

House Bill 221 (COMMITTEE SUBSTITUTE)

By: Representatives Efration of the 104<sup>th</sup>, Willard of the 51<sup>st</sup>, England of the 116<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Morris of the 156<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce and  
2 trade, so as to enact the "Uniform Power of Attorney Act"; to repeal provisions relating to  
3 a financial power of attorney; to provide for a short title and definitions; to provide for  
4 applicability, validity, meaning, effect, and termination of a power of attorney; to provide for  
5 an agent, coagent, and successor agent, their duties, responsibilities, liability, authority, and  
6 compensation; to provide for general and specific authority that a principal may give an agent  
7 in a power of attorney; to provide for forms; to amend Code Section 16-5-105 of the Official  
8 Code of Georgia Annotated, relating to the applicability of the article governing the  
9 protection of elder persons, so as to provide for a cross-reference; to provide for related  
10 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for  
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **PART I**  
14 **SECTION 1-1.**

15 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
16 amended by repealing Article 7 of Chapter 6, relating to financial power of attorney, and  
17 designating it as reserved.

18 **PART II**  
19 **SECTION 2-1.**

20 Said title is further amended by adding a new chapter to read as follows:

21 "CHAPTER 6B

22 ARTICLE 1

23 10-6B-1.

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

25 10-6B-2.

26 As used in this chapter, the term:

27 (1) 'Agent' means a person granted authority to act in the place of an individual, whether  
 28 denominated by such term, attorney-in-fact, or otherwise. Such term shall include a  
 29 coagent, successor agent, and a person to which authority is delegated.

30 (2) 'Durable' means not terminated by the principal's incapacity.

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

33 (4) 'Good faith' means honesty in fact.

34 (5) 'Incapacity' means inability of an individual to manage property or business affairs  
 35 because the individual:

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

38 (B) Is:

39 (i) Missing;

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

41 (iii) Outside the United States and unable to return.

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

46 (7) 'Power of attorney' means a writing or other record that grants authority to a person  
 47 to act in the place of an individual, whether or not such term is used.

48 (8) 'Presently exercisable general power of appointment,' with respect to property or a  
 49 property interest subject to a power of appointment, means power exercisable at the time  
 50 in question to vest absolute ownership in the principal individually, the principal's estate,  
 51 the principal's creditors, or the creditors of the principal's estate. Such term shall include  
 52 a power of appointment not exercisable until the occurrence of a specified event, the  
 53 satisfaction of an ascertainable standard, or the passage of a specified period only after  
 54 the occurrence of the specified event, the satisfaction of the ascertainable standard, or the

55 passage of the specified period. Such term shall not include a power exercisable in a  
 56 fiduciary capacity or only by will.

57 (9) 'Principal' means an individual who grants authority to a person to act in the place of  
 58 such individual.

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

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

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

64 (A) To execute or adopt a tangible symbol; or

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

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

70 (14) 'Stocks and bonds' means stocks, bonds, mutual funds, and all other types of  
 71 securities and financial instruments, whether held directly, indirectly, or in any other  
 72 manner. Such term shall not include commodity futures contracts and call or put options  
 73 on stocks or stock indexes.

74 10-6B-3.

75 This chapter shall apply to all powers of attorney except:

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

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

80 (3) A proxy or other delegation to exercise voting rights or management rights with  
 81 respect to an entity; and

82 (4) A power created on a form prescribed by a government or governmental subdivision,  
 83 agency, or instrumentality for a governmental purpose.

84 10-6B-4.

85 A power of attorney created under this chapter shall be durable unless it expressly provides  
 86 that it is terminated by the incapacity of the principal.

87 10-6B-5.88 A power of attorney shall be:89 (1) Signed by the principal or by another individual in such principal's presence at the  
90 principal's express direction;91 (2) Attested in the presence of the principal by one or more competent witnesses; and92 (3) Acknowledged by the principal before a notary public or other individual authorized  
93 by law to take acknowledgments who is not also a witness for purposes of paragraph (2)  
94 of this Code section.95 10-6B-6.96 (a) A power of attorney executed in this state on or after July 1, 2017, shall be valid if its  
97 execution complies with Code Section 10-6B-5.98 (b) The provisions of this chapter shall not affect a power of attorney executed prior to  
99 July 1, 2017, to which the former provisions of Article 7 of Chapter 6 of this title, as such  
100 existed on June 30, 2017, shall continue to apply.101 (c) A power of attorney executed other than in this state shall be valid in this state if, when  
102 the power of attorney was executed, the execution complied with:103 (1) The law of the jurisdiction that determines the meaning and effect of the power of  
104 attorney pursuant to Code Section 10-6B-7; or105 (2) The requirements for a military power of attorney pursuant to 10 U.S.C. Section  
106 1044b, in effect on February 1, 2017.107 (d) Except as otherwise provided by law other than this chapter, a photocopy or  
108 electronically transmitted copy of an original power of attorney shall have the same effect  
109 as the original.110 10-6B-7.111 The meaning and effect of a power of attorney shall be determined by the law of the  
112 jurisdiction indicated in the power of attorney and, in the absence of an indication of  
113 jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.114 10-6B-8.115 (a) In a power of attorney, a principal may nominate a conservator or guardian of the  
116 principal's estate or guardian of the principal's person for consideration by the court if  
117 protective proceedings for the principal's estate or person are begun after the principal  
118 executes the power of attorney. Except for good cause shown or disqualification, the court  
119 shall make its appointment in accordance with the principal's most recent nomination.

120 (b) Unless expressly provided otherwise by the power of attorney or ordered otherwise by  
121 the court appointing the conservator or guardian, if, after a principal executes a power of  
122 attorney, a court appoints a conservator or guardian of the principal's estate or other  
123 fiduciary charged with the management of some or all of the principal's property, then the  
124 appointment of a guardian, conservator, or other fiduciary shall terminate all or part of the  
125 power of attorney that relates to the matters within the scope of the guardianship,  
126 conservatorship, or management by another fiduciary. If such power of attorney does not  
127 wholly terminate, the agent shall be accountable to the conservator, guardian, or other  
128 fiduciary as well as to the principal.

129 (c) If the court orders the power of attorney shall not terminate, the court may impose upon  
130 the power of attorney or agent such terms and conditions as it determines are in the best  
131 interest of the principal.

132 10-6B-9.

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

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

139 (c) If a power of attorney becomes effective upon the principal's incapacity and the  
140 principal has not authorized a person to determine whether the principal is incapacitated,  
141 or the person authorized is unable or unwilling to make the determination, the power of  
142 attorney shall become effective upon a determination in a writing or other record by:

143 (1) A physician or licensed psychologist determining that the principal has an  
144 impairment in the ability to receive and evaluate information or make or communicate  
145 decisions even with the use of technological assistance; or

146 (2) An attorney at law, a judge, or an appropriate governmental official determining that  
147 the principal is missing, detained, including incarcerated in a penal system, or is outside  
148 the United States and unable to return.

149 (d) A person authorized by the principal in the power of attorney to determine that the  
150 principal is incapacitated may act as the principal's personal representative pursuant to the  
151 Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the  
152 Social Security Act, 42 U.S.C. Section 1320d, in effect on February 1, 2017, and applicable  
153 regulations in effect on February 1, 2017, to obtain access to the principal's health care  
154 information and communicate with the principal's health care provider.

155 10-6B-10.156 (a) A power of attorney shall terminate when:157 (1) The principal dies;158 (2) The principal becomes incapacitated, if the power of attorney is not durable;159 (3) The principal revokes the power of attorney;160 (4) The power of attorney provides that it terminates;161 (5) The purpose of the power of attorney is accomplished; or162 (6) The principal revokes the agent's authority or the agent dies, becomes incapacitated,  
163 or resigns, and the power of attorney does not provide for another agent to act under the  
164 power of attorney.165 (b) An agent's authority shall terminate when:166 (1) The principal revokes the authority;167 (2) The agent dies, becomes incapacitated, or resigns;168 (3) An action is filed for the dissolution or annulment of the agent's marriage to the  
169 principal or their legal separation, unless the power of attorney otherwise provides; or170 (4) The power of attorney terminates.171 (c) Unless the power of attorney otherwise provides, an agent's authority is exercisable  
172 until the authority terminates under subsection (b) of this Code section, notwithstanding  
173 a lapse of time since the execution of the power of attorney.174 (d) Termination of an agent's authority or of a power of attorney shall not be effective as  
175 to the agent or another person that, without actual knowledge of the termination, acts in  
176 good faith under the power of attorney. An act so performed, unless otherwise invalid or  
177 unenforceable, shall bind the principal and the principal's successors in interest.178 (e) Incapacity of the principal of a power of attorney that is not durable shall not revoke  
179 or terminate the power of attorney as to an agent or other person that, without actual  
180 knowledge of the incapacity, acts in good faith under the power of attorney. An act so  
181 performed, unless otherwise invalid or unenforceable, shall bind the principal and the  
182 principal's successors in interest.183 (f) The execution of a power of attorney shall not revoke a power of attorney previously  
184 executed by the principal unless the subsequent power of attorney provides that the  
185 previous power of attorney shall be revoked or that all other powers of attorney are  
186 revoked.187 10-6B-11.188 (a) A principal may designate two or more persons to act as coagents. Unless the power  
189 of attorney otherwise provides, coagents shall exercise their authority independently.

190 (b) A principal may designate one or more successor agents to act if an agent resigns, dies,  
191 becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant  
192 authority to designate one or more successor agents to an agent or other person designated  
193 by name, office, or function. Unless the power of attorney otherwise provides, a successor  
194 agent shall:

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

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

198 (c) Except as otherwise provided in the power of attorney and subsection (d) of this Code  
199 section, an agent that does not participate in or conceal a breach of fiduciary duty  
200 committed by another agent, including a predecessor agent, shall not be liable for the  
201 actions of the other agent.

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

208 10-6B-12.

209 Unless the power of attorney otherwise provides, an agent shall not be entitled to any  
210 reimbursement of expenses or to compensation.

211 10-6B-13.

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

215 10-6B-14.

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

218 (1) In accordance with the principal's reasonable expectations to the extent actually  
219 known by the agent and, otherwise, in the principal's best interest;

220 (2) In good faith; and

221 (3) Only within the scope of authority granted in the power of attorney.

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

- 224 (1) Act loyally for the principal's benefit;  
225 (2) Act so as not to create a conflict of interest that impairs the agent's ability to act  
226 impartially in the principal's best interest;  
227 (3) Act with the care, competence, and diligence ordinarily exercised by agents in similar  
228 circumstances;  
229 (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the  
230 principal;  
231 (5) Cooperate with a person that has authority to make health care decisions for the  
232 principal to carry out the principal's reasonable expectations to the extent actually known  
233 by the agent and, otherwise, act in the principal's best interest; and  
234 (6) Attempt to preserve the principal's estate plan, to the extent actually known by the  
235 agent, if preserving such plan is consistent with the principal's best interest based on all  
236 relevant factors, including:  
237 (A) The value and nature of the principal's property;  
238 (B) The principal's foreseeable obligations and need for maintenance;  
239 (C) Minimization of taxes, including income, estate, inheritance, generation-skipping  
240 transfer, and gift taxes; and  
241 (D) Eligibility for a benefit, a program, or assistance under a law or regulation.  
242 (c) An agent that acts in good faith shall not be liable to any beneficiary of the principal's  
243 estate plan for failure to preserve such plan.  
244 (d) An agent that acts with care, competence, and diligence for the best interest of the  
245 principal shall not be liable solely because the agent also benefits from the act or has an  
246 individual or conflicting interest in relation to the property or affairs of the principal.  
247 (e) If an agent is selected by the principal because of special skills or expertise possessed  
248 by the agent or in reliance on the agent's representation that the agent has special skills or  
249 expertise, the special skills or expertise shall be considered in determining whether the  
250 agent has acted with care, competence, and diligence under the circumstances.  
251 (f) Absent a breach of duty to the principal, an agent shall not be liable if the value of the  
252 principal's property declines.  
253 (g) An agent that exercises authority to delegate to another person the authority granted  
254 by the principal or that engages another person on behalf of the principal shall not be liable  
255 for an act, error of judgment, or default of that person if the agent exercises care,  
256 competence, and diligence in selecting and monitoring the person.  
257 (h) Except as otherwise provided in the power of attorney, an agent shall not be required  
258 to disclose receipts, disbursements, or transactions conducted on behalf of the principal  
259 unless ordered by a court or requested by the principal, a guardian, a conservator, another  
260 fiduciary acting for the principal, a governmental agency having regulatory authority to



261 protect the welfare of the principal, or, upon the death of the principal, by the personal  
 262 representative or successor in interest of the principal's estate. If so requested, within 30  
 263 days the agent shall comply with the request or provide a writing or other record  
 264 substantiating why additional time is needed and shall comply with the request within an  
 265 additional 30 days.

266 10-6B-15.

267 A provision in a power of attorney relieving an agent of liability for breach of duty shall  
 268 be binding on the principal and the principal's successors in interest except to the extent the  
 269 provision:

270 (1) Relieves the agent of liability for breach of duty committed in bad faith, or with  
 271 reckless indifference to the purposes of the power of attorney or the best interest of the  
 272 principal; or

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

275 10-6B-16.

276 (a) The following persons may petition a court to construe a power of attorney or review  
 277 the agent's conduct, and grant appropriate relief:

278 (1) The principal or the agent;

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

280 (3) A person authorized to make health care decisions for the principal;

281 (4) The principal's spouse, parent, or descendant;

282 (5) An individual who would qualify as a presumptive heir of the principal;

283 (6) A person named as a beneficiary to receive any property, benefit, or contractual right  
 284 on the principal's death or as a beneficiary of a trust created by or for the principal that  
 285 has a financial interest in the principal's estate;

286 (7) A governmental agency having regulatory authority to protect the welfare of the  
 287 principal;

288 (8) The principal's caregiver or another person that demonstrates sufficient interest in the  
 289 principal's welfare; and

290 (9) A person asked to accept the power of attorney.

291 (b) Upon motion by the principal, the court shall dismiss a petition filed under this Code  
 292 section, unless the court finds that the principal lacks capacity to revoke the agent's  
 293 authority or the power of attorney.

294 10-6B-17.

295 An agent that violates this chapter shall be liable to the principal or the principal's  
296 successors in interest for the amount required to:

297 (1) Restore the value of the principal's property to what it would have been had the  
298 violation not occurred; and

299 (2) Reimburse the principal or the principal's successors in interest for the attorney's fees  
300 and costs paid on the agent's behalf.

301 10-6B-18.

302 Unless the power of attorney provides a different method for an agent's resignation, an  
303 agent may resign by giving notice to the principal and, if the principal is incapacitated:

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

306 (2) If there is no person described in paragraph (1) of this Code section, to:

307 (A) The principal's caregiver; or

308 (B) Another person reasonably believed by the agent to have sufficient interest in the  
309 principal's welfare.

310 10-6B-19.

311 (a) For purposes of this Code section, the term 'acknowledged' means purportedly verified  
312 before a notary public or other individual authorized to take acknowledgments.

313 (b) A person that in good faith accepts an acknowledged power of attorney without actual  
314 knowledge that the signature is not genuine may rely upon the presumption under Code  
315 Section 10-6B-5 that the signature is genuine.

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

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

324 (1) An agent's certification under penalty of perjury of any factual matter concerning the  
325 principal, agent, or power of attorney;

326 (2) An English translation of the power of attorney if the power of attorney contains, in  
327 whole or in part, language other than English; and

328 (3) An opinion of an attorney as to any matter of law concerning the power of attorney  
329 if the person making the request provides in a writing or other record the reason for the  
330 request.

331 (e) An English translation or an opinion of an attorney requested under this Code section  
332 shall be provided at the principal's expense unless the request is made more than seven days  
333 after the power of attorney is presented for acceptance.

334 (f) For purposes of this Code section, a person that conducts activities through employees  
335 shall be without actual knowledge of a fact relating to a power of attorney, a principal, or  
336 an agent if the employee conducting the transaction involving the power of attorney is  
337 without actual knowledge of the fact.

338 10-6B-20.

339 (a) For purposes of this Code section, the term 'acknowledged' means purportedly verified  
340 before a notary public or other individual authorized to take acknowledgments.

341 (b) Except as otherwise provided in subsection (c) of this Code section:

342 (1) A person shall either accept an acknowledged power of attorney or request a  
343 certification, a translation, or an opinion of an attorney under subsection (d) of Code  
344 Section 10-6B-19 no later than seven days after presentation of the power of attorney for  
345 acceptance;

346 (2) If a person requests a certification, a translation, or an opinion of an attorney under  
347 subsection (d) of Code Section 10-6B-19, the person shall accept the power of attorney  
348 no later than five business days after receipt of the certification, translation, or opinion  
349 of an attorney; and

350 (3) A person shall not require an additional or different form of power of attorney for  
351 authority granted in the power of attorney presented.

352 (c) A person shall not be required to accept an acknowledged power of attorney if:

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

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

357 (3) The person has actual knowledge of the termination of the agent's authority or of the  
358 power of attorney before exercise of the power;

359 (4) A request for a certification, a translation, or an opinion of an attorney under  
360 subsection (d) of Code Section 10-6B-19 is refused;

361 (5) The person in good faith believes that the power is not valid or that the agent does  
362 not have the authority to perform the act requested, whether or not a certification, a

363 translation, or an opinion of an attorney under subsection (d) of Code Section 10-6B-19  
 364 has been requested or provided; or

365 (6) The person makes, or has actual knowledge that another person has made, a report  
 366 to protective services as such term is defined in Code Section 30-5-1 stating a good faith  
 367 belief that the principal may be subject to physical or financial abuse, neglect,  
 368 exploitation, or abandonment by the agent or a person acting for or with the agent.

369 (d) A person that refuses to accept an acknowledged power of attorney in violation of this  
 370 Code section shall be subject to:

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

372 (2) Liability for reasonable attorney's fees and costs incurred in any action or proceeding  
 373 that confirms the validity of the power of attorney or mandates acceptance of the power  
 374 of attorney.

375 (e) For purposes of this Code section, a person that conducts activities through employees  
 376 shall be without actual knowledge of a fact relating to a power of attorney, a principal, or  
 377 an agent if the employee conducting the transaction involving the power of attorney is  
 378 without actual knowledge of the fact.

379 10-6B-21.

380 Unless displaced by a provision of this chapter, the principles of law and equity supplement  
 381 this chapter.

382 10-6B-22.

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

385 10-6B-23.

386 The remedies under this chapter shall not be exclusive and shall not abrogate any right or  
 387 remedy under the laws of this state other than this chapter.

388 ARTICLE 2

389 10-6B-40.

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

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

- 395 (2) Make a gift;  
 396 (3) Create or change rights of survivorship;  
 397 (4) Create or change a beneficiary designation;  
 398 (5) Delegate authority granted under the power of attorney;  
 399 (6) Waive the principal's right to be a beneficiary of a joint and survivor annuity,  
 400 including a survivor benefit under a retirement plan;  
 401 (7) Exercise fiduciary powers that the principal has authority to delegate;  
 402 (8) Exercise authority over the content of electronic communications, as defined in 18  
 403 U.S.C. Section 2510(12), in effect on February 1, 2017, sent or received by the principal;  
 404 or  
 405 (9) Disclaim property, including a power of appointment.
- 406 (b) Notwithstanding a grant of authority to do an act described in subsection (a) of this  
 407 Code section, unless the power of attorney otherwise provides, an agent that is not an  
 408 ancestor, spouse, or descendant of the principal, shall not exercise authority under a power  
 409 of attorney to create in the agent, or in an individual to whom the agent owes a legal  
 410 obligation of support, an interest in the principal's property, whether by gift, right of  
 411 survivorship, beneficiary designation, disclaimer, or otherwise.
- 412 (c) Subject to subsections (a), (b), (d), and (e) of this Code section, if a power of attorney  
 413 grants to an agent authority to do all acts that a principal could do, the agent has the general  
 414 authority described in Code Sections 10-6B-43 through 10-6B-55.
- 415 (d) Unless the power of attorney otherwise provides, a grant of authority to make a gift  
 416 shall be subject to Code Section 10-6B-56.
- 417 (e) Subject to subsections (a), (b), and (d) of this Code section, if the subjects over which  
 418 authority is granted in a power of attorney are similar or overlap, the broadest authority  
 419 shall control.
- 420 (f) Authority granted in a power of attorney is exercisable with respect to property that the  
 421 principal has when the power of attorney is executed or acquires later, whether or not the  
 422 property is located in this state and whether or not the authority is exercised or the power  
 423 of attorney is executed in this state.
- 424 (g) An act performed by an agent pursuant to a power of attorney shall have the same  
 425 effect and inures to the benefit of and binds the principal and the principal's successors in  
 426 interest as if the principal had performed the act.
- 427 10-6B-41.
- 428 (a) An agent shall have authority described in this article if the power of attorney refers  
 429 to general authority with respect to the descriptive term for the subjects stated in Code

430 Sections 10-6B-43 through 10-6B-56 or cites the Code section in which the authority is  
 431 described.

432 (b) A reference in a power of attorney to general authority with respect to the descriptive  
 433 term for a subject stated in Code Sections 10-6B-43 through 10-6B-56 or a citation to a  
 434 specific Code section in Code Sections 10-6B-43 through 10-6B-56 shall incorporate the  
 435 entire Code section as if it were set out in full in the power of attorney.

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

437 10-6B-42.

438 Except as otherwise provided in the power of attorney, by executing a power of attorney  
 439 that incorporates by reference a subject described in Code Sections 10-6B-43 through  
 440 10-6B-56 or that grants to an agent authority to do all acts that a principal could do  
 441 pursuant to subsection (c) of Code Section 10-6B-40, a principal shall authorize the agent,  
 442 with respect to that subject, to:

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

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

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

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

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

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

461 (7) Prepare, execute, and file a record, report, or other document to safeguard or promote  
 462 the principal's interest under a law or regulation;

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

465 (9) Except as otherwise provided under federal privacy laws, access communications  
 466 intended for, and communicate on behalf of the principal, whether by mail, electronic  
 467 transmission, telephone, or other means; and

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

469 10-6B-43.

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

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

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

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

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

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

490 (A) Insuring against liability or casualty or other loss;

491 (B) Obtaining or regaining possession of or protecting the interest or right by litigation  
 492 or otherwise;

493 (C) Paying, assessing, compromising, or contesting taxes or assessments or applying  
 494 for and receiving refunds in connection with such taxes or assessments; and

495 (D) Purchasing supplies, hiring assistance or labor, and making repairs or alterations  
 496 to the real property;

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

- 500 (7) Participate in a reorganization with respect to real property or an entity that owns an  
 501 interest in or right incident to real property and receive, and hold, and act with respect to  
 502 stocks and bonds or other property received in a plan of reorganization, including:  
 503 (A) Selling or otherwise disposing of them;  
 504 (B) Exercising or selling an option, right of conversion, or similar right with respect  
 505 to them; and  
 506 (C) Exercising any voting rights in person or by proxy;  
 507 (8) Change the form of title of an interest in or right incident to real property; and  
 508 (9) Dedicate to public use, with or without consideration, easements or other real  
 509 property in which the principal has, or claims to have, an interest.

510 10-6B-44.

- 511 Unless the power of attorney otherwise provides, language in a power of attorney granting  
 512 general authority with respect to tangible personal property shall authorize the agent to:  
 513 (1) Demand, buy, receive, accept as a gift or as security for an extension of credit, or  
 514 otherwise acquire or reject ownership or possession of tangible personal property or an  
 515 interest in tangible personal property;  
 516 (2) Sell; exchange; convey with or without covenants, representations, or warranties;  
 517 quitclaim; release; surrender; create a security interest in; grant options concerning; lease;  
 518 sublease; or otherwise dispose of tangible personal property or an interest in tangible  
 519 personal property;  
 520 (3) Grant a security interest in tangible personal property or an interest in tangible  
 521 personal property as security to borrow money or pay, renew, or extend the time of  
 522 payment of a debt of the principal or a debt guaranteed by the principal;  
 523 (4) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien,  
 524 or other claim on behalf of the principal, with respect to tangible personal property or an  
 525 interest in tangible personal property;  
 526 (5) Manage or conserve tangible personal property or an interest in tangible personal  
 527 property on behalf of the principal, including:  
 528 (A) Insuring against liability or casualty or other loss;  
 529 (B) Obtaining or regaining possession of or protecting the property or interest, by  
 530 litigation or otherwise;  
 531 (C) Paying, assessing, compromising, or contesting taxes or assessments or applying  
 532 for and receiving refunds in connection with such taxes or assessments;  
 533 (D) Moving the property from place to place;  
 534 (E) Storing the property for hire or on a gratuitous bailment; and  
 535 (F) Using and making repairs, alterations, or improvements to the property; and



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

537 10-6B-45.

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

540 (1) Buy, sell, and exchange stocks and bonds;

541 (2) Establish, continue, modify, or terminate an account with respect to stocks and  
542 bonds;

543 (3) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of  
544 payment of a debt of the principal;

545 (4) Receive certificates and other evidences of ownership with respect to stocks and  
546 bonds; and

547 (5) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter  
548 into voting trusts, and consent to limitations on the right to vote.

549 10-6B-46.

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

552 (1) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call  
553 or put options on stocks or stock indexes traded on a regulated option exchange; and

554 (2) Establish, continue, modify, and terminate option accounts.

555 10-6B-47.

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

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

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

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

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

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

- 570 (6) Enter a safe deposit box or vault and withdraw or add to the contents;  
 571 (7) Borrow money and pledge as security personal property of the principal necessary  
 572 to borrow money or pay, renew, or extend the time of payment of a debt of the principal  
 573 or a debt guaranteed by the principal;  
 574 (8) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes,  
 575 checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to  
 576 the principal or the principal's order, transfer money, receive the cash or other proceeds  
 577 of those transactions, and accept a draft drawn by a person upon the principal and pay it  
 578 when due;  
 579 (9) Receive for the principal and act upon a sight draft, warehouse receipt, or other  
 580 document of title whether tangible or electronic, or other negotiable or nonnegotiable  
 581 instrument;  
 582 (10) Apply for, receive, and use letters of credit, credit and debit cards, electronic  
 583 transaction authorizations, and traveler's checks from a financial institution and give an  
 584 indemnity or other agreement in connection with letters of credit; and  
 585 (11) Consent to an extension of the time of payment with respect to commercial paper  
 586 or a financial transaction with a financial institution.

587 10-6B-48.

588 Subject to the terms of a document or an agreement governing an entity or an entity  
 589 ownership interest, and unless the power of attorney otherwise provides, language in a  
 590 power of attorney granting general authority with respect to operation of an entity or  
 591 business shall authorize the agent to:

- 592 (1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest;  
 593 (2) Perform a duty or discharge a liability and exercise in person or by proxy a right,  
 594 power, privilege, or option that the principal has, may have, or claims to have;  
 595 (3) Enforce the terms of an ownership agreement;  
 596 (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or  
 597 propose or accept a compromise with respect to litigation to which the principal is a party  
 598 because of an ownership interest;  
 599 (5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power,  
 600 privilege, or option the principal has or claims to have as the holder of stocks and bonds;  
 601 (6) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or  
 602 propose or accept a compromise with respect to litigation to which the principal is a party  
 603 concerning stocks and bonds;  
 604 (7) With respect to an entity or business owned solely by the principal:

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

608 (B) Determine:

609 (i) The location of its operation;

610 (ii) The nature and extent of its business;

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

613 (iv) The amount and types of insurance carried; and

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

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

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

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

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

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

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

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

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

635 10-6B-49.

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

638 (1) Continue, pay the premium or make a contribution on, modify, exchange, rescind,  
 639 release, or terminate a contract procured by or on behalf of the principal which insures

640 or provides an annuity to either the principal or another person, whether or not the  
 641 principal is a beneficiary under the contract;  
 642 (2) Procure new, different, and additional contracts of insurance and annuities for the  
 643 principal and the principal's spouse, children, and other dependents, and select the  
 644 amount, type of insurance or annuity, and mode of payment;  
 645 (3) Pay the premium or make a contribution on, modify, exchange, rescind, release, or  
 646 terminate a contract of insurance or annuity procured by the agent;  
 647 (4) Apply for and receive a loan secured by a contract of insurance or annuity;  
 648 (5) Surrender and receive the cash surrender value on a contract of insurance or annuity;  
 649 (6) Exercise an election;  
 650 (7) Exercise investment powers available under a contract of insurance or annuity;  
 651 (8) Change the manner of paying premiums on a contract of insurance or annuity;  
 652 (9) Change or convert the type of insurance or annuity with respect to which the  
 653 principal has or claims to have authority described in this Code section;  
 654 (10) Apply for and procure a benefit or assistance under a law or regulation to guarantee  
 655 or pay premiums of a contract of insurance on the life of the principal;  
 656 (11) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the  
 657 principal in a contract of insurance or annuity;  
 658 (12) Select the form and timing of the payment of proceeds from a contract of insurance  
 659 or annuity; and  
 660 (13) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in  
 661 connection with, a tax or assessment levied by a taxing authority with respect to a  
 662 contract of insurance or annuity or its proceeds or liability accruing by reason of such tax  
 663 or assessment.

664 10-6B-50.

665 (a) As used in this Code section, the term 'estate, trust, or other beneficial interest' means  
 666 a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund  
 667 from which the principal is, may become, or claims to be, entitled to a share or payment.  
 668 (b) Unless the power of attorney otherwise provides, language in a power of attorney  
 669 granting general authority with respect to estates, trusts, and other beneficial interests shall  
 670 authorize the agent to:

671 (1) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment  
 672 from an estate, trust, or other beneficial interest;  
 673 (2) Demand or obtain money or any other thing of value to which the principal is, may  
 674 become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest,  
 675 by litigation or otherwise;

- 676 (3) Exercise for the benefit of the principal a presently exercisable general power of  
 677 appointment held by the principal;
- 678 (4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or  
 679 propose or accept a compromise with respect to litigation to ascertain the meaning,  
 680 validity, or effect of a deed, will, declaration of trust, or other instrument or transaction  
 681 affecting the interest of the principal;
- 682 (5) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or  
 683 propose or accept a compromise with respect to litigation to remove, substitute, or  
 684 surcharge a fiduciary;
- 685 (6) Conserve, invest, disburse, or use anything received for an authorized purpose; and
- 686 (7) Transfer an interest of the principal in real property, stocks and bonds, accounts with  
 687 financial institutions or securities intermediaries, insurance, annuities, and other property  
 688 to the trustee of a revocable trust created by the principal as settlor; and
- 689 (8) Reject, renounce, disclaim, release, or consent to a reduction in or modification of  
 690 a share in or payment from an estate, trust, or other beneficial interest.

691 10-6B-51.

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

- 694 (1) Assert and maintain before a court or administrative agency a claim, claim for relief,  
 695 cause of action, counterclaim, offset, recoupment, or defense, including an action to  
 696 recover property or any other thing of value, recover damages sustained by the principal,  
 697 eliminate or modify tax liability, or seek an injunction, specific performance, or other  
 698 relief;
- 699 (2) Bring an action to determine adverse claims or intervene or otherwise participate in  
 700 litigation;
- 701 (3) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional,  
 702 or intermediate relief and use an available procedure to effect or satisfy a judgment,  
 703 order, or decree;
- 704 (4) Make or accept a tender, offer of judgment, or admission of facts, submit a  
 705 controversy on an agreed statement of facts, consent to examination, and bind the  
 706 principal in litigation;
- 707 (5) Submit to alternative dispute resolution, settle, and propose or accept a compromise;
- 708 (6) Waive the issuance and service of process upon the principal, accept service of  
 709 process, appear for the principal, designate persons upon which process directed to the  
 710 principal may be served, execute and file or deliver stipulations on the principal's behalf,  
 711 verify pleadings, seek appellate review, procure and give surety and indemnity bonds,

712 contract and pay for the preparation and printing of records and briefs, receive, execute,  
 713 and file or deliver a consent, waiver, release, confession of judgment, satisfaction of  
 714 judgment, notice, agreement, or other instrument in connection with the prosecution,  
 715 settlement, or defense of a claim or litigation;

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

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

722 (9) Receive money or any other thing of value paid in settlement of or as proceeds of a  
 723 claim or litigation.

724 10-6B-52.

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

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

731 (A) The principal's minor children;

732 (B) The principal's adult children who are pursuing a postsecondary school education  
 733 and are under 25 years of age;

734 (C) The principal's parents or the parents of the principal's spouse, if the principal had  
 735 established a pattern of such payments; and

736 (D) Any other individuals legally entitled to be supported by the principal;

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

739 (3) Provide living quarters for the individuals described in paragraph (1) of this  
 740 subsection by:

741 (A) Purchase, lease, or other contract; or

742 (B) Paying the operating costs, including interest, amortization payments, repairs,  
 743 improvements, and taxes, for premises owned by the principal or occupied by those  
 744 individuals;

745 (4) Provide normal domestic help, usual vacations and travel expenses, and funds for  
 746 shelter, clothing, food, appropriate education, including postsecondary and vocational

747 education, and other current living costs for individuals described in paragraph (1) of this  
 748 subsection to enable such individuals to maintain their customary standard of living;  
 749 (5) Pay expenses for necessary health care and custodial care on behalf of the individuals  
 750 described in paragraph (1) of this subsection;  
 751 (6) Act as the principal's personal representative pursuant to the Health Insurance  
 752 Portability and Accountability Act, Sections 1171 through 1179 of the Social Security  
 753 Act, 42 U.S.C. Section 1320d, in effect on February 1, 2017, and applicable regulations  
 754 in effect on February 1, 2017, in making decisions related to the past, present, or future  
 755 payment for the provision of health care consented to by the principal or anyone  
 756 authorized under the laws of this state to consent to health care on behalf of the principal;  
 757 (7) Continue any provision made by the principal for automobiles or other means of  
 758 transportation, including registering, licensing, insuring, and replacing them, for the  
 759 individuals described in paragraph (1) of this subsection;  
 760 (8) Maintain credit and debit accounts for the convenience of the individuals described  
 761 in paragraph (1) of this subsection and open new accounts; and  
 762 (9) Continue payments incidental to the membership or affiliation of the principal in a  
 763 religious institution, club, society, order, or other organization or to continue  
 764 contributions to those organizations.  
 765 (b) Authority with respect to personal and family maintenance shall be neither dependent  
 766 upon, nor limited by, authority that an agent may or may not have with respect to gifts  
 767 under this chapter.

768 10-6B-53.

769 (a) As used in this Code section, the term 'benefits from governmental programs or civil  
 770 or military service' means any benefit, program, or assistance provided under a law or  
 771 regulation, including Social Security, medicare, and Medicaid.  
 772 (b) Unless the power of attorney otherwise provides, language in a power of attorney  
 773 granting general authority with respect to benefits from governmental programs or civil or  
 774 military service shall authorize the agent to:  
 775 (1) Execute vouchers in the name of the principal for allowances and reimbursements  
 776 payable by the United States or a foreign government or by a state or political subdivision  
 777 of a state to the principal, including allowances and reimbursements for transportation of  
 778 the individuals described in paragraph (1) of subsection (a) of Code Section 10-6B-52,  
 779 and for shipment of their household effects;  
 780 (2) Take possession and order the removal and shipment of property of the principal  
 781 from a post, warehouse, depot, dock, or other place of storage or safekeeping, either

782 governmental or private, and execute and deliver a release, voucher, receipt, bill of  
 783 lading, shipping ticket, certificate, or other instrument for such purpose;

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

786 (4) Prepare, file, and maintain a claim of the principal for a benefit or assistance,  
 787 financial or otherwise, to which such principal may be entitled under a law or regulation;

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

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

794 10-6B-54.

795 (a) As used in this Code section, the term 'retirement plan' means a plan or account created  
 796 by an employer, the principal, or another individual to provide retirement benefits or  
 797 deferred compensation of which such principal is a participant, beneficiary, or owner,  
 798 including a plan or account under the following sections of the Internal Revenue Code:

799 (1) An individual retirement account under Internal Revenue Code Section 408, 26  
 800 U.S.C. Section 408, in effect on February 1, 2017;

801 (2) A Roth individual retirement account under Internal Revenue Code Section 408A,  
 802 26 U.S.C. Section 408A, in effect on February 1, 2017;

803 (3) A deemed individual retirement account under Internal Revenue Code Section  
 804 408(q), 26 U.S.C. Section 408(q), in effect on February 1, 2017;

805 (4) An annuity or mutual fund custodial account under Internal Revenue Code Section  
 806 403(b), 26 U.S.C. Section 403(b), in effect on February 1, 2017;

807 (5) A pension, profit-sharing, stock bonus, or other retirement plan qualified under  
 808 Internal Revenue Code Section 401(a), 26 U.S.C. Section 401(a), in effect on February 1,  
 809 2017;

810 (6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. Section 457(b), in  
 811 effect on February 1, 2017; and

812 (7) A nonqualified deferred compensation plan under Internal Revenue Code Section  
 813 409A, 26 U.S.C. Section 409A, in effect on February 1, 2017.

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

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



- 818 (2) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one  
 819 retirement plan to another;  
 820 (3) Establish a retirement plan in the principal's name;  
 821 (4) Make contributions to a retirement plan;  
 822 (5) Exercise investment powers available under a retirement plan; and  
 823 (6) Borrow from, sell assets to, or purchase assets from a retirement plan.

824 10-6B-55.

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

- 827 (1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property,  
 828 Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests  
 829 for extension of time, petitions regarding tax matters, and any other tax-related  
 830 documents, including receipts, offers, waivers, consents, including consents and  
 831 agreements under Internal Revenue Code Section 2032A, 26 U.S.C. Section 2032A, in  
 832 effect on February 1, 2017, closing agreements, and any power of attorney required by  
 833 the Internal Revenue Service or other taxing authority with respect to a tax year upon  
 834 which the statute of limitations has not run and the following 25 tax years;  
 835 (2) Pay taxes due, collect refunds, post bonds, receive confidential information, and  
 836 contest deficiencies determined by the Internal Revenue Service or other taxing authority;  
 837 (3) Exercise any election available to the principal under federal, state, local, or foreign  
 838 tax law; and  
 839 (4) Act for the principal in all tax matters for all periods before the Internal Revenue  
 840 Service, or other taxing authority.

841 10-6B-56.

842 (a) As used in this Code section, the term a gift 'for the benefit of' a person includes a gift  
 843 to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings  
 844 account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26  
 845 U.S.C. Section 529, in effect on February 1, 2017.

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

- 848 (1) Make outright to, or for the benefit of, a person, a gift of any of the principal's  
 849 property, including by the exercise of a presently exercisable general power of  
 850 appointment held by the principal, in an amount per donee not to exceed the annual dollar  
 851 limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26  
 852 U.S.C. Section 2503(b), in effect on February 1, 2017, without regard to whether the

853 federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent  
 854 to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. 2513, in effect  
 855 on February 1, 2017, in an amount per donee not to exceed twice the annual federal gift  
 856 tax exclusion limit; and

857 (2) Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. Section 2513,  
 858 in effect on February 1, 2017, to the splitting of a gift made by the principal's spouse in  
 859 an amount per donee not to exceed the aggregate annual gift tax exclusions for both  
 860 spouses.

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

865 (1) The value and nature of the principal's property;

866 (2) The principal's foreseeable obligations and need for maintenance;

867 (3) Minimization of taxes, including income, estate, inheritance, generation-skipping  
 868 transfer, and gift taxes;

869 (4) Eligibility for a benefit, a program, or assistance under a law or regulation; and

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

### 871 ARTICLE 3

872 10-6B-70.

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

875 'State of Georgia

876 County of \_\_\_\_\_

### 877 STATUTORY FORM POWER OF ATTORNEY

#### 878 IMPORTANT INFORMATION

879 This power of attorney authorizes another person (your agent) to make decisions  
 880 concerning your property for you (the principal). Your agent will be able to make  
 881 decisions and act with respect to your property (including your money) whether or not you  
 882 are able to act for yourself. The meaning of authority over subjects listed on this form is  
 883 explained in O.C.G.A. Chapter 6B of Title 10.

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

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

888 Your agent is not entitled to any reimbursement of expenses or compensation unless you  
 889 state otherwise in the Special Instructions.

890 This form provides for designation of one agent. If you wish to name more than one agent,  
 891 you may name a coagent in the Special Instructions.

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

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

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

898 **DESIGNATION OF AGENT**

899 I \_\_\_\_\_ (Name of principal)  
 900 name the following person as my agent:

901 Name of agent: \_\_\_\_\_

902 Agent's address: \_\_\_\_\_

903 Agent's telephone number: \_\_\_\_\_

904 Agent's e-mail address: \_\_\_\_\_

905 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

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

907 Name of successor agent: \_\_\_\_\_

908 Successor agent's address: \_\_\_\_\_

909 Successor agent's telephone number: \_\_\_\_\_

910 Successor agent's e-mail address: \_\_\_\_\_

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

913 Name of second successor agent: \_\_\_\_\_

914 Second successor agent's address: \_\_\_\_\_

915 Second successor agent's telephone number: \_\_\_\_\_

916 Second successor agent's e-mail address: \_\_\_\_\_

917 **GRANT OF GENERAL AUTHORITY**

918 I grant my agent and any successor agent general authority to act for me with respect to the  
 919 following subjects as defined in O.C.G.A. Chapter 6B of Title 10:

920 (INITIAL each subject you want to include in the agent's general authority. If you wish  
 921 to grant general authority over all of the subjects you may initial "all preceding subjects"  
 922 instead of initialing each subject.)

923 ( ) Real property

924 ( ) Tangible personal property

925 ( ) Stocks and bonds

926 ( ) Commodities and options

927 ( ) Banks and other financial institutions

928 ( ) Operation of entity or business

929 ( ) Insurance and annuities

930 ( ) Estates, trusts, and other beneficial interests

931 ( ) Claims and litigation

932 ( ) Personal and family maintenance

933 ( ) Benefits from governmental programs or civil or military service

934 ( ) Retirement plans

935 ( ) Taxes

936 ( ) All preceding subjects

937 **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

938 My agent SHALL NOT do any of the following specific acts for me UNLESS I have  
939 INITIALED the specific authority listed below:  
940 (CAUTION: Granting any of the following will give your agent the authority to take  
941 actions that could significantly reduce your property or change how your property is  
942 distributed at your death. INITIAL ONLY the specific authority you WANT to give your  
943 agent. You should give your agent specific instructions in the Special Instructions when  
944 you authorize your agent to make gifts.)

- 945 ( ) Create, amend, revoke, or terminate an inter vivos trust
- 946 ( ) Make a gift, subject to the limitations of O.C.G.A. § 10-6B-56 and any Special  
947 Instructions in this power of attorney
- 948 ( ) Create or change rights of survivorship
- 949 ( ) Create or change a beneficiary designation
- 950 ( ) Authorize another person to exercise the authority granted under this power of  
951 attorney
- 952 ( ) Waive the principal's right to be a beneficiary of a joint and survivor annuity,  
953 including a survivor benefit under a retirement plan
- 954 ( ) Access the content of electronic communications
- 955 ( ) Exercise fiduciary powers that the principal has authority to delegate
- 956 ( ) Disclaim or refuse an interest in property, including a power of appointment

957 **LIMITATION ON AGENT'S AUTHORITY**

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

961 **SPECIAL INSTRUCTIONS (OPTIONAL)**

962 You may give special instructions on the following lines:

963 \_\_\_\_\_

964 \_\_\_\_\_

965 \_\_\_\_\_

966 \_\_\_\_\_

967 \_\_\_\_\_

968 \_\_\_\_\_

969

**EFFECTIVE DATE**

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

972

**NOMINATION OF CONSERVATOR (OPTIONAL)**

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

975 Name of nominee for conservator of my estate:  
976 \_\_\_\_\_

977 Nominee's address: \_\_\_\_\_

978 Nominee's telephone number: \_\_\_\_\_

979 Nominee's e-mail address: \_\_\_\_\_

980

**RELIANCE ON THIS POWER OF ATTORNEY**

981 Any person, including my agent, may rely upon the validity of this power of attorney or a  
982 copy of it unless that person has actual knowledge it has terminated or is invalid.

983

**SIGNATURE AND ACKNOWLEDGMENT**

984 \_\_\_\_\_  
985 Your signature \_\_\_\_\_ Date

986 \_\_\_\_\_  
987 Your name printed

988 \_\_\_\_\_  
989 \_\_\_\_\_

990 Your address

991 \_\_\_\_\_  
992 Your telephone number

993 \_\_\_\_\_  
994 Your e-mail address

995 This document was signed in my presence on \_\_\_\_\_  
996 (Date)

997 by \_\_\_\_\_  
998 (Name of principal)

999 \_\_\_\_\_  
 1000 (Witness's name printed)  
 1001 \_\_\_\_\_  
 1002 \_\_\_\_\_  
 1003 Witness's address  
 1004 \_\_\_\_\_  
 1005 Witness's telephone number  
 1006 \_\_\_\_\_  
 1007 Witness's e-mail address

1008 State of Georgia  
 1009 County of \_\_\_\_\_

1010 This document was acknowledged before me on \_\_\_\_\_  
 1011 (Date)

1012 by \_\_\_\_\_  
 1013 (Name of principal)

1014 \_\_\_\_\_ (Seal)  
 1015 Signature of notary

1016 My commission expires: \_\_\_\_\_

1017 This document prepared by: \_\_\_\_\_

1018 **IMPORTANT INFORMATION FOR AGENT**

1019 **Agent's Duties**

1020 When you accept the authority granted under this power of attorney, a special legal  
 1021 relationship is created between you and the principal. This relationship imposes upon you  
 1022 legal duties that continue until you resign or the power of attorney is terminated or revoked.

1023 You must:

- 1024 (1) Do what you know the principal reasonably expects you to do with the principal's
- 1025 property or, if you do not know the principal's expectations, act in the principal's best
- 1026 interest;
- 1027 (2) Act in good faith;
- 1028 (3) Do nothing beyond the authority granted in this power of attorney; and

1029 (4) Disclose your identity as an agent whenever you act for the principal by writing or  
 1030 printing the name of the principal and signing your own name as "agent" in the following  
 1031 manner:

1032 \_\_\_\_\_ by \_\_\_\_\_ as Agent.  
 1033 (Principal's name) (Your signature)

1034 Unless the Special Instructions in this power of attorney state otherwise, you must also:

- 1035 (1) Act loyally for the principal's benefit;  
 1036 (2) Avoid conflicts that would impair your ability to act in the principal's best interest;  
 1037 (3) Act with care, competence, and diligence;  
 1038 (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the  
 1039 principal;  
 1040 (5) Cooperate with any person that has authority to make health care decisions for the  
 1041 principal to do what you know the principal reasonably expects or, if you do not know  
 1042 the principal's expectations, to act in the principal's best interest; and  
 1043 (6) Attempt to preserve the principal's estate plan if you know the plan and preserving  
 1044 the plan is consistent with the principal's best interest.

#### 1045 **Termination of Agent's Authority**

1046 You must stop acting on behalf of the principal if you learn of any event that terminates  
 1047 this power of attorney or your authority under this power of attorney. Events that terminate  
 1048 a power of attorney or your authority to act under a power of attorney include:

- 1049 (1) Death of the principal;  
 1050 (2) The principal's revocation of the power of attorney or your authority;  
 1051 (3) The occurrence of a termination event stated in the power of attorney;  
 1052 (4) The purpose of the power of attorney is fully accomplished; or  
 1053 (5) If you are married to the principal, a legal action is filed with a court to end your  
 1054 marriage, or for your legal separation, unless the Special Instructions in this power of  
 1055 attorney state that such an action will not terminate your authority.

#### 1056 **Liability of Agent**

1057 The meaning of the authority granted to you is defined in O.C.G.A. Chapter 6B of Title 10.  
 1058 If you violate O.C.G.A. Chapter 6B of Title 10 or act outside the authority granted, you  
 1059 may be liable for any damages caused by your violation.



1060 **If there is anything about this document or your duties that you do not understand,**  
1061 **you should seek legal advice.'**

1062 10-6B-71.

1063 The following optional form may be used by an agent to certify facts concerning a power  
1064 of attorney.

1065 **'AGENT'S CERTIFICATION AS TO THE VALIDITY OF**  
1066 **POWER OF ATTORNEY AND AGENT'S AUTHORITY**

1067 State of Georgia

1068 County of \_\_\_\_\_

1069 I, \_\_\_\_\_ (name of agent), certify under penalty  
1070 of perjury that \_\_\_\_\_ (name of principal) granted  
1071 me authority as an agent or successor agent in a power of attorney dated  
1072 \_\_\_\_\_.

1073 I further certify that to my knowledge:

1074 (1) The principal is alive and has not revoked the power of attorney or my authority to  
1075 act under the power of attorney and the power of attorney and my authority to act under  
1076 the power of attorney have not terminated;

1077 (2) If the power of attorney was drafted to become effective upon the happening of an  
1078 event or contingency, the event or contingency has occurred;

1079 (3) If I were named as a successor agent, the prior agent is no longer able or willing to  
1080 serve; and

1081 (4) \_\_\_\_\_  
1082 \_\_\_\_\_  
1083 \_\_\_\_\_  
1084 \_\_\_\_\_  
1085 \_\_\_\_\_

1086 (Insert other relevant statements)

1087 **SIGNATURE AND ACKNOWLEDGMENT**

1088 \_\_\_\_\_  
1089 Agent's signature

\_\_\_\_\_  
Date

1090 \_\_\_\_\_

1091 Agent's name printed

1092 \_\_\_\_\_

1093 \_\_\_\_\_

1094 Agent's address

1095 \_\_\_\_\_

1096 Agent's telephone number

1097 \_\_\_\_\_

1098 Agent's e-mail address

1099 This document was acknowledged before me on \_\_\_\_\_,

1100 (Date)

1101 by \_\_\_\_\_

1102 (Name of agent)

1103 \_\_\_\_\_

(Seal)

1104 Signature of notary

1105 My commission expires: \_\_\_\_\_

1106 This document prepared by: \_\_\_\_\_ !

1107 ARTICLE 4

1108 10-6B-80.

1109 This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global  
1110 and National Commerce Act, 15 U.S.C. Section 7001 et seq., but shall not modify, limit,  
1111 or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic  
1112 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section  
1113 7003(b).

1114 10-6B-81.

1115 Chapter 6 of this title shall not apply to a power of attorney created pursuant to this  
1116 chapter."

1117 **PART III**1118 **SECTION 3-1.**

1119 Code Section 16-5-105 of the Official Code of Georgia Annotated, relating to the  
1120 applicability of Article 8, the protection of elder persons, is amended as follows:

1121 "16-5-105.

1122 (a) The use of a power of attorney as provided for in Chapter 6B of Title 10 shall not, in  
1123 and of itself, absolve a person from prosecution under this article.

1124 (b) This article shall be cumulative and supplemental to any other law of this state."

1125 **PART IV**1126 **SECTION 4-1.**

1127 This Act shall become effective on July 1, 2017, and shall apply to a power of attorney  
1128 created pursuant to this Act on and after July 1, 2017.

1129 **SECTION 4-2.**

1130 All laws and parts of laws in conflict with this Act are repealed.