

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/13/03 H3/17/03

A Bill

HOUSE BILL 2415

5 By: Representative Napper
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For An Act To Be Entitled

9 AN ACT TO CLARIFY THE RESPONSIBILITIES AND
10 LIABILITIES OF BANKS WITH REGARD TO A POWER OF
11 ATTORNEY; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO CLARIFY THE RESPONSIBILITIES
15 AND LIABILITIES OF BANKS WITH REGARD TO
16 A POWER OF ATTORNEY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 28-68-408 is amended to read as follows:

22 28-68-408. Construction of power relating to banking and other
23 financial institution transactions.

24 (a) In a statutory power of attorney, the language granting power with
25 respect to banking and other financial institution transactions, empowers the
26 agent to:

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

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

33 (3) hire a safe deposit box or space in a vault;

34 (4) contract to procure other services available from a
35 financial institution as the agent considers desirable;

36 (5) withdraw by check, order, or otherwise money or property of



1 the principal deposited with or left in the custody of a financial
2 institution;

3 (6) receive bank statements, vouchers, notices, and similar
4 documents from a financial institution and act with respect to them;

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

7 (8) borrow money at an interest rate agreeable to the agent and
8 pledge as security personal property of the principal necessary in order to
9 borrow, pay, renew, or extend the time of payment of a debt of the principal;

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

15 (10) receive for the principal and act upon a sight draft,
16 warehouse receipt, or other negotiable or nonnegotiable instrument;

17 (11) apply for and receive letters of credit, credit cards, and
18 traveler's checks from a financial institution, and give an indemnity or
19 other agreement in connection with letters of credit; and

20 (12) consent to an extension of the time of payment with respect
21 to commercial paper or a financial transaction with a financial institution.

22 (b)(1) Banks and other financial institutions shall honor a statutory
23 power of attorney which is properly executed and not revoked, limited, or
24 otherwise modified, for the purposes enumerated under subsection (a) of this
25 section.

26 (2)(A) Every bank and financial institution presented with a
27 statutory power of attorney shall be entitled to rely upon the
28 representations made to it regarding proper execution, continued validity,
29 and scope of the statutory power of attorney.

30 (B) No bank or other financial institution shall have any
31 duty to make inquiry regarding the proper execution, continued validity, and
32 scope of any statutory power of attorney presented to it for the purposes
33 enumerated under subsection (a) of this section.

34 (3) No bank or other financial institution shall be liable to
35 any person for any reason related to:

36 (A) The authenticity of the document or the validity of

1 the purported appointment;

2 (B) The validity or propriety of any action of the
3 purported agent or attorney under the document consistent with subsection (a)
4 of this section; or

5 (C) The validity or propriety of any instruments executed
6 or instruction given by the agent or attorney under the document consistent
7 with subsection (a) of this section.

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/s/ Napper

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