five business days after receipt of the  
13 certification, translation, or opinion of counsel; and

14           (3) A person may not require an additional or different  
15 form of power of attorney for authority granted in the  
16 power of attorney presented.

17           (b) A person shall not be required to accept an  
18 acknowledged power of attorney if:

19           (1) The person is not otherwise required to engage in a  
20 transaction with the principal in the same  
21 circumstances;



- 1           (2) Engaging in a transaction with the agent or the  
2           principal in the same circumstances would be  
3           inconsistent with federal law;
- 4           (3) The person has actual knowledge of the termination of  
5           the agent's authority or of the power of attorney  
6           before exercise of the power;
- 7           (4) A request for a certification, a translation, or an  
8           opinion of counsel under section -15(d) is refused;
- 9           (5) The person in good faith believes that the power is  
10          not valid or that the agent does not have the  
11          authority to perform the act requested, regardless of  
12          whether a certification, a translation, or an opinion  
13          of counsel under section -15(d) has been requested  
14          or provided; or
- 15          (6) The person makes, or has actual knowledge that another  
16          person has made, a report to the adult protective and  
17          community services branch of the department of human  
18          services stating a good faith belief that the  
19          principal may be subject to physical or financial  
20          abuse, neglect, exploitation, or abandonment by the  
21          agent or a person acting for or with the agent.



1 (c) A person that refuses to accept an acknowledged power  
2 of attorney in violation of this section shall be subject to:

3 (1) A court order mandating acceptance of the power of  
4 attorney; and

5 (2) Liability for reasonable attorney's fees and costs  
6 incurred in any action or proceeding that confirms the  
7 validity of the power of attorney or mandates  
8 acceptance of the power of attorney.

9 **§ -17 Principles of law and equity.** Unless displaced by  
10 a provision of this chapter, the principles of law and equity  
11 supplement this chapter.

12 **§ -18 Laws applicable to financial institutions and**  
13 **entities.** This chapter does not supersede any other law  
14 applicable to financial institutions or other entities, and the  
15 other law controls if inconsistent with this chapter.

16 **§ -19 Remedies under other law.** The remedies under this  
17 chapter are not exclusive and do not abrogate any right or  
18 remedy under the law of this State other than this chapter.

19 **PART II. AUTHORITY**

20 **§ -31 Authority that requires specific grant; grant of**  
21 **general authority.** (a) An agent under a power of attorney may  
22 do the following on behalf of the principal or with the



1 principal's property only if the power of attorney expressly  
2 grants the agent the authority and exercise of the authority is  
3 not otherwise prohibited by another agreement or instrument to  
4 which the authority or property is subject:

5 (1) Create, amend, revoke, or terminate an inter vivos  
6 trust;

7 (2) Make a gift;

8 (3) Create or change rights of survivorship;

9 (4) Create or change a beneficiary designation;

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

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

15 (7) Exercise fiduciary powers that the principal has  
16 authority to delegate.

17 (b) Notwithstanding a grant of authority to do an act  
18 described in subsection (a), unless the power of attorney  
19 otherwise provides, an agent that is not an ancestor, spouse, or  
20 descendant of the principal, may not exercise authority under a  
21 power of attorney to create in the agent, or in an individual to  
22 whom the agent owes a legal obligation of support, an interest





1 in the principal's property, whether by gift, right of  
2 survivorship, beneficiary designation, disclaimer, or otherwise.

3 (c) Subject to subsections (a), (b), (d), and (e), if a  
4 power of attorney grants to an agent authority to do all acts  
5 that a principal could do, the agent has the general authority  
6 described in sections -34 through -46.

7 (d) Unless the power of attorney otherwise provides, a  
8 grant of authority to make a gift shall be subject to section  
9 -47.

10 (e) Subject to subsections (a), (b), and (d), if the  
11 subjects over which authority is granted in a power of attorney  
12 are similar or overlap, the broadest authority controls.

13 (f) Authority granted in a power of attorney shall be  
14 exercisable with respect to property that the principal has when  
15 the power of attorney is executed or acquires later, regardless  
16 of whether the property is located in this State and regardless  
17 of whether the authority is exercised or the power of attorney  
18 is executed in this State.

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



1           **§ -32 Incorporation of authority.** (a) An agent has  
2 authority described in this part if the power of attorney refers  
3 to general authority with respect to the descriptive term for  
4 the subjects stated in sections -34 through -47 or cites  
5 the section in which the authority is described.

6           (b) A reference in a power of attorney to general  
7 authority with respect to the descriptive term for a subject in  
8 sections -34 through -47 or a citation to a section of  
9 sections -34 through -47 incorporates the entire section  
10 as if it were set out in full in the power of attorney.

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

13           **§ -33 Construction of authority generally.** Except as  
14 otherwise provided in the power of attorney, by executing a  
15 power of attorney that incorporates by reference a subject  
16 described in sections -34 through -47 or that grants to an  
17 agent authority to do all acts that a principal could do  
18 pursuant to section -31(c), a principal authorizes the agent,  
19 with respect to that subject, to:

20           (1) Demand, receive, and obtain by litigation or  
21 otherwise, money or another thing of value to which  
22 the principal is, may become, or claims to be



- 1           entitled, and conserve, invest, disburse, or use  
2           anything so received or obtained for the purposes  
3           intended;
- 4           (2) Contract in any manner with any person, on terms  
5           agreeable to the agent, to accomplish a purpose of a  
6           transaction and perform, rescind, cancel, terminate,  
7           reform, restate, release, or modify the contract or  
8           another contract made by or on behalf of the  
9           principal;
- 10          (3) Execute, acknowledge, seal, deliver, file, or record  
11          any instrument or communication the agent considers  
12          desirable to accomplish a purpose of a transaction,  
13          including creating at any time a schedule listing some  
14          or all of the principal's property and attaching it to  
15          the power of attorney;
- 16          (4) Initiate, participate in, submit to alternative  
17          dispute resolution, settle, oppose, or propose or  
18          accept a compromise with respect to a claim existing  
19          in favor of or against the principal or intervene in  
20          litigation relating to the claim;



- 1 (5) Seek on the principal's behalf the assistance of a  
2 court or other governmental agency to carry out an act  
3 authorized in the power of attorney;
- 4 (6) Engage, compensate, and discharge an attorney,  
5 accountant, discretionary investment manager, expert  
6 witness, or other advisor;
- 7 (7) Prepare, execute, and file a record, report, or other  
8 document to safeguard or promote the principal's  
9 interest under a statute or regulation;
- 10 (8) Communicate with any representative or employee of a  
11 government or governmental subdivision, agency, or  
12 instrumentality, on behalf of the principal;
- 13 (9) Access communications intended for, and communicate on  
14 behalf of the principal, whether by mail, electronic  
15 transmission, telephone, or other means; and
- 16 (10) Do any lawful act with respect to the subject and all  
17 property related to the subject.

18 **§ -34 Real property.** Unless the power of attorney  
19 otherwise provides, language in a power of attorney granting  
20 general authority with respect to real property authorizes the  
21 agent to:



- 1           (1) Demand, buy, lease, receive, accept as a gift or as  
2                   security for an extension of credit, or otherwise  
3                   acquire or reject an interest in real property or a  
4                   right incident to real property;
- 5           (2) Sell; exchange; convey with or without covenants,  
6                   representations, or warranties; quitclaim; release;  
7                   surrender; retain title for security; encumber;  
8                   partition; consent to partitioning; subject to an  
9                   easement or covenant; subdivide; apply for zoning or  
10                  other governmental permits; plat or consent to  
11                  platting; develop; grant an option concerning; lease;  
12                  sublease; contribute to an entity in exchange for an  
13                  interest in that entity; or otherwise grant or dispose  
14                  of an interest in real property or a right incident to  
15                  real property;
- 16          (3) Pledge or mortgage an interest in real property or  
17                  right incident to real property as security to borrow  
18                  money or pay, renew, or extend the time of payment of  
19                  a debt of the principal or a debt guaranteed by the  
20                  principal;
- 21          (4) Release, assign, satisfy, or enforce by litigation or  
22                  otherwise a mortgage, deed of trust, conditional sale



- 1 contract, encumbrance, lien, or other claim to real  
2 property that exists or is asserted;
- 3 (5) Manage or conserve an interest in real property or a  
4 right incident to real property owned or claimed to be  
5 owned by the principal, including:
- 6 (A) Insuring against liability or casualty or other  
7 loss;
- 8 (B) Obtaining or regaining possession of or  
9 protecting the interest or right by litigation or  
10 otherwise;
- 11 (C) Paying, assessing, compromising, or contesting  
12 taxes or assessments or applying for and  
13 receiving refunds in connection with them; and
- 14 (D) Purchasing supplies, hiring assistance or labor,  
15 and making repairs or alterations to the real  
16 property;
- 17 (6) Use, develop, alter, replace, remove, erect, or  
18 install structures or other improvements upon real  
19 property in or incident to which the principal has, or  
20 claims to have, an interest or right;
- 21 (7) Participate in a reorganization with respect to real  
22 property or an entity that owns an interest in or



1 right incident to real property and receive, and hold,  
2 and act with respect to stocks and bonds or other  
3 property received in a plan of reorganization,  
4 including:

5 (A) Selling or otherwise disposing of them;

6 (B) Exercising or selling an option, right of  
7 conversion, or similar right with respect to  
8 them; and

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

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

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

16 **§ -35 Tangible personal property.** Unless the power of  
17 attorney otherwise provides, language in a power of attorney  
18 granting general authority with respect to tangible personal  
19 property authorizes the agent to:

20 (1) Demand, buy, receive, accept as a gift or as security  
21 for an extension of credit, or otherwise acquire or



- 1 reject ownership or possession of tangible personal  
2 property or an interest in tangible personal property;
- 3 (2) Sell; exchange; convey with or without covenants,  
4 representations, or warranties; quitclaim; release;  
5 surrender; create a security interest in; grant  
6 options concerning; lease; sublease; or otherwise  
7 dispose of tangible personal property or an interest  
8 in tangible personal property;
- 9 (3) Grant a security interest in tangible personal  
10 property or an interest in tangible personal property  
11 as security to borrow money or pay, renew, or extend  
12 the time of payment of a debt of the principal or a  
13 debt guaranteed by the principal;
- 14 (4) Release, assign, satisfy, or enforce by litigation or  
15 otherwise, a security interest, lien, or other claim  
16 on behalf of the principal, with respect to tangible  
17 personal property or an interest in tangible personal  
18 property;
- 19 (5) Manage or conserve tangible personal property or an  
20 interest in tangible personal property on behalf of  
21 the principal, including:





- 1 (A) Insuring against liability or casualty or other  
2 loss;
- 3 (B) Obtaining or regaining possession of or  
4 protecting the property or interest, by  
5 litigation or otherwise;
- 6 (C) Paying, assessing, compromising, or contesting  
7 taxes or assessments or applying for and  
8 receiving refunds in connection with taxes or  
9 assessments;
- 10 (D) Moving the property from place to place;
- 11 (E) Storing the property for hire or on a gratuitous  
12 bailment; and
- 13 (F) Using and making repairs, alterations, or  
14 improvements to the property; and
- 15 (6) Change the form of title of an interest in tangible  
16 personal property.

17 **§ -36 Stocks and bonds.** Unless the power of attorney  
18 otherwise provides, language in a power of attorney granting  
19 general authority with respect to stocks and bonds authorizes  
20 the agent to:

- 21 (1) Buy, sell, and exchange stocks and bonds;



- 1 (2) Establish, continue, modify, or terminate an account  
2 with respect to stocks and bonds;
- 3 (3) Pledge stocks and bonds as security to borrow, pay,  
4 renew, or extend the time of payment of a debt of the  
5 principal;
- 6 (4) Receive certificates and other evidences of ownership  
7 with respect to stocks and bonds; and
- 8 (5) Exercise voting rights with respect to stocks and  
9 bonds in person or by proxy, enter into voting trusts,  
10 and consent to limitations on the right to vote.

11 **§ -37 Commodities and options.** Unless the power of  
12 attorney otherwise provides, language in a power of attorney  
13 granting general authority with respect to commodities and  
14 options authorizes the agent to:

- 15 (1) Buy, sell, exchange, assign, settle, and exercise  
16 commodity futures contracts and call or put options on  
17 stocks or stock indexes traded on a regulated option  
18 exchange; and
- 19 (2) Establish, continue, modify, and terminate option  
20 accounts.

21 **§ -38 Banks and other financial institutions.** Unless  
22 the power of attorney otherwise provides, language in a power of



1 attorney granting general authority with respect to banks and  
2 other financial institutions authorizes the agent to:

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

6 (2) Establish, modify, and terminate an account or other  
7 banking arrangement with a bank, trust company,  
8 savings and loan association, credit union, thrift  
9 company, brokerage firm, or other financial  
10 institution selected by the agent;

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

14 (4) Withdraw, by check, order, electronic funds transfer,  
15 or otherwise, money or property of the principal  
16 deposited with or left in the custody of a financial  
17 institution;

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

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



- 1           (7) Borrow money and pledge as security personal property  
2           of the principal necessary to borrow money or pay,  
3           renew, or extend the time of payment of a debt of the  
4           principal or a debt guaranteed by the principal;
- 5           (8) Make, assign, draw, endorse, discount, guarantee, and  
6           negotiate promissory notes, checks, drafts, and other  
7           negotiable or nonnegotiable paper of the principal or  
8           payable to the principal or the principal's order,  
9           transfer money, receive the cash or other proceeds of  
10          those transactions, and accept a draft drawn by a  
11          person upon the principal and pay it when due;
- 12          (9) Receive for the principal and act upon a sight draft,  
13          warehouse receipt, or other document of title whether  
14          tangible or electronic, or other negotiable or  
15          nonnegotiable instrument;
- 16          (10) Apply for, receive, and use letters of credit, credit  
17          and debit cards, electronic transaction  
18          authorizations, and traveler's checks from a financial  
19          institution and give an indemnity or other agreement  
20          in connection with letters of credit; and



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

4           **§ -39 Operation of entity or business.** Subject to the  
5 terms of a document or an agreement governing an entity or an  
6 entity ownership interest, and unless the power of attorney  
7 otherwise provides, language in a power of attorney granting  
8 general authority with respect to operation of an entity or  
9 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  
14                   option that the principal has, may have, or claims to  
15                   have;
- 16           (3) Enforce the terms of an ownership agreement;
- 17           (4) Initiate, participate in, submit to alternative  
18                   dispute resolution, settle, oppose, or propose or  
19                   accept a compromise with respect to litigation to  
20                   which the principal is a party because of an ownership  
21                   interest;



- 1           (5) Exercise in person or by proxy, or enforce by  
2           litigation or otherwise, a right, power, privilege, or  
3           option the principal has or claims to have as the  
4           holder of stocks and bonds;
- 5           (6) Initiate, participate in, submit to alternative  
6           dispute resolution, settle, oppose, or propose or  
7           accept a compromise with respect to litigation to  
8           which the principal is a party concerning stocks and  
9           bonds;
- 10          (7) With respect to an entity or business owned solely by  
11          the principal:
- 12           (A) Continue, modify, renegotiate, extend, and  
13           terminate a contract made by or on behalf of the  
14           principal with respect to the entity or business  
15           before execution of the power of attorney;
- 16           (B) Determine:
- 17           (i) The location of its operation;
- 18           (ii) The nature and extent of its business;
- 19           (iii) The methods of manufacturing, selling,  
20           merchandising, financing, accounting, and  
21           advertising employed in its operation;



- 1 (iv) The amount and types of insurance carried;  
2 and  
3 (v) The mode of engaging, compensating, and  
4 dealing with its employees and accountants,  
5 attorneys, or other advisors;
- 6 (C) Change the name or form of organization under  
7 which the entity or business is operated and  
8 enter into an ownership agreement with other  
9 persons to take over all or part of the operation  
10 of the entity or business; and
- 11 (D) Demand and receive money due or claimed by the  
12 principal or on the principal's behalf in the  
13 operation of the entity or business and control  
14 and disburse the money in the operation of the  
15 entity or business;
- 16 (8) Put additional capital into an entity or business in  
17 which the principal has an interest;
- 18 (9) Join in a plan of reorganization, consolidation,  
19 conversion, domestication, or merger of the entity or  
20 business;
- 21 (10) Sell or liquidate all or part of an entity or  
22 business;



- 1 (11) Establish the value of an entity or business under a  
2 buy-out agreement to which the principal is a party;
- 3 (12) Prepare, sign, file, and deliver reports, compilations  
4 of information, returns, or other papers with respect  
5 to an entity or business and make related payments;  
6 and
- 7 (13) Pay, compromise, or contest taxes, assessments, fines,  
8 or penalties and perform any other act to protect the  
9 principal from illegal or unnecessary taxation,  
10 assessments, fines, or penalties, with respect to an  
11 entity or business, including attempts to recover, in  
12 any manner permitted by law, money paid before or  
13 after the execution of the power of attorney.

14 **§ -40 Insurance and annuities.** Unless the power of  
15 attorney otherwise provides, language in a power of attorney  
16 granting general authority with respect to insurance and  
17 annuities authorizes the agent to:

- 18 (1) Continue, pay the premium or make a contribution on,  
19 modify, exchange, rescind, release, or terminate a  
20 contract procured by or on behalf of the principal  
21 which insures or provides an annuity to either the





- 1 principal or another person, regardless of whether the  
2 principal is a beneficiary under the contract;
- 3 (2) Procure new, different, and additional contracts of  
4 insurance and annuities for the principal and the  
5 principal's spouse, children, and other dependents,  
6 and select the amount, type of insurance or annuity,  
7 and mode of payment;
- 8 (3) Pay the premium or make a contribution on, modify,  
9 exchange, rescind, release, or terminate a contract of  
10 insurance or annuity procured by the agent;
- 11 (4) Apply for and receive a loan secured by a contract of  
12 insurance or annuity;
- 13 (5) Surrender and receive the cash surrender value on a  
14 contract of insurance or annuity;
- 15 (6) Exercise an election;
- 16 (7) Exercise investment powers available under a contract  
17 of insurance or annuity;
- 18 (8) Change the manner of paying premiums on a contract of  
19 insurance or annuity;
- 20 (9) Change or convert the type of insurance or annuity  
21 with respect to which the principal has or claims to  
22 have authority described in this section;



- 1           (10) Apply for and procure a benefit or assistance under a  
2           statute or regulation to guarantee or pay premiums of  
3           a contract of insurance on the life of the principal;
- 4           (11) Collect, sell, assign, hypothecate, borrow against, or  
5           pledge the interest of the principal in a contract of  
6           insurance or annuity;
- 7           (12) Select the form and timing of the payment of proceeds  
8           from a contract of insurance or annuity; and
- 9           (13) Pay, from proceeds or otherwise; compromise or  
10          contest; and apply for refunds in connection with a  
11          tax or assessment levied by a taxing authority with  
12          respect to a contract of insurance or annuity or its  
13          proceeds or liability accruing by reason of the tax or  
14          assessment.

15           **§ -41 Estates, trusts, and other beneficial interests.**

16          (a) As used in this section, "estate, trust, or other  
17          beneficial interest" means a trust, probate estate,  
18          guardianship, conservatorship, escrow, or custodianship or a  
19          fund from which the principal is, may become, or claims to be,  
20          entitled to a share or payment.

21          (b) Unless the power of attorney otherwise provides,  
22          language in a power of attorney granting general authority with



1 respect to estates, trusts, and other beneficial interests

2 authorizes the agent to:

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

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

10 (3) Exercise for the benefit of the principal a presently  
11 exercisable general power of appointment held by the  
12 principal;

13 (4) Initiate, participate in, submit to alternative  
14 dispute resolution, settle, oppose, or propose or  
15 accept a compromise with respect to litigation to  
16 ascertain the meaning, validity, or effect of a deed,  
17 will, declaration of trust, or other instrument or  
18 transaction affecting the interest of the principal;

19 (5) Initiate, participate in, submit to alternative  
20 dispute resolution, settle, oppose, or propose or  
21 accept a compromise with respect to litigation to  
22 remove, substitute, or surcharge a fiduciary;



1 (6) Conserve, invest, disburse, or use anything received  
2 for an authorized purpose;

3 (7) Transfer an interest of the principal in real  
4 property, stocks and bonds, accounts with financial  
5 institutions or securities intermediaries, insurance,  
6 annuities, and other property to the trustee of a  
7 revocable trust created by the principal as settlor;  
8 and

9 (8) Reject, renounce, disclaim, release, or consent to a  
10 reduction in or modification of a share in or payment  
11 from an estate, trust, or other beneficial interest.

12 **§ -42 Claims and litigation.** Unless the power of  
13 attorney otherwise provides, language in a power of attorney  
14 granting general authority with respect to claims and litigation  
15 authorizes the agent to:

16 (1) Assert and maintain before a court or administrative  
17 agency a claim, claim for relief, cause of action,  
18 counterclaim, offset, recoupment, or defense,  
19 including an action to recover property or other thing  
20 of value; recover damages sustained by the principal;  
21 eliminate or modify tax liability; or seek an  
22 injunction, specific performance, or other relief;



- 1 (2) Bring an action to determine adverse claims or  
2 intervene or otherwise participate in litigation;
- 3 (3) Seek an attachment, garnishment, order of arrest, or  
4 other preliminary, provisional, or intermediate relief  
5 and use an available procedure to effect or satisfy a  
6 judgment, order, or decree;
- 7 (4) Make or accept a tender, offer of judgment, or  
8 admission of facts; submit a controversy on an agreed  
9 statement of facts; consent to examination; and bind  
10 the principal in litigation;
- 11 (5) Submit to alternative dispute resolution, settle, and  
12 propose or accept a compromise;
- 13 (6) Waive the issuance and service of process upon the  
14 principal, accept service of process, appear for the  
15 principal, designate persons upon which process  
16 directed to the principal may be served, execute and  
17 file or deliver stipulations on the principal's  
18 behalf, verify pleadings, seek appellate review,  
19 procure and give surety and indemnity bonds, contract  
20 and pay for the preparation and printing of records  
21 and briefs, receive, execute, and file or deliver a  
22 consent, waiver, release, confession of judgment,



- 1 satisfaction of judgment, notice, agreement, or other  
2 instrument in connection with the prosecution,  
3 settlement, or defense of a claim or litigation;
- 4 (7) Act for the principal with respect to bankruptcy or  
5 insolvency, whether voluntary or involuntary,  
6 concerning the principal or some other person, or with  
7 respect to a reorganization, receivership, or  
8 application for the appointment of a receiver or  
9 trustee which affects an interest of the principal in  
10 property or other thing of value;
- 11 (8) Pay a judgment, award, or order against the principal  
12 or a settlement made in connection with a claim or  
13 litigation; and
- 14 (9) Receive money or other thing of value paid in  
15 settlement of or as proceeds of a claim or litigation.
- 16 **§ -43 Personal and family maintenance.** (a) Unless the  
17 power of attorney otherwise provides, language in a power of  
18 attorney granting general authority with respect to personal and  
19 family maintenance authorizes the agent to:
- 20 (1) Perform the acts necessary to maintain the customary  
21 standard of living of the principal, the principal's



1 spouse, and the following individuals, whether living  
2 when the power of attorney is executed or later born:

- 3 (A) The principal's children;
- 4 (B) Other individuals legally entitled to be  
5 supported by the principal; and
- 6 (C) The individuals whom the principal has  
7 customarily supported or indicated the intent to  
8 support;

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

13 (3) Provide living quarters for the individuals described  
14 in paragraph (1) by:

- 15 (A) Purchase, lease, or other contract; or
- 16 (B) Paying the operating costs, including interest,  
17 amortization payments, repairs, improvements, and  
18 taxes, for premises owned by the principal or  
19 occupied by those individuals;

20 (4) Provide normal domestic help; usual vacations and  
21 travel expenses; and funds for shelter, clothing,  
22 food, appropriate education, including postsecondary



- 1 and vocational education, and other current living  
2 costs for the individuals described in paragraph (1);
- 3 (5) Pay expenses for necessary health care and custodial  
4 care on behalf of the individuals described in  
5 paragraph (1);
- 6 (6) Act as the principal's personal representative  
7 pursuant to the Health Insurance Portability and  
8 Accountability Act, sections 1171 through 1179 of the  
9 Social Security Act (42 U.S.C. 1320d), as amended, and  
10 applicable regulations, in making decisions related to  
11 the past, present, or future payment for the provision  
12 of health care consented to by the principal or anyone  
13 authorized under the law of this State to consent to  
14 health care on behalf of the principal;
- 15 (7) Continue any provision made by the principal for  
16 automobiles or other means of transportation,  
17 including registering, licensing, insuring, and  
18 replacing them, for the individuals described in  
19 paragraph (1);
- 20 (8) Maintain credit and debit accounts for the convenience  
21 of the individuals described in paragraph (1) and open  
22 new accounts; and





1           (9) Continue payments incidental to the membership or  
2           affiliation of the principal in a religious  
3           institution, club, society, order, or other  
4           organization or to continue contributions to those  
5           organizations.

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

10           **§ -44 Benefits from governmental programs or civil or**  
11 **military service.** (a) As used in this section, "benefits from  
12 governmental programs or civil or military service" means any  
13 benefit, program, or assistance provided under a statute or  
14 regulation, including Social Security, medicare, and medicaid.

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

19           (1) Execute vouchers in the name of the principal for  
20           allowances and reimbursements payable by the United  
21           States or a foreign government or by a state or  
22           subdivision of a state to the principal, including



- 1 allowances and reimbursements for transportation of  
2 the individuals described in section -43(a)(1), and  
3 for shipment of their household effects;
- 4 (2) Take possession and order the removal and shipment of  
5 property of the principal from a post, warehouse,  
6 depot, dock, or other place of storage or safekeeping,  
7 either governmental or private, and execute and  
8 deliver a release, voucher, receipt, bill of lading,  
9 shipping ticket, certificate, or other instrument for  
10 that purpose;
- 11 (3) Enroll in, apply for, select, reject, change, amend,  
12 or discontinue, on the principal's behalf, a benefit  
13 or program;
- 14 (4) Prepare, file, and maintain a claim of the principal  
15 for a benefit or assistance, financial or otherwise,  
16 to which the principal may be entitled under a statute  
17 or regulation;
- 18 (5) Initiate, participate in, submit to alternative  
19 dispute resolution, settle, oppose, or propose or  
20 accept a compromise with respect to litigation  
21 concerning any benefit or assistance the principal may



1 be entitled to receive under a statute or regulation;  
2 and

3 (6) Receive the financial proceeds of a claim described in  
4 paragraph (4) and conserve, invest, disburse, or use  
5 for a lawful purpose anything so received.

6 **§ -45 Retirement plans.** (a) As used in this section,  
7 "retirement plan" means a plan or account created by an  
8 employer, the principal, or another individual to provide  
9 retirement benefits or deferred compensation of which the  
10 principal is a participant, beneficiary, or owner, including a  
11 plan or account under the following sections of the Internal  
12 Revenue Code:

13 (1) An individual retirement account under Internal  
14 Revenue Code section 408 (26 U.S.C. 408), as amended;

15 (2) A Roth individual retirement account under Internal  
16 Revenue Code section 408A (26 U.S.C. 408A), as  
17 amended;

18 (3) A deemed individual retirement account under Internal  
19 Revenue Code section 408(q) (26 U.S.C. 408(q)), as  
20 amended;



- 1 (4) An annuity or mutual fund custodial account under  
2 Internal Revenue Code section 403(b) (26 U.S.C.  
3 section 403(b)), as amended;
- 4 (5) A pension, profit-sharing, stock bonus, or other  
5 retirement plan qualified under Internal Revenue Code  
6 section 401(a) (26 U.S.C. 401(a)), as amended;
- 7 (6) A plan under Internal Revenue Code section 457(b) (26  
8 U.S.C. 457(b)), as amended; and
- 9 (7) A nonqualified deferred compensation plan under  
10 Internal Revenue Code section 409A (26 U.S.C. 409A),  
11 as amended.

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

- 15 (1) Select the form and timing of payments under a  
16 retirement plan and withdraw benefits from a plan;
- 17 (2) Make a rollover, including a direct trustee-to-trustee  
18 rollover, of benefits from one retirement plan to  
19 another;
- 20 (3) Establish a retirement plan in the principal's name;
- 21 (4) Make contributions to a retirement plan;



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

5 **§ -46 Taxes.** Unless the power of attorney otherwise  
6 provides, language in a power of attorney granting general  
7 authority with respect to taxes authorizes the agent to:

- 8 (1) Prepare, sign, and file federal, state, local, and  
9 foreign income, gift, payroll, property, Federal  
10 Insurance Contributions Act, and other tax returns,  
11 claims for refunds, requests for extension of time,  
12 petitions regarding tax matters, and any other tax-  
13 related documents, including receipts, offers,  
14 waivers, consents, including consents and agreements  
15 under Internal Revenue Code section 2032A (26 U.S.C.  
16 2032A), as amended, closing agreements, and any power  
17 of attorney required by the Internal Revenue Service  
18 or other taxing authority with respect to a tax year  
19 upon which the statute of limitations has not run and  
20 the following twenty-five tax years;  
21 (2) Pay taxes due, collect refunds, post bonds, receive  
22 confidential information, and contest deficiencies



1 determined by the Internal Revenue Service or other  
2 taxing authority;

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

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

8 **§ -47 Gifts.** (a) As used in this section, a gift "for  
9 the benefit of" a person includes a gift to a trust, an account  
10 under the Uniform Transfers to Minors Act, and a tuition savings  
11 account or prepaid tuition plan as defined under Internal  
12 Revenue Code section 529 (26 U.S.C. 529), as amended.

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

16 (1) Make outright to, or for the benefit of, a person, a  
17 gift of any of the principal's property, including by  
18 the exercise of a presently exercisable general power  
19 of appointment held by the principal, in an amount per  
20 donee not to exceed the annual dollar limits of the  
21 federal gift tax exclusion under Internal Revenue Code  
22 section 2503(b) (26 U.S.C. 2503(b)), as amended,



1 without regard to whether the federal gift tax  
2 exclusion applies to the gift, or if the principal's  
3 spouse agrees to consent to a split gift pursuant to  
4 Internal Revenue Code section 2513 (26 U.S.C. 2513),  
5 as amended, in an amount per donee not to exceed twice  
6 the annual federal gift tax exclusion limit; and

7 (2) Consent, pursuant to Internal Revenue Code section  
8 2513 (26 U.S.C. 2513), as amended, to the splitting of  
9 a gift made by the principal's spouse in an amount per  
10 donee not to exceed the aggregate annual gift tax  
11 exclusions for both spouses.

12 (c) An agent may make a gift of the principal's property  
13 only as the agent determines is consistent with the principal's  
14 objectives if actually known by the agent and, if unknown, as  
15 the agent determines is consistent with the principal's best  
16 interest based on all relevant factors, including:

- 17 (1) The value and nature of the principal's property;  
18 (2) The principal's foreseeable obligations and need for  
19 maintenance;  
20 (3) Minimization of taxes, including income, estate,  
21 inheritance, generation-skipping transfer, and gift  
22 taxes;



1 (4) Eligibility for a benefit, a program, or assistance  
2 under a statute or regulation; and

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

5 **PART III. STATUTORY FORMS**

6 **§ -51 Statutory form power of attorney.** A document  
7 substantially in the following form may be used to create a  
8 statutory form power of attorney that has the meaning and effect  
9 prescribed by this chapter.

10 STATE OF HAWAII

11 STATUTORY FORM POWER OF ATTORNEY

12 IMPORTANT INFORMATION

13 This power of attorney authorizes another person (your  
14 agent) to make decisions concerning your property for you (the  
15 principal). Your agent will be able to make decisions and act  
16 with respect to your property, including your money, whether or  
17 not you are able to act for yourself. The meaning of authority  
18 over subjects listed on this form is explained in the Uniform  
19 Power of Attorney Act in chapter , Hawaii Revised Statutes.

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





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

5           Your agent is entitled to reasonable compensation unless  
6 you state otherwise in the Special Instructions.

7           This form provides for designation of one agent. If you  
8 wish to name more than one agent, you may name a co-agent in the  
9 Special Instructions. Co-agents are not required to act  
10 together unless you include that requirement in the Special  
11 Instructions.

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

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

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

20

21           DESIGNATION OF AGENT

22           I \_\_\_\_\_ name the following person



1 (Name of Principal)

2 as my agent:

3

4 Name of Agent:

5

6 Agent's Address:

7

8 Agent's Telephone Number:

9

10

11 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

12 If my agent is unable or unwilling to act for me, I name as

13 my successor agent:

14

15 Name of Successor Agent:

16

17 Successor Agent's Address:

18

19 Successor Agent's Telephone Number:

20

21



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

3

4 Name of Second Successor Agent:

5

\_\_\_\_\_

6 Second Successor Agent's Address:

7

\_\_\_\_\_

8 Second Successor Agent's Telephone Number:

9

\_\_\_\_\_

10

11 GRANT OF GENERAL AUTHORITY

12 I grant my agent and any successor agent general authority  
13 to act for me with respect to the following subjects as defined  
14 in the Uniform Power of Attorney Act in chapter , Hawaii  
15 Revised Statutes.

16

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

21

22 (\_\_\_) Real Property



- 1                    Tangible Personal Property
- 2                    Stocks and Bonds
- 3                    Commodities and Options
- 4                    Banks and Other Financial Institutions
- 5                    Operation of Entity or Business
- 6                    Insurance and Annuities
- 7                    Estates, Trusts, and Other Beneficial Interests
- 8                    Claims and Litigation
- 9                    Personal and Family Maintenance
- 10                   Benefits from Governmental Programs or Civil or
- 11                            Military Service
- 12                   Retirement Plans
- 13                   Taxes
- 14                   All Preceding Subjects

15

16            GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

19

20            (CAUTION: Granting any of the following will give your  
21 agent the authority to take actions that could significantly  
22 reduce your property or change how your property is distributed



1 at your death. INITIAL ONLY the specific authority you WANT to  
2 give your agent.)

3

4 ( ) Create, amend, revoke, or terminate an inter  
5 vivos trust

6 ( ) Make a gift, subject to the limitations of the  
7 Uniform Power of Attorney Act under section

8 -47, Hawaii Revised Statutes, and any special  
9 instructions in this power of attorney

10 ( ) Create or change rights of survivorship

11 ( ) Create or change a beneficiary designation

12 ( ) Authorize another person to exercise the  
13 authority granted under this power of attorney

14 ( ) Waive the principal's right to be a beneficiary  
15 of a joint and survivor annuity, including a  
16 survivor benefit under a retirement plan

17 ( ) Exercise fiduciary powers that the principal has  
18 authority to delegate

19

20 LIMITATION ON AGENT'S AUTHORITY

21 An agent that is not my ancestor, spouse, or descendant MAY  
22 NOT use my property to benefit the agent or a person to whom the



1 agent owes an obligation of support unless I have included that  
2 authority in the Special Instructions.

3

4 SPECIAL INSTRUCTIONS (OPTIONAL)

5 You may give special instructions on the following lines:

6

\_\_\_\_\_

7

\_\_\_\_\_

8

\_\_\_\_\_

9

\_\_\_\_\_

10

\_\_\_\_\_

11

\_\_\_\_\_

12

13 EFFECTIVE DATE

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

16

17 NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

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

21

22 Name of Nominee for conservator or guardian of my estate:



1 \_\_\_\_\_

2 Nominee's Address:

3 \_\_\_\_\_

4 Nominee's Telephone Number:

5 \_\_\_\_\_

6 Name of Nominee for guardian of my person:

7 \_\_\_\_\_

8 Nominee's Address:

9 \_\_\_\_\_

10 Nominee's Telephone Number:

11 \_\_\_\_\_

12

13 RELIANCE ON THIS POWER OF ATTORNEY

14 Any person, including my agent, may rely upon the validity

15 of this power of attorney or a copy of it unless that person

16 knows it has terminated or is invalid.

17

18 SIGNATURE AND ACKNOWLEDGMENT

19 \_\_\_\_\_

20 Your Signature

Date

21 \_\_\_\_\_

22 Your Name Printed



1 \_\_\_\_\_

2 Your Address

3 \_\_\_\_\_

4 Your Telephone Number

5 \_\_\_\_\_

6 State of \_\_\_\_\_

7 County of \_\_\_\_\_

8 \_\_\_\_\_

9 This document was acknowledged before me on

10 \_\_\_\_\_,

11 (Date)

12 by \_\_\_\_\_

13 (Name of Principal)

14 \_\_\_\_\_

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

16 Signature of Notary

17 \_\_\_\_\_

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

19 \_\_\_\_\_

20 This document prepared by:

21 \_\_\_\_\_

22 \_\_\_\_\_





1

2           IMPORTANT INFORMATION FOR AGENT

3           Agent's Duties

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

9           (1) Do what you know the principal reasonably expects you  
10           to do with the principal's property or, if you do not  
11           know the principal's expectations, act in the  
12           principal's best interest;

13           (2) Act in good faith;

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

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

20

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



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

- 3 (1) Act loyally for the principal's benefit;
- 4 (2) Avoid conflicts that would impair your ability to act  
5 in the principal's best interest;
- 6 (3) Act with care, competence, and diligence;
- 7 (4) Keep a record of all receipts, disbursements, and  
8 transactions 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  
11 know the principal reasonably expects or, if you do  
12 not know the principal's expectations, to act in the  
13 principal's best interest; and
- 14 (6) Attempt to preserve the principal's estate plan if you  
15 know the plan and preserving the plan is consistent  
16 with the principal's best interest.

17

#### 18 Termination of Agent's Authority

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



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

3 (1) Death of the principal;

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

6 (3) The occurrence of a termination event stated in the  
7 power of attorney;

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

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

15

16 Liability of Agent

17 The meaning of the authority granted to you is defined in  
18 the Uniform Power of Attorney Act, in chapter , Hawaii  
19 Revised Statutes. If you violate the Uniform Power of Attorney  
20 Act in chapter , Hawaii Revised Statutes, or act outside  
21 the authority granted, you may be liable for any damages caused  
22 by your violation.



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

3

4 § -52 Agent's certification. The following optional  
5 form may be used by an agent to certify facts concerning a power  
6 of attorney.

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

9

10 State of \_\_\_\_\_

11 County of \_\_\_\_\_

12

13 I, \_\_\_\_\_ (Name of

14 Agent), certify under penalty of perjury that

15 \_\_\_\_\_ (Name of Principal)

16 granted me authority as an agent or successor agent in a power

17 of attorney dated \_\_\_\_\_.

18

19 I further certify that to my knowledge:

20 (1) The Principal is alive and has not revoked the Power

21 of Attorney or my authority to act under the Power of



1 Attorney and the Power of Attorney and my authority to  
2 act under the Power of Attorney have not terminated;

3 (2) If the Power of Attorney was drafted to become  
4 effective upon the happening of an event or  
5 contingency, the event or contingency has occurred;

6 (3) If I was named as a successor agent, the prior agent  
7 is no longer able or willing to serve; and

8 (4)

9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_

12 (Insert other relevant statements)

13

14 SIGNATURE AND ACKNOWLEDGMENT

15 \_\_\_\_\_

16 Agent's Signature Date

17 \_\_\_\_\_

18 Agent's Name Printed

19 \_\_\_\_\_

20 Agent's Address

21 \_\_\_\_\_

22 Agent's Telephone Number



1

2 This document was acknowledged before me on

3 \_\_\_\_\_,

4 (Date)

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

6 (Name of Agent)

7

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

9 Signature of Notary

10

11 My commission expires: \_\_\_\_\_

12

13 This document prepared by:

14 \_\_\_\_\_

15

16 **PART IV**

17 **MISCELLANEOUS PROVISIONS**

18 **§ -61 Uniformity of application and construction.** In

19 applying and construing this chapter, consideration shall be

20 given to the need to promote uniformity of the law with respect

21 to its subject matter among the states that enact it.



1           **§ -62 Relation to electronic signatures in global and**  
2 **national commerce act.** This chapter modifies, limits, and  
3 supersedes the federal Electronic Signatures in Global and  
4 National Commerce Act, title 15 U.S.C. section 7001 et seq., but  
5 does not modify, limit, or supersede section 101(c) of that act,  
6 title 15 U.S.C. section 7001(c), or authorize electronic  
7 delivery of any of the notices described in section 103(b) of  
8 that act, title 15 U.S.C. section 7003(b).

9           **§ -63 Effect on existing powers of attorney.** Except as  
10 otherwise provided in this chapter, on the effective date of  
11 this chapter:

- 12           (1) This chapter shall apply to a power of attorney  
13               created before, on, or after the effective date of  
14               this chapter;
- 15           (2) This chapter shall apply to a judicial proceeding  
16               concerning a power of attorney commenced on or after  
17               the effective date of this chapter;
- 18           (3) This chapter shall apply to a judicial proceeding  
19               concerning a power of attorney commenced before the  
20               effective date of this chapter, unless the court finds  
21               that application of a provision of this chapter would  
22               substantially interfere with the effective conduct of



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

4           (4) An act done before the effective date of this chapter  
5           shall not be affected by this chapter."

6           SECTION 2. Chapter 551D, Hawaii Revised Statutes, is  
7 repealed.

8           SECTION 3. This Act shall take effect upon its approval.





**Report Title:**

Uniform Power of Attorney Act; Authority

**Description:**

Adopts the Uniform Power of Attorney Act. Repeals Chapter 551D, Hawaii Revised Statutes. (HB2054 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

