A Bill

SENATE BILL 887

By: Senator D. Johnson

For An Act To Be Entitled

AN ACT TO CREATE THE UNIFORM POWER OF ATTORNEY ACT;
AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE UNIFORM POWER OF ATTORNEY ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 28, Chapter 68, is amended to read as follows:

CHAPTER 68
POWERS OF ATTORNEY
UNIFORM POWER OF ATTORNEY ACT

Subchapter 1 — General Provisions


(a)(1) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power.

(2) Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(b)(1) The disability or incapacity of a principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person,
who, without actual knowledge of the disability or incapacity of the
principal, acts in good faith under the power.

(2) Any action so taken, unless otherwise invalid or
unenforceable, binds the principal and his or her successors in interest.

This chapter shall be known and may be cited as the Uniform Power of
Attorney Act.


In this chapter:

(1) “Agent” means a person granted authority to act for a
principal under a power of attorney, whether denominated an agent, attorney-
in-fact, or otherwise. The term includes an original agent, coagent,
successor agent, and a person to which an agent’s authority is delegated.

(2) “Durable,” with respect to a power of attorney, means not
terminated by the principal’s incapacity.

(3) “Electronic” means relating to technology having electrical,
digital, magnetic, wireless, optical, electromagnetic, or similar
capabilities.

(4) “Good faith” means honesty in fact.

(5) “Incapacity” means inability of an individual to manage
property or business affairs because the individual:

(A) has an impairment in the ability to receive and
evaluate information or make or communicate decisions even with the use of
technological assistance; or

(B) is:

(i) missing;

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

(iii) outside the United States and unable to
return.

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

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

(8) “Presently exercisable general power of appointment,” with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(9) “Principal” means an individual who grants authority to an agent in a power of attorney.

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

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

(12) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

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

(13) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

28-68-103. Applicability.

This chapter applies to all powers of attorney except:
(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;
(2) a power to make health-care decisions;
(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity; and
(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

28-68-104. Power of attorney is durable.
A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

28-68-105. Execution of power of attorney.
A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(a) A power of attorney executed in this state on or after January 1, 2012, is valid if its execution complies with § 28-68-105.
(b) A power of attorney executed in this state before January 1, 2012, is valid if its execution complied with the law of this state as it existed at the time of execution.
(c) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:
   (1) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to § 28-68-107; or
   (2) the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as it existed on January 1, 2011.
(d) Except as otherwise provided by statute other than this chapter, a
photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.


The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.


(a) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b) If, after a principal executes a power of attorney, 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, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.

28-68-109. When power of attorney effective.

(a) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective upon 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 upon 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
upon a determination in a writing or other record by:

(1) a physician or licensed psychologist that the principal is incapacitated within the meaning of § 28-68-102(5)(A); or

(2) an attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of § 28-68-102(5)(B).

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal’s personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, as it existed on January 1, 2011, and applicable regulations, to obtain access to the principal’s health-care information and communicate with the principal’s health-care provider.

28-68-110. Termination of power of attorney or agent’s authority.

(a) A power of attorney terminates when:

(1) the principal dies;

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

(3) the principal revokes the power of attorney;

(4) the power of attorney provides that it terminates;

(5) the purpose of the power of attorney is accomplished; or

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

(b) An agent’s authority terminates when:

(1) the principal revokes the authority;

(2) the agent dies, becomes incapacitated, or resigns;

(3) an action is filed for the dissolution or annulment of the agent’s marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(4) the power of attorney terminates.

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

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

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

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

28-68-111. Coagents and successor agents.

(a) A principal may designate two or more persons to act as coagents.
Unless the power of attorney otherwise provides, each coagent may exercise
its authority independently.

(b) A principal may designate one or more successor agents to act if
an agent resigns, dies, becomes incapacitated, is not qualified to serve, or
does not act until all predecessor agents have resigned, declined to serve.
A principal may grant authority to designate one or more
successor agents to an agent or other person designated by name, office, or
function. Unless the power of attorney otherwise provides, a successor
agent:

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

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

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

(d) An agent that has actual knowledge of a breach or imminent breach
of fiduciary duty by another agent shall notify the principal and, if the
principal is incapacitated, take any action reasonably appropriate in the
circumstances to safeguard the principal's best interest. An agent that
fails to notify the principal or take action as required by this subsection
is liable for the reasonably foreseeable damages that could have been avoided
if the agent had notified the principal or taken such action.


Unless the power of attorney otherwise provides, an agent is entitled
to reimbursement of expenses reasonably incurred on behalf of the principal
and to compensation that is reasonable under the circumstances.


Except as otherwise provided in the power of attorney, a person accepts
appointment as an agent under a power of attorney by exercising authority or
performing duties as an agent or by any other assertion or conduct indicating
acceptance.

28-68-114. Agent's duties.

(a) Notwithstanding provisions in the power of attorney, an agent that
has accepted appointment shall:

(1) act in accordance with the principal’s reasonable
expectations to the extent actually known by the agent and, otherwise, in the
principal’s best interest;

(2) act in good faith; and

(3) act only within the scope of authority granted in the power
of attorney.

(b) Except as otherwise provided in the power of attorney, an agent
that has accepted appointment shall:

(1) act loyally for the principal’s benefit;

(2) act so as not to create a conflict of interest that impairs
the agent’s ability to act impartially in the principal’s best interest;

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

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

(5) cooperate with a person that has authority to make health-
care decisions for the principal to carry out the principal’s reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal’s best interest; and

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

(A) the value and nature of the principal’s property;
(B) the principal's foreseeable obligations and need for maintenance;
(C) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and
(D) eligibility for a benefit, a program, or assistance under a statute or regulation.

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

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

(e) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent’s representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

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

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

(h) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of
the principal, or, upon the death of the principal, by the personal
representative or successor in interest of the principal's estate. If so
requested, within 30 days the agent shall comply with the request or provide
a writing or other record substantiating why additional time is needed and
shall comply with the request within an additional 30 days.

A provision in a power of attorney relieving an agent of liability for
breach of duty is binding on the principal and the principal’s successors in
interest except to the extent the provision:
   (1) relieves the agent of liability for breach of duty committed
dishonestly, with an improper motive, or with reckless indifference to the
purposes of the power of attorney or the best interest of the principal; or
   (2) was inserted as a result of an abuse of a confidential or
fiduciary relationship with the principal.

(a) The following persons may petition a court to construe a power of
attorney or review the agent’s conduct, and grant appropriate relief:
   (1) the principal or the agent;
   (2) a guardian, conservator, or other fiduciary acting for the
principal;
   (3) a person authorized to make health-care decisions for the
principal;
   (4) the principal’s spouse, parent, or descendant;
   (5) an individual who would qualify as a presumptive heir of the
principal;
   (6) a person named as a beneficiary to receive any property,
benefit, or contractual right on the principal’s death or as a beneficiary of
a trust created by or for the principal that has a financial interest in the
principal’s estate;
   (7) a governmental agency having regulatory authority to protect
the welfare of the principal;
   (8) the principal’s caregiver or another person that
demonstrates sufficient interest in the principal’s welfare; and
   (9) a person asked to accept the power of attorney.
(b) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent’s authority or the power of attorney.

28-68-117. Agent’s liability.
An agent that violates this chapter is liable to the principal or the principal’s successors in interest for the amount required to:

(1) restore the value of the principal’s property to what it would have been had the violation not occurred; and

(2) reimburse the principal or the principal’s successors in interest for the attorney’s fees and costs paid on the agent’s behalf.

28-68-118. Agent’s resignation -- Notice.
Unless the power of attorney provides a different method for an agent’s resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(1) to the conservator or guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in paragraph (1), to:

(A) the principal’s caregiver;

(B) another person reasonably believed by the agent to have sufficient interest in the principal’s welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

28-68-119. Acceptance of and reliance upon acknowledged power of attorney.

(a) For purposes of this section and § 28-68-120, “acknowledged” means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under § 28-68-105 that the signature is genuine.

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

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

1. an agent's certification under penalty of perjury of any
factual matter concerning the principal, agent, or power of attorney;
2. an English translation of the power of attorney if the power
   of attorney contains, in whole or in part, language other than English; and
3. an opinion of counsel as to any matter of law concerning the
   power of attorney if the person making the request provides in a writing or
   other record the reason for the request.

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

(f) For purposes of this section and § 28-68-120, a person that
conducts activities through employees is without actual knowledge of a fact
relating to a power of attorney, a principal, or an agent if the employee
conducting the transaction involving the power of attorney is without actual
knowledge of the fact.

§ 28-68-120. Liability for refusal to accept acknowledged statutory form
power of attorney.

(a) In this section, “statutory form power of attorney” means a power
of attorney substantially in the form provided in § 28-68-301 or that meets
the requirements for a military power of attorney pursuant to 10 U.S.C. §
1044b, as it existed on January 1, 2011.

(b) Except as otherwise provided in subsection (c):

   (1) a person shall either accept an acknowledged statutory form
   power of attorney or request a certification, a translation, or an opinion of
   counsel under § 28-68-119(d) no later than seven business days after
   presentation of the power of attorney for acceptance;
   (2) if a person requests a certification, a translation, or an
opinion of counsel under § 28-68-119(d), the person shall accept the
statutory form power of attorney no later than five business days after
receipt of the certification, translation, or opinion of counsel; and

3) a person may not require an additional or different form of
power of attorney for authority granted in the statutory form power of
attorney presented.

(c) A person is not required to accept an acknowledged statutory form
power of attorney if:

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

(2) engaging in a transaction with the agent or the principal in
the same circumstances would be inconsistent with federal law;

(3) the person has actual knowledge of the termination of the
agent’s authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation, or an opinion
of counsel under § 28-68-119(d) is refused;

(5) the person in good faith believes that the power is not
valid or that the agent does not have the authority to perform the act
requested, whether or not a certification, a translation, or an opinion of
counsel under § 28-68-119(d) has been requested or provided; or

(6) the person makes, or has actual knowledge that another
person has made, a report to the Department of Human Services stating a good
faith belief that the principal may be subject to physical or financial
abuse, neglect, exploitation, or abandonment by the agent or a person acting
for or with the agent.

(d) A person that refuses in violation of this section to accept an
acknowledged statutory form power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney;

and

(2) liability for reasonable attorney’s fees and costs incurred
in any action or proceeding that confirms the validity of the power of
attorney or mandates acceptance of the power of attorney.

28-68-121. Principles of law and equity.

Unless displaced by a provision of this chapter, the principles of law and
equity supplement this chapter.
28-68-122. Laws applicable to financial institutions and entities.

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

28-68-123. Remedies under other law.

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

Subchapter 2 — Durable Powers of Attorney Authority

28-68-201. Definition Authority that requires specific grant -- Grant of general authority.

As used in this subchapter, unless the context otherwise requires, a durable power of attorney is a power of attorney by which a principal designates another his attorney in fact in writing and the writing contains the words “This power of attorney shall not be affected by subsequent disability or incapacity of the principal” or “This power of attorney shall become effective upon the disability or incapacity of the principal” or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity.

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal’s property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(1) amend, revoke, or terminate an inter vivos trust;
(2) make a gift;
(3) create or change rights of survivorship;
(4) create or change a beneficiary designation;
(5) delegate authority granted under the power of attorney;
(6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
(7) exercise fiduciary powers that the principal has authority to delegate.

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

(c) Subject to subsections (a), (b), (d), and (e), if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in §§ 28-68-204 -- 28-68-216.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to § 28-68-217.

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

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

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


All acts done by an attorney in fact pursuant to a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and his successors in interest as if the principal were competent and not disabled.

(a) An agent has authority described in this subchapter if the power of attorney refers to general authority with respect to the descriptive term
for the subjects stated in §§ 28-68-204 -- 28-68-217 or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in §§ 28-68-204 -- 28-68-217 or a citation to a section of §§ 28-68-204 -- 28-68-217 incorporates the entire section as if it were set out in full in the power of attorney.

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

28-68-203. Relation of attorney in fact to court-appointed fiduciary

Construction of authority generally.

(a)(1) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of his property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal.

(2) The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if he were not disabled or incapacitated.

(b)(1) A principal may nominate, by a durable power of attorney, the conservator, guardian of his estate, or guardian of his person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced.

(2) The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in §§ 28-68-204 -- 28-68-217 or that grants to an agent authority to do all acts that a principal could do pursuant to § 28-68-201(c), a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

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

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

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

(5) seek on the principal’s behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

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

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal’s interest under a statute or regulation;

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

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

(10) do any lawful act with respect to the subject and all property related to the subject.

28-68-204. Real property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

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

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

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

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

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

(A) insuring against liability or casualty or other loss;
(B) obtaining or regaining possession of or protecting the
interest or right by litigation or otherwise;
(C) paying, assessing, compromising, or contesting taxes
or assessments or applying for and receiving refunds in connection with them;
and
(D) purchasing supplies, hiring assistance or labor, and
making repairs or alterations to the real property;

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

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

(A) selling or otherwise disposing of them;
(B) exercising or selling an option, right of conversion,
or similar right with respect to them; and
(C) exercising any voting rights in person or by proxy;
28-68-205. Tangible personal property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

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

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

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

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

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

(A) insuring against liability or casualty or other loss;

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

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) moving the property from place to place;

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

(F) using and making repairs, alterations, or improvements
to the property; and

(6) change the form of title of an interest in tangible personal
property.

28-68-206. Stocks and bonds.

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

(1) buy, sell, and exchange stocks and bonds;
(2) establish, continue, modify, or terminate an account with
respect to stocks and bonds;
(3) pledge stocks and bonds as security to borrow, pay, renew,
or extend the time of payment of a debt of the principal;
(4) receive certificates and other evidences of ownership with
respect to stocks and bonds; and
(5) exercise voting rights with respect to stocks and bonds in
person or by proxy, enter into voting trusts, and consent to limitations on
the right to vote.

28-68-207. Commodities and options.

Unless the power of attorney otherwise provides, language in a power of
attorney granting general authority with respect to commodities and options
authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity
futures contracts and call or put options on stocks or stock indexes traded
on a regulated option exchange; and
(2) establish, continue, modify, and terminate option accounts.

28-68-208. Banks and other financial institutions.

Unless the power of attorney otherwise provides, language in a power of
attorney granting general authority with respect to banks and other financial
institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking
arrangement made by or on behalf of the principal;
(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

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

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

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

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

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

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

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

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

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

28-68-209. Operation of entity or business.
Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with
respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an
ownership interest;

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

(3) enforce the terms of an ownership agreement;

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

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

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

(7) with respect to an entity or business owned solely by the
principal:

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

(B) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling,
merchandising, financing, accounting, and advertising employed in its
operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing
with its employees and accountants, attorneys, or other advisors;

(C) change the name or form of organization under which
the entity or business is operated and enter into an ownership agreement with
other persons to take over all or part of the operation of the entity or
business; and

(D) demand and receive money due or claimed by the
principal or on the principal's behalf in the operation of the entity or
business and control and disburse the money in the operation of the entity or
business;

(8) put additional capital into an entity or business in which
the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion,
domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-
out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of
information, returns, or other papers with respect to an entity or business
and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or
penalties and perform any other act to protect the principal from illegal or
unnecessary taxation, assessments, fines, or penalties, with respect to an
entity or business, including attempts to recover, in any manner permitted by
law, money paid before or after the execution of the power of attorney.


Unless the power of attorney otherwise provides, language in a power of
attorney granting general authority with respect to insurance and annuities
authorizes the agent to:

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

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

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

(4) apply for and receive a loan secured by a contract of
insurance or annuity;  
(5) surrender and receive the cash surrender value on a contract of insurance or annuity;  
(6) exercise an election;  
(7) exercise investment powers available under a contract of insurance or annuity;  
(8) change the manner of paying premiums on a contract of insurance or annuity;  
(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;  
(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;  
(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;  
(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and  
(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

28-68-211. Estates, trusts, and other beneficial interests.
(a) In this section, “estate, trust, or other beneficial interest” means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.
(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:
(1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;
(2) demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an
estate, trust, or other beneficial interest, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

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

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

(6) conserve, invest, disburse, or use anything received for an authorized purpose;

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

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

28-68-212. Claims and litigation.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

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

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

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

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

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

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

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

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

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


(a) Unless the power of attorney otherwise provides, language in a
power of attorney granting general authority with respect to personal and
family maintenance authorizes the agent to:

(1) perform the acts necessary to maintain the customary
standard of living of the principal, the principal's spouse, and the
following individuals, whether living when the power of attorney is executed
or later born:

(A) the principal's children;

(B) other individuals legally entitled to be supported by
the principal; and

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

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

(3) provide living quarters for the individuals described in paragraph (1) by:

(A) purchase, lease, or other contract; or
(B) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in paragraph (1);

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (1);

(6) act as the principal’s personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, as it existed on January 1, 2011, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(7) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in paragraph (1);

(8) maintain credit and debit accounts for the convenience of the individuals described in paragraph (1) and open new accounts; and

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

(b) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.
28-68-214. Benefits from governmental programs or civil or military service.

(a) In this section, “benefits from governmental programs or civil or military service” means any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid.

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

   (1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in § 28-68-213(a)(1), and for shipment of their household effects;

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

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

   (4) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

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

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


(a) In this section, “retirement plan” means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following
sections of the Internal Revenue Code:

(1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408, as it existed on January 1, 2011;

(2) a Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A, as it existed on January 1, 2011;

(3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q), as it existed on January 1, 2011;

(4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b), as it existed on January 1, 2011;

(5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a), as it existed on January 1, 2011;

(6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b), as it existed on January 1, 2011; and


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

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

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

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

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

28-68-216. Taxes.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the
agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, as it existed on January 1, 2011, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

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

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

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


(a) In this section, a gift “for the benefit of” a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529, as it existed on January 1, 2011.

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

(1) make outright to, or for the benefit of, a person, a gift of any of the principal’s property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), as it existed on January 1, 2011, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal’s spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, as it existed on January 1, 2011, in an amount per donee not
to exceed twice the annual federal gift tax exclusion limit; and

(2) consent, pursuant to Internal Revenue Code Section 2513, 26
U.S.C. § 2513, as it existed on January 1, 2011, to the splitting of a gift
made by the principal's spouse in an amount per donee not to exceed the
aggregate annual gift tax exclusions for both spouses.

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

(1) the value and nature of the principal's property;
(2) the principal's foreseeable obligations and need for
maintenance;
(3) minimization of taxes, including income, estate,
inheritance, generation-skipping transfer, and gift taxes;
(4) eligibility for a benefit, a program, or assistance under a
statute or regulation; and
(5) the principal's personal history of making or joining in
making gifts.

Subchapter 3 -- Powers of Attorney for Small Property Interests

Statutory Forms


The provisions of this subchapter shall be liberally construed so as to
effectuate its purposes.

A document substantially in the following form may be used to create a
statutory form power of attorney that has the meaning and effect prescribed
by this chapter.

ARKANSAS
STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make
decisions concerning your property for you (the principal). Your agent will
be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act, Arkansas Code Title 28, Chapter 68.

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

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

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

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

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

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

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

DESIGNATION OF AGENT

I ____________________________________________________________ name the

(Name of Principal)
following person as my agent:

Name of Agent:____________________________________________________________
Agent's Address:____________________________________________________________
Agent's Telephone Number:____________________________________________________

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent:_____________________________________________________
Successor Agent’s Address:___________________________________________________
Successor Agent’s Telephone Number:__________________________________________

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

Name of Second Successor Agent:______________________________________________
Second Successor Agent’s Address:____________________________________________
Second Successor Agent’s Telephone Number:__________________________________

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, Arkansas Code Title 28, Chapter 68:

( INITIAL each subject you want to include in the agent’s general authority. If you wish to grant general authority over all of the subjects you may initial “All Preceding Subjects” instead of initialing each subject.)

(____)  Real Property
(____)  Tangible Personal Property
(____)  Stocks and Bonds
(____) Commodities and Options  
(____) Banks and Other Financial Institutions  
(____) Operation of Entity or Business  
(____) Insurance and Annuities  
(____) Estates, Trusts, and Other Beneficial Interests  
(____) Claims and Litigation  
(____) Personal and Family Maintenance  
(____) Benefits from Governmental Programs or Civil or Military Service  
(____) Retirement Plans  
(____) Taxes  
(____) All Preceding Subjects  

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)  

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

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

(____) Amend, revoke, or terminate an inter vivos trust  
(____) Make a gift, subject to the limitations of § 28-68-217 of the Uniform Power of Attorney Act and any special instructions in this power of attorney  
(____) Create or change rights of survivorship  
(____) Create or change a beneficiary designation  
(____) Authorize another person to exercise the authority granted under this power of attorney  
(____) Waive the principal’s right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan  
(____) Exercise fiduciary powers that the principal has authority to delegate  

LIMITATION ON AGENT’S AUTHORITY  

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

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

EFFECTIVE DATE

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

NOMINATION OF GUARDIAN (OPTIONAL)

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

Name of Nominee for guardian of my estate:________________________________
Nominee's Address:___________________________________________________________
Nominee's Telephone Number:________________________________________________

Name of Nominee for guardian of my person:_________________________________
Nominee's Address:___________________________________________________________
Nominee's Telephone Number:________________________________________________

RELIANCE ON THIS POWER OF ATTORNEY

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

_________________________________________     __________________
Your Signature                                      Date

______________________________________________
Your Name Printed

______________________________________________
Your Address

______________________________________________
Your Telephone Number

State of ________________________________________
County of _______________________________________

This document was acknowledged before me on __________________________, (Date)
by ________________________________________________.
           (Name of Principal)

______________________________________________ (Seal, if any)
Signature of Notary

My commission expires: ____________________________

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

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

1. do what you know the principal reasonably expects you to do with the principal’s property or, if you do not know the principal’s expectations, act in the principal’s best interest;
2. act in good faith;
3. do nothing beyond the authority granted in this power of attorney; and
4. disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as “agent” in the following manner:

(Principal’s Name) by (Your Signature) as Agent

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

1. act loyally for the principal’s benefit;
2. avoid conflicts that would impair your ability to act in the principal’s best interest;
3. act with care, competence, and diligence;
4. keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
5. cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal’s expectations, to act in the principal’s best interest; and
6. attempt to preserve the principal’s estate plan if you know the plan and preserving the plan is consistent with the principal’s best interest.

Termination of Agent’s Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:
(1) death of the principal;

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

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

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

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

Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act, Arkansas Code Title 28, Chapter 68. If you violate the Uniform Power of Attorney Act, Arkansas Code Title 28, Chapter 68, or act outside the authority granted, you may be liable for any damages caused by your violation.

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

This subchapter governs only powers of attorney executed under it. It does not affect powers of attorney executed under other statutes or the common law of this state.
The following optional form may be used by an agent to certify facts concerning a power of attorney.

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

State of _____________________________
County of ___________________________
I, ____________________________ (Name of Agent), certify under penalty of perjury that ____________________________ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated ________________.

I further certify that to my knowledge:

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

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

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

(4) __________________________________________

____________________________________________________________________________

____________________________________________________________________________

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

__________________________________________  ______________________________
Agent's Signature                      Date

__________________________________________
Agent's Name Printed

__________________________________________
Agent's Address

__________________________________________
Agent's Telephone Number

This document was acknowledged before me on _______________________,
(Date)
by ________________________________________.
(Name of Agent)

__________________________________________
(Seal, if any)
Signature of Notary

My commission expires: ________________________

28-68-304. Execution and approval.
(a) If a resident of this state desires to execute a power of attorney
in anticipation of or because of infirmity resulting from injury, old age,
senility, blindness, disease, or other related or similar cause as a means of
providing for the care of his or her person or property, or both, the
resident shall execute the instrument in one (1) of the following three (3)
methods:
(1) In the presence of and with the approval of a judge of the
circuit court of the county of the principal's domicile;
(2) In the presence of at least two (2) witnesses who shall
attest and prove the execution by affidavit to be filed with the instrument,
to be approved by a judge of the circuit court of the county of the
principal's domicile; or
(3)(A) In the presence of a notary public who shall acknowledge
the instrument.
(B) The instrument, with the certificate of a notary
public, shall be filed with and approved by the circuit court of the county
of the principal's domicile.
(b)(1) The approval of the judge may be given only if:
(A) The principal requests approval;
(B) The attorney in fact consents to serve;
(C) The judge is satisfied, after any examination and
investigation he or she deems appropriate, that the principal is a person
covered by this subchapter and reasonably understands the nature and purpose
of the power and that the attorney in fact is a suitable person to carry out
the obligations imposed upon him or her; and

(D) The provisions of this subchapter have been observed.

(2) Approval may be given informally in chambers or another
convenient place without the necessity of service of summons or other notice
and shall be endorsed upon the face of the original of the instrument.

28-68-305. Contents.

(a) The power of attorney shall show or state:

(1) The fact of execution under the provisions of this
subchapter;

(2) The time and conditions under which the power is to become
effective;

(3) The extent and scope of the power conferred;

(4) Who is to exercise the power; and

(5) The annual income covered by the instrument and the nature
or description and estimated value of the property, if any, to be affected.

(b) The power of attorney may state the conditions and circumstances
under which the power terminates.

28-68-306. Scope of power.

(a) The power may be restricted, or it may grant complete authority to
provide for the care of the principal's person and property.

(b) Except to the extent limited by the instrument creating the power
or to the extent that court approval is required by the instrument, the
attorney in fact without prior court approval may:

(1) Endorse checks and other instruments made payable to the
principal;

(2) Sell, encumber, lease, or otherwise manage the principal's
property; and

(3) Execute and deliver deeds, conveyances, stock and bond
transfers, contracts, and other instruments necessary to carry out the power.

(c) The power remains valid until terminated as provided in this
subchapter.
(d) The power is not invalidated by reason of any subsequent change in
the mental or physical condition of the principal, including, but not
restricted to, incompetency.

(a) The original power of attorney shall be filed in the office of the
probate clerk of the circuit court of the county of the domicile of the
principal.
(b) A certified copy of the original power of attorney, together with
the record of judicial approval, shall be recorded in the office of the
recorder of each county in which real property to be affected by an exercise
of the power is located.

(a) The attorney in fact may be an individual, a corporation
authorized by law to act in a fiduciary capacity, an agency of government, a
Community Fund or United Fund participating agency, or the American Red
Cross.
(b) Unless otherwise provided in the power of attorney, an attorney in
fact is bound by standards of conduct and liability applicable to other
fiduciaries.
(c) A performance bond shall not be filed unless required by a
provision of the power.

(a) An attorney in fact shall account to the principal or his or her
legal representative at times specified in the power of attorney, at any time
directed by a judge of the approving court, and upon termination of the power
or his or her authority.
(b) He or she shall deliver promptly to the principal, his or her
legal representative, or a successor attorney in fact all property held by
him or her as attorney in fact upon termination of the power or his or her
authority.

An attorney in fact is entitled to reimbursement for his or her
reasonable expenses incurred in the performance of his or her duties and, unless precluded by the power of attorney, to reasonable compensation for his or her services, payable out of the income and assets subject to the power. The amount of compensation and time of payment may be fixed in the power.

28-68-311. Third parties.

(a) A person dealing with the attorney in fact is not required to inquire into the validity or adequacy of proceedings involving an approval or filing and recording of the power of attorney to determine if the principal or attorney in fact is qualified or to determine whether the power may have been terminated, if not yet shown by filing and recording under § 28-68-312(b).

(b) He or she is not required to inquire into the validity or propriety of any act of an attorney in fact apparently authorized by his or her approved power or to assure the proper application by the attorney in fact of any money or property paid or delivered to him or her.

28-68-312. Termination of power.

(a) A power of attorney terminates on:

(1) Written revocation by the principal;

(2) Death of the principal;

(3) Order of a court appointing a guardian of the person or property, or both, of the principal, unless the order provides otherwise;

(4) Expiration or termination as specified in the power of attorney; or

(5) A determination by a judge of the approving court that the value of the property or the amount of the annual money income covered by the instrument has so increased that this subchapter is no longer appropriately applicable.

(b) The original resignation of an attorney in fact, a written revocation of the power of attorney by a principal, or a certified copy of the death certificate of the principal or of the attorney in fact, or a certified copy of any court judgment or order terminating the power of attorney or removing the attorney in fact for cause shall be filed promptly in the office of the clerk of the court whose judge approved the power, and certified copies shall be recorded promptly in all offices in which a
certified copy of the original power of attorney is recorded. A notation of
the terminating event shall be made by the clerk on the face of the original
power of attorney.

(c)(1) The attorney in fact is liable to the principal and the
principal's estate for all damage and loss the principal suffers because of
the attorney's acts done after the attorney receives notice of the
termination of his or her authority or after termination by provision of the
power itself.

(2) After the power is terminated, other than by death of the
principal, he or she may perform ministerial acts reasonably necessary to
complete and conclude his or her duties.

28-68-313. Appointment of successor attorney.

(a) If the attorney in fact or any successor dies, ceases to act,
refuses or is unable to serve, resigns, fails to maintain or replace a bond,
or is removed for cause by a court, a successor attorney in fact may be
appointed by the principal.

(b) If the principal, without having revoked the power of attorney,
fails or is unable to appoint a successor within a reasonable time, a judge
of the court which approved the power may appoint a successor unless
precluded from doing so by provisions of the original power of attorney.

(c) The appointment of a successor attorney in fact shall be in
writing.

(d) If the appointment is by the principal, it is subject to approval
by a judge of the court which approved the original power.

(e) The original and certified copies of the appointment of the
successor shall be filed and recorded as required for an original power of
attorney.

Subchapter 4 -- Uniform Statutory Form Power of Attorney Act

Miscellaneous Provisions

28-68-401. Statutory form of power of attorney Uniformity of
application and construction.

(a) Form. The following statutory form of power of attorney is
legally sufficient:

STATUTORY POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I ___________________________ (insert your name and address) appoint ___________________________ (insert the name and address of the person appointed) as my agent (attorney in fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

_____ (A) Real property transactions.
_____ (B) Tangible personal property transactions.
_____ (C) Stock and bond transactions.
_____ (D) Commodity and option transactions.
_____ (E) Banking and other financial institution transactions.
_____ (F) Business operating transactions.
_____ (G) Insurance and annuity transactions.
_____ (H) Estate, trust, and other beneficiary transactions.
_____ (I) Claims and litigation.
_____ (J) Personal and family maintenance.
_____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or military service.
_____ (L) Retirement plan transactions.
_____ (M) Tax matters.
_____ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).
SPECIAL INSTRUCTIONS:
ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR SPECIAL
INSTRUCTIONS:

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE
IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.
This power of attorney will continue to be effective even though I become
disabled, incapacitated, or incompetent.
STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO
CONTINUE IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.
I agree that any third party who receives a copy of this document may act
under it. Revocation of the power of attorney is not effective as to a third
party until the third party learns of the revocation. I agree to indemnify
the third party for any claims that arise against the third party because of
reliance on this power of attorney.

Signed this _______________ day of _______________ , 20____
_______________(Your Signature)_______________
_______________(Your Social Security Number)_______________
State of _______________
(County) of _______________
This document was acknowledged before me on _______________ (Date) by
_______________ (Name of principal)
_______________(Signature of notarial officer)_______________
(Seal, if any)
_______________ (Title (and Rank))_______________
{My commission expires: _______________ }

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY
AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.
(b) Requirements. A statutory power of attorney is legally sufficient under this subchapter, if the wording of the form complies substantially with subsection (a), the form is properly completed, and the signature of the principal is acknowledged.

(c) Grant of All Listed Powers. If the line in front of (N) of the form under subsection (a) is initialed, an initial on the line in front of any other power does not limit the powers granted by line (N).

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.


A power of attorney legally sufficient under this subchapter is durable to the extent that durable powers are permitted by other law of this State and the power of attorney contains language, such as “This power of attorney will continue to be effective if I become disabled, incapacitated, or incompetent,” showing the intent of the principal that the power granted may be exercised notwithstanding later disability, incapacity, or incompetency.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., as it existed on January 1, 2011, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

28-68-403. Construction of power relating to real property transactions Effect on existing powers of attorney.

By executing a statutory power of attorney with respect to a subject listed in § 28-68-401(a), the principal, except as limited or extended by the principal in the power of attorney, empowers the agent, for that subject to:

(1) demand, receive, and obtain by litigation or otherwise, money or other thing of value to which the principal is, may become, or claims to be entitled; and conserve, invest, disburse, or use anything so received for the purposes intended.
contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by or on behalf of the principal;

execute, acknowledge, seal, and deliver a deed, revocation, mortgage, lease, notice, check, release, or other instrument the agent considers desirable to accomplish a purpose of a transaction;

prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

seek on the principal’s behalf the assistance of a court to carry out an act authorized by the power of attorney;

engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant;

keep appropriate records of each transaction, including an accounting of receipts and disbursements;

prepare, execute, and file a record, report, or other document the agent considers desirable to safeguard or promote the principal’s interest under a statute or governmental regulation;

reimburse the agent for expenditures properly made by the agent in exercising the powers granted by the power of attorney; and

in general, do any other lawful act with respect to the subject.

Except as otherwise provided in this chapter, on January 1, 2012:

this chapter applies to a power of attorney created before, on, or after January 1, 2012;

this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after January 1, 2012;

this chapter applies to a judicial proceeding concerning a power of attorney commenced before January 1, 2012, unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

an act done before January 1, 2012, is not affected by this chapter.
28-68-404. Construction of power relating to real property transactions. [Reserved.]

(a) In a statutory power of attorney, the language granting power with respect to real property transactions empowers the agent to:

(1) accept as a gift or as security for a loan, reject, demand, buy, lease, receive, or otherwise acquire, an interest in real property or a right incident to real property;

(2) sell, exchange, convey with or without covenants, quitclaim, release, surrender, mortgage, encumber, partition, consent to partitioning, subdivide, apply for zoning, rezoning, or other governmental permits, plat or consent to platting, develop, grant options concerning, lease, sublease, or otherwise dispose of, an interest in real property, a right incident to real property, or a principal's dower, curtesy, or homestead rights in real property;

(3) release, assign, satisfy, and enforce by litigation or otherwise, a mortgage, deed of trust, encumbrance, lien, or other claim to real property which exists or is asserted;

(4) do any act of management or of conservation with respect to an interest in real property, or a right incident to real property, owned, or claimed to be owned, by the principal, including:

(i) insuring against a casualty, liability, or loss;

(ii) obtaining or regaining possession, or protecting the interest or right, by litigation or otherwise;

(iii) paying, compromising, or contesting taxes or assessments, or applying for and receiving refunds in connection with them;

and

(iv) purchasing supplies, hiring assistance or labor, and making repairs or alterations in the real property;

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

(6) participate in a reorganization with respect to real property or a legal entity that owns an interest in or right incident to real property and receive and hold shares of stock or obligations received in a plan of reorganization, and act with respect to them, including:
(i) selling or otherwise disposing of them;
(ii) exercising or selling an option, conversion, or similar right with respect to them; and
(iii) voting them in person or by proxy;
(7) change the form of title of an interest in or right incident to real property;
(8) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

(b) Unless specifically limited, the foregoing powers concerning real property shall include the foregoing acts involving the principal's homestead.

28-68-405. Construction of power relating to tangible personal property transactions Effective date.
In a statutory power of attorney, the language granting power with respect to tangible personal property transactions empowers the agent to:
(1) accept as a gift or as security for a loan, reject, demand, buy, receive, or otherwise acquire ownership or possession of tangible personal property or an interest in tangible personal property;
(2) sell, exchange, convey with or without covenants, release, surrender, mortgage, encumber, pledge, hypothecate, create a security interest in, pawn, grant options concerning, lease, sublease to others, or otherwise dispose of tangible personal property or an interest in tangible personal property;
(3) release, assign, satisfy, or enforce by litigation or otherwise, a mortgage, security interest, encumbrance, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property; and
(4) do an act of management or conservation with respect to tangible personal property or an interest in tangible personal property on behalf of the principal, including:
(i) insuring against casualty, liability, or loss;
(ii) obtaining or regaining possession, or protecting the property or interest, by litigation or otherwise;
(iii) paying, compromising, or contesting taxes or
assessments or applying for and receiving refunds in connection with taxes or assessments;

(iv) moving from place to place;
(v) storing for hire or on a gratuitous bailment; and
(vi) using, altering, and making repairs or alterations.

This chapter takes effect January 1, 2012.


In a statutory power of attorney, the language granting power with respect to stock and bond transactions empowers the agent to buy, sell, and exchange stocks, bonds, mutual funds, and all other types of securities and financial instruments except commodity futures contracts and call and put options on stocks and stock indexes, receive certificates and other evidences of ownership with respect to securities, exercise voting rights with respect to securities in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.


In a statutory power of attorney, the language granting power with respect to commodity and option transactions empowers the agent to buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call and put options on stocks and stock indexes traded on a regulated option exchange, and establish, continue, modify, and terminate option accounts with a broker.

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

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

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;
(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit
union, thrift company, brokerage firm, or other financial institution
selected by the agent; 

(3) hire a safe deposit box or space in a vault;
(4) contract to procure other services available from a
financial institution as the agent considers desirable;
(5) withdraw by check, order, or otherwise money or property of
the principal deposited with or left in the custody of a financial
institution;
(6) receive bank statements, vouchers, notices, and similar
documents from a financial institution and act with respect to them;
(7) enter a safe deposit box or vault and withdraw or add to the
contents;
(8) borrow money at an interest rate agreeable to the agent and
pledge as security personal property of the principal necessary in order to
borrow, pay, renew, or extend the time of payment of a debt of the principal;
(9) make, assign, draw, endorse, discount, guarantee, and
negotiate promissory notes, checks, drafts, and other negotiable or
nonnegotiable paper of the principal, or payable to the principal or the
principal's order, receive the cash or other proceeds of those transactions,
accept a draft drawn by a person upon the principal, and pay it when due;
(10) receive for the principal and act upon a sight draft,
warehouse receipt, or other negotiable or nonnegotiable instrument;
(11) apply for and receive letters of credit, credit cards, and
traveler's checks from a financial institution, and give an indemnity or
other agreement in connection with letters of credit; and
(12) consent to an extension of the time of payment with respect
to commercial paper or a financial transaction with a financial institution.

28-68-409. Construction of power relating to business operating
transactions.

In a statutory power of attorney, the language granting power with
respect to business operating transactions empowers the agent to:
(1) operate, buy, sell, enlarge, reduce, and terminate a
business interest;
(2) to the extent that an agent is permitted by law to act for a
principal and subject to the terms of the partnership agreement to:
(i) perform a duty or discharge a liability and exercise a right, power, privilege, or option that the principal has, may have, or claims to have, under a partnership agreement, whether or not the principal is a partner;

(ii) enforce the terms of a partnership agreement by litigation or otherwise; and

(iii) defend, submit to arbitration, settle, or compromise litigation to which the principal is a party because of membership in the partnership;

(3) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of a bond, share, or other instrument of similar character and defend, submit to arbitration, settle, or compromise litigation to which the principal is a party because of a bond, share, or similar instrument;

(4) with respect to a business owned solely by the principal:

(i) continue, modify, renegotiate, extend, and terminate a contract made with an individual or a legal entity, firm, association, or corporation by or on behalf of the principal with respect to the business before execution of the power of attorney;

(ii) determine:

(A) the location of its operation;

(B) the nature and extent of its business;

(C) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(D) the amount and types of insurance carried;

(E) the mode of engaging, compensating, and dealing with its accountants, attorneys, and other agents and employees;

(iii) change the name or form of organization under which the business is operated and enter into a partnership agreement with other persons or organize a corporation to take over all or part of the operation of the business; and

(iv) demand and receive money due or claimed by the principal or on the principal’s behalf in the operation of the business, and control and disburse the money in the operation of the business;
(5) put additional capital into a business in which the
principal has an interest;
(6) join in a plan of reorganization, consolidation, or merger
of the business;
(7) sell or liquidate a business or part of it at the time and
upon the terms the agent considers desirable;
(8) establish the value of a business under a buy-out agreement
to which the principal is a party;
(9) prepare, sign, file, and deliver reports, compilations of
information, returns, or other papers with respect to a business which are
required by a governmental agency or instrumentality or which the agent
considers desirable, and make related payments; and
(10) pay, compromise, or contest taxes or assessments and do any
other act which the agent considers desirable to protect the principal from
illegal or unnecessary taxation, fines, penalties, or assessments with
respect to a business, including attempts to recover, in any manner permitted
by law, money paid before or after the execution of the power of attorney.

28-68-410. Construction of power relating to insurance transactions.
In a statutory power of attorney, the language granting power with
respect to insurance and annuity transactions empowers the agent to:
(1) continue, pay the premium or assessment on, modify, rescind,
release, or terminate a contract procured by or on behalf of the principal
which insures or provides an annuity to either the principal or another
person, whether or not the principal is a beneficiary under the contract;
(2) procure new, different, and additional contracts of
insurance and annuities for the principal and the principal’s spouse,
children, and other dependents; and select the amount, type of insurance or
annuity, and mode of payment;
(3) pay the premium or assessment on, modify, rescind, release,
or terminate a contract of insurance or annuity procured by the agent;
(4) designate the beneficiary of the contract, but an agent may
be named a beneficiary of the contract, or an extension, renewal, or
substitute for it, only to the extent the agent was named as a beneficiary
under a contract procured by the principal before executing the power of
attorney;
apply for and receive a loan on the security of the contract
of insurance or annuity;

surrender and receive the cash surrender value;
exercise an election;
change the manner of paying premiums;
change or convert the type of insurance contract or annuity, with respect to which the principal has or claims to have a power described in this section;
change the beneficiary of a contract of insurance or annuity, but the agent may not be designated a beneficiary except to the extent permitted by paragraph (4);
apply for and procure government aid to guarantee or pay premiums of a contract of insurance on the life of the principal;
collect, sell, assign, hypothecate, borrow upon, or pledge the interest of the principal in a contract of insurance or annuity; and
pay from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

Construction of power relating to estate, trust, and other beneficiary transactions.

In a statutory power of attorney, the language granting power with respect to estate, trust, and other beneficiary transactions, empowers the agent to act for the principal in all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or other fund from which the principal is, may become, or claims to be entitled, as a beneficiary, to a share or payment, including to:

accept, reject, disclaim, receive, receipt for, sell, assign, release, pledge, exchange, or consent to a reduction in or modification of a share in or payment from the fund;
demand or obtain by litigation or otherwise money or other thing of value to which the principal is, may become, or claims to be entitled by reason of the fund;
initiate, participate in, and oppose litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or
other instrument or transaction affecting the interest of the principal;

(4) initiate, participate in, and oppose litigation to remove, substitute, or surcharge a fiduciary;

(5) conserve, invest, disburse, and use anything received for an authorized purpose; and

(6) transfer an interest of the principal in real property, stocks, bonds, accounts with financial institutions, insurance, and other property, to the trustee of a revocable trust created by the principal as settlor.

28-68-412. Construction of power relating to claims and litigation.

In a statutory power of attorney, the language with respect to claims and litigation empowers the agent to:

(1) assert and prosecute before a court or administrative agency a claim, a cause of action, counterclaim, offset, and defend against an individual, a legal entity, or government, including suits to recover property or other thing of value, to recover damages sustained by the principal, to eliminate or modify tax liability, or to seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims, intervene in litigation, and act as amicus curiae;

(3) in connection with litigation, procure an attachment, garnishment, libel, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) in connection with litigation, perform any lawful act, including acceptance of tender, offer of judgment, admission of facts, submission of a controversy on an agreed statement of facts, consent to examination before trial, and binding the principal in litigation;

(5) submit to arbitration, settle, and propose or accept a compromise with respect to a claim or litigation;

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

(7) act for the principal with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, concerning the principal or some other person, with respect to a reorganization proceeding, or a receivership or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value; and

(8) pay a judgment against the principal or a settlement made in connection with litigation and receive and conserve money, or other thing of value paid in settlement of or as proceeds of a claim or litigation.

28-68-413. Construction of power relating to personal and family maintenance.

In a statutory power of attorney, the language granting power with respect to personal and family maintenance empowers the agent to:

(1) do the acts necessary to maintain the customary standard of living of the principal, the principal’s spouse, children, and other individuals customarily or legally entitled to be supported by the principal, including providing living quarters by purchase, lease, or other contract, or paying the operating costs, including interest, amortization payments, repairs, and taxes on premises owned by the principal and occupied by those individuals;

(2) provide for the individuals described in paragraph (1) normal domestic help; usual vacations and travel expenses; and funds for shelter, clothing, food, appropriate education, and other current living costs;

(3) pay for the individuals described in paragraph (1) necessary medical, dental, and surgical care, hospitalization, and custodial care;

(4) continue any provision made by the principal, for the individuals described in paragraph (1), for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them;
(5) maintain or open charge accounts for the convenience of the individuals described in paragraph (1) and open new accounts the agent considers desirable to accomplish a lawful purpose; and

(6) continue payments incidental to the membership or affiliation of the principal in a church, club, society, order, or other organization or to continue contributions to those organizations.

28-68-414. Construction of power relating to benefits from social security, medicare, medicaid, or other governmental programs or military service.

In a statutory power of attorney, the language granting power with respect to benefits from social security, medicare, medicaid or other governmental programs, or civil or military service empowers the agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in § 28-68-413(1), and for shipment of their household effects;

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

(3) prepare, file, and prosecute a claim of the principal to a benefit or assistance, financial or otherwise, to which the principal claims to be entitled, under a statute or governmental regulation;

(4) prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to any benefits the principal may be entitled to receive; and

(5) receive the financial proceeds of a claim of the type described in this section, conserve, invest, disburse, or use anything received for a lawful purpose.


In a statutory power of attorney, the language granting power with
respect to retirement plan transactions empowers the agent to:

1. select payment options under any retirement plan in which
   the principal participates, including plans for self-employed individuals;
2. designate beneficiaries under those plans and change
   existing designations;
3. make voluntary contributions to those plans;
4. exercise the investment powers available under any self-
   directed retirement plan;
5. make “rollovers” of plan benefits into other retirement
   plans;
6. if authorized by the plan, borrow from, sell assets to, and
   purchase assets from the plan; and
7. waive the right of the principal to be a beneficiary of a
   joint or survivor annuity if the principal is a spouse who is not employed.

28-68-416. Construction of power relating to tax matters.

In a statutory power of attorney, the language granting power with
respect to tax matters empowers the agent to:

1. prepare, sign, and file federal, state, local, and foreign
   income, gift, payroll, Federal Insurance Contributions Act returns, and other
   tax returns, claims for refunds, requests for extension of time, petitions
   regarding tax matters, and any other tax-related documents, including
   receipts, offers, waivers, consents (including consents and agreements under
   Internal Revenue Code section 2032A or any successor section), closing
   agreements, and any power of attorney required by the Internal Revenue
   Service or other taxing authority with respect to a tax year upon which the
   statute of limitations has not run and the following twenty-five (25) tax
   years;
2. pay taxes due, collect refunds, post bonds, receive
   confidential information, and contest deficiencies determined by the Internal
   Revenue Service or other taxing authority;
3. exercise any election available to the principal under
   federal, state, local, or foreign tax law; and
4. act for the principal in all tax matters for all periods
   before the Internal Revenue Service, and any other taxing authority.
The powers described in §§ 28-68-403—28-68-416 are exercisable equally with respect to an interest the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state, and whether or not the powers are exercised or the power of attorney is executed in this state.

28-68-418. Uniformity of application and construction.
This subchapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this subchapter among states enacting it.

This subchapter may be cited as the "Uniform Statutory Form Power of Attorney Act."