

By: Rodriguez

S.B. No. 1192

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, and interpretation of
3 powers of attorney, including statutory powers of attorney.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The Texas Probate Code is amended by adding
6 Chapter XIIIA to read as follows:

7 CHAPTER XIIIA. POWER OF ATTORNEY ACT

8 PART 1. GENERAL PROVISIONS

9 Sec. 521. SHORT TITLE. This chapter may be cited as the
10 Power of Attorney Act.

11 Sec. 522. DEFINITIONS. In this chapter:

12 (1) "Agent" means a person granted authority to act
13 for a principal under a power of attorney, whether denominated an
14 agent, attorney in fact, or otherwise.

15 (2) "Durable," with respect to a power of attorney,
16 means a power of attorney not terminated by the principal's
17 incapacity.

18 (3) "Electronic" means relating to technology having
19 electrical, digital, magnetic, wireless, optical, electromagnetic,
20 or similar capabilities.

21 (4) "Good faith" means honesty in fact.

22 (5) "Incapacity" means inability of an individual to
23 manage property or business affairs because the individual:

24 (A) has an impairment in the ability to receive

1 and evaluate information or make or communicate decisions even with
2 the use of technological assistance; or

3 (B) is:

4 (i) missing;

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

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

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

14 (7) "Power of attorney" means a writing or other
15 record that, in accordance with this chapter, grants authority to
16 an agent to act in the place of the principal, whether or not the
17 term power of attorney is used.

18 (8) "Presently exercisable general power of
19 appointment," with respect to property or a property interest
20 subject to a power of appointment, means power exercisable at the
21 time in question to vest absolute ownership in the principal
22 individually, the principal's estate, the principal's creditors, or
23 the creditors of the principal's estate. The term includes a power
24 of appointment not exercisable until the occurrence of a specified
25 event, the satisfaction of an ascertainable standard, or the
26 passage of a specified period only after the occurrence of the
27 specified event, the satisfaction of the ascertainable standard, or

1 the passage of the specified period. The term does not include a
2 power exercisable in a fiduciary capacity or only by will.

3 (9) "Principal" means an individual who grants
4 authority to an agent in a power of attorney.

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

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

11 (12) "Sign," with respect to present intent to
12 authenticate or adopt a record, means:

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

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

16 (13) "State" means a state of the United States, the
17 District of Columbia, Puerto Rico, the United States Virgin
18 Islands, or any territory or insular possession subject to the
19 jurisdiction of the United States.

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

25 Sec. 523. APPLICABILITY. This chapter applies to all
26 writings or other records that grant authority to an agent to act in
27 the place of the principal, whether or not the term "power of

1 attorney" is used, except:

2 (1) a power to the extent it is coupled with an
3 interest in the subject of the power, including a power given to or
4 for the benefit of a creditor in connection with a credit
5 transaction;

6 (2) a medical power of attorney under Subchapter D,
7 Chapter 166, Health and Safety Code, or other power to make health
8 care decisions;

9 (3) a proxy or other delegation to exercise voting
10 rights or management rights with respect to an entity; and

11 (4) a power created on a form prescribed by a
12 government or governmental subdivision, agency, or instrumentality
13 for a governmental purpose.

14 Sec. 524. POWER OF ATTORNEY IS DURABLE. A power of attorney
15 created under this chapter is durable unless the power of attorney
16 expressly provides that it is terminated by the incapacity of the
17 principal.

18 Sec. 525. PRINCIPLES OF LAW AND EQUITY. Unless displaced by
19 a provision of this chapter, the principles of law and equity
20 supplement this chapter.

21 Sec. 526. EFFECT OF CHAPTER ON LAWS APPLICABLE TO FINANCIAL
22 INSTITUTIONS AND ENTITIES. This chapter does not supersede any
23 other law applicable to financial institutions or other entities,
24 and the other law controls to the extent the law is inconsistent
25 with this chapter.

26 Sec. 527. REMEDIES UNDER OTHER LAW. The remedies under this
27 chapter are not exclusive and do not abrogate any right or remedy

1 under the other laws of this state.

2 Sec. 528. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
3 applying and construing this chapter, consideration must be given
4 to the need to promote uniformity of the law with respect to the
5 subject matter of this chapter among states that enact a law
6 substantially similar to this chapter.

7 Sec. 529. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
8 NATIONAL COMMERCE ACT. This chapter modifies, limits, and
9 supersedes the federal Electronic Signatures in Global and National
10 Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify,
11 limit, or supersede Section 101(c) of that Act (15 U.S.C. Section
12 7001(c)) or authorize electronic delivery of any of the notices
13 described in Section 103(b) of that Act (15 U.S.C. Section
14 7003(b)).

15 PART 2. CREATION, MEANING, AND EFFECT OF POWER OF ATTORNEY

16 Sec. 541. EXECUTION OF POWER OF ATTORNEY. (a) A power of
17 attorney is executed if the writing or other record is:

18 (1) signed by the principal or in the principal's
19 conscious presence by another individual directed by the principal
20 to sign the principal's name on the power of attorney; and

21 (2) acknowledged by the principal.

22 (b) A signature on a power of attorney is presumed to be
23 genuine if the principal acknowledges the signature in accordance
24 with Chapter 121, Civil Practice and Remedies Code.

25 Sec. 542. VALIDITY OF POWER OF ATTORNEY. (a) A power of
26 attorney executed in this state on or after September 1, 2011, is
27 valid if its execution complies with Section 541 of this code.

1 (b) A power of attorney executed in this state before
2 September 1, 2011, is valid if its execution complied with the law
3 of this state as it existed at the time of execution.

4 (c) A power of attorney executed other than in this state is
5 valid in this state if, when the power of attorney was executed, the
6 execution complied with:

7 (1) the law of the jurisdiction that determines the
8 meaning and effect of the power of attorney pursuant to Section 543
9 of this code; or

10 (2) the requirements for a military power of attorney
11 pursuant to 10 U.S.C. Section 1044b.

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

15 Sec. 543. MEANING AND EFFECT OF POWER OF ATTORNEY. The
16 meaning and effect of a power of attorney is determined by the law
17 of the jurisdiction indicated in the power of attorney and, in the
18 absence of an indication of jurisdiction, by the law of the
19 jurisdiction in which the power of attorney was executed.

20 Sec. 544. WHEN POWER OF ATTORNEY EFFECTIVE. (a) A power of
21 attorney is effective when executed in accordance with Section 541
22 of this code unless the principal provides in the power of attorney
23 that it becomes effective at a future date or on the occurrence of a
24 future event or contingency.

25 (b) If a power of attorney becomes effective on the
26 occurrence of a future event or contingency, the principal, in the
27 power of attorney, may authorize one or more persons to determine in

1 a writing or other record that the event or contingency has
2 occurred.

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

10 (1) a physician that the principal is incapacitated
11 within the meaning of Section 522(5)(A) of this code or is
12 incapacitated within the meaning of that term as defined in the
13 power of attorney; or

14 (2) an attorney at law, a judge, or an appropriate
15 governmental official that the principal is incapacitated within
16 the meaning of Section 522(5)(B) of this code.

17 (d) A person authorized by the principal in the power of
18 attorney to determine whether the principal is incapacitated may
19 act as the principal's personal representative pursuant to Sections
20 1171 through 1179, Health Insurance Portability and Accountability
21 Act of 1996 (42 U.S.C. Sections 1320d through 1320d-8), and
22 applicable regulations, to obtain access to the principal's health
23 care information and communicate with the principal's health care
24 provider.

25 Sec. 545. JUDICIAL RELIEF. (a) The following persons may
26 petition a court to construe a power of attorney or review the
27 agent's conduct, and grant appropriate relief:

1 (1) the principal or the agent;

2 (2) a guardian, conservator, or other fiduciary acting
3 for the principal;

4 (3) a person named as a beneficiary to receive any
5 property, benefit, or contractual right on the principal's death;

6 (4) a governmental agency having regulatory authority
7 to protect the welfare of the principal; and

8 (5) a person that demonstrates to the court sufficient
9 interest in the principal's welfare or estate.

10 (b) A person asked to accept the power of attorney may
11 petition a court to construe the power of attorney.

12 (c) On motion by the principal, the court shall dismiss a
13 petition filed under this section unless the court finds that the
14 principal lacks capacity to revoke the agent's authority or the
15 power of attorney.

16 PART 3. DUTIES OF AGENTS; EFFECT OF CERTAIN ACTS ON EXERCISE OF
17 AGENT'S AUTHORITY

18 Sec. 551. RELATION OF ATTORNEY IN FACT OR AGENT TO
19 COURT-APPOINTED GUARDIAN OF ESTATE. (a) If, after execution of a
20 power of attorney, a court of the principal's domicile appoints a
21 permanent guardian of the estate of the principal, the powers of the
22 agent terminate on the qualification of the permanent guardian of
23 the estate, and the agent shall deliver to that guardian all assets
24 of the ward's estate in the agent's possession and shall account to
25 the permanent guardian of the estate as an agent would be required
26 to account to the principal had the principal terminated the
27 agent's powers.

1 (b) If, after execution of a power of attorney, a court of
2 the principal's domicile appoints a temporary guardian of the
3 estate of the principal, the court may suspend the powers of the
4 agent on the qualification of the temporary guardian of the estate
5 until the date on which the term of the temporary guardian expires.

6 (c) Subsection (b) of this section may not be construed to
7 prohibit the application for or issuance of a temporary restraining
8 order under applicable law.

9 Sec. 552. TERMINATION OF POWER OF ATTORNEY OR AGENT'S
10 AUTHORITY. (a) A power of attorney terminates when:

11 (1) the principal dies;

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

14 (3) the principal revokes the power of attorney;

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

16 (5) the purpose of the power of attorney is
17 accomplished;

18 (6) the principal revokes the agent's authority or the
19 agent dies, becomes incapacitated, or resigns, and the power of
20 attorney does not provide for another agent to act under the power
21 of attorney; or

22 (7) a permanent guardian of the estate of the
23 principal has qualified to serve in that capacity as provided by
24 Section 551 of this code.

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

26 (1) the principal revokes the authority;

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

1 (3) an action is filed for the dissolution or
2 annulment of the agent's marriage to the principal or to declare the
3 marriage of the agent and principal void, unless the power of
4 attorney otherwise provides; or

5 (4) the power of attorney terminates.

6 (c) Unless the power of attorney otherwise provides, an
7 agent's authority is exercisable until the authority terminates
8 under Subsection (b) of this section, notwithstanding a lapse of
9 time since the execution of the power of attorney.

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

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

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

27 Sec. 554. REIMBURSEMENT AND COMPENSATION OF AGENT. Unless

1 the power of attorney otherwise provides, an agent is entitled to
2 reimbursement of expenses reasonably incurred on the principal's
3 behalf and to compensation that is reasonable under the
4 circumstances.

5 Sec. 555. AGENT'S ACCEPTANCE OF APPOINTMENT. Except as
6 otherwise provided in the power of attorney, a person accepts
7 appointment as an agent under a power of attorney by exercising
8 authority or performing duties as an agent or by any other assertion
9 or conduct indicating acceptance.

10 Sec. 556. AGENT'S DUTIES. (a) Notwithstanding provisions
11 in the power of attorney to the contrary, an agent that has accepted
12 appointment shall:

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

16 (2) act in good faith; and

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

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

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

27 (h) Except as otherwise provided in the power of attorney,

1 an agent is not required to disclose receipts, disbursements, or
2 transactions conducted on the principal's behalf unless ordered by
3 a court or requested by the principal, a guardian, a conservator,
4 another fiduciary acting for the principal, a governmental agency
5 having authority to protect the welfare of the principal, or, on the
6 principal's death, the personal representative or successor in
7 interest of the principal's estate. Not later than the 60th day
8 after the date a request is made by a person described by this
9 subsection, the agent shall comply with the request or provide a
10 writing or other record substantiating why additional time is
11 needed to comply with the request. An agent requesting an extension
12 of time has no more than 30 additional days to comply with the
13 request. Unless directed otherwise by the requesting party, a
14 disclosure by the agent of documentation or information requested
15 under this subsection must include:

16 (1) the property belonging to the principal that has
17 come to the agent's knowledge or into the agent's possession;

18 (2) all actions taken or decisions made by the agent;

19 (3) a complete account of receipts, disbursements, and
20 other actions of the agent, including their source and nature, with
21 receipts of principal and income shown separately;

22 (4) a list of all property over which the agent has
23 exercised control, with an adequate description of each asset and
24 the asset's current value if known to the agent;

25 (5) the cash balance on hand and the name and location
26 of the depository where the cash is kept;

27 (6) all known liabilities of the principal; and

1 (7) any other information and facts known to the agent
2 as may be necessary to a full and definite understanding of the
3 exact condition of the property belonging to the principal.

4 (i) If the agent fails or refuses to inform the principal of
5 the actions taken under the power of attorney or to provide
6 documentation or the requested disclosure within the 60-day period,
7 or as extended, the requesting party may file suit to compel the
8 agent to:

- 9 (1) provide the disclosure;
10 (2) deliver the assets; or
11 (3) terminate the power of attorney.

12 Sec. 558. AGENT'S LIABILITY. An agent that violates this
13 chapter is liable to the principal or the principal's successors in
14 interest for the amount required to:

15 (1) restore the value of the principal's property to
16 what the value of the property would have been had the violation
17 not occurred; and

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

21 Sec. 559. AGENT'S RESIGNATION; NOTICE. Unless the power of
22 attorney provides a different method for an agent's resignation, an
23 agent may resign by giving notice to the principal and, if the
24 principal is incapacitated:

25 (1) to the permanent guardian of the estate,
26 conservator, or other personal representative of the principal if
27 one has been appointed for the principal, and a successor agent

1 under the power of attorney; or

2 (2) if there is no person described in Subsection (a)
3 of this section, to:

4 (A) the principal's caregiver;

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

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

9 PART 4. PRESENTATION OF POWER OF ATTORNEY TO THIRD PARTIES

10 Sec. 561. ACCEPTANCE OF AND RELIANCE ON POWER OF ATTORNEY.

11 (a) A person that in good faith accepts a power of attorney without
12 actual knowledge that the signature is not genuine may rely on the
13 presumption under Section 541(b) of this code that the signature is
14 genuine.

15 (b) A person that in good faith accepts a power of attorney
16 without actual knowledge that the power of attorney is void,
17 invalid, or terminated, that the purported agent's authority is
18 void, invalid, or terminated, or that the agent is exceeding or
19 improperly exercising the agent's authority may rely on the power
20 of attorney as if:

21 (1) the power of attorney were genuine, valid, and
22 still in effect;

23 (2) the agent's authority were genuine, valid, and
24 still in effect; and

25 (3) the agent had not exceeded and had properly
26 exercised the authority.

27 (c) A person that is asked to accept a power of attorney may

1 request, and rely on, without further investigation:

2 (1) an agent's certification under penalty of perjury
3 of any factual matter concerning the principal, agent, or power of
4 attorney;

5 (2) an English translation of the power of attorney if
6 the power of attorney contains, wholly or partly, language other
7 than English; and

8 (3) an opinion of counsel as to any matter of law
9 concerning the power of attorney if the person making the request
10 provides in a writing or other record the reason for the request.

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

15 (e) For purposes of this section and Section 562 of this
16 code, a person that conducts activities through employees is
17 without actual knowledge of a fact relating to a power of attorney,
18 a principal, or an agent if the employee conducting the transaction
19 involving the power of attorney is without actual knowledge of the
20 fact.

21 Sec. 562. LIABILITY FOR REFUSAL TO ACCEPT POWER OF
22 ATTORNEY. (a) Except as otherwise provided in Subsection (d) of
23 this section, a person shall either accept a power of attorney or
24 request a certification, a translation, or an opinion of counsel
25 under Section 561(c) of this code not later than the seventh
26 business day after presentation of the power of attorney for
27 acceptance.

1 (b) If a person requests a certification, a translation, or
2 an opinion of counsel under Section 561 of this code, the person
3 shall accept the power of attorney not later than the fifth business
4 day after receipt of the certification, translation, or opinion of
5 counsel.

6 (c) Except as provided by Subsection (d) of this section, a
7 person may not:

8 (1) require an additional or different form of power
9 of attorney for authority granted in the power of attorney
10 presented; or

11 (2) require that the power of attorney be recorded in
12 the official public records of a county clerk unless such
13 recordation is required by Section 571 of this code.

14 (d) A person is not required to accept a power of attorney
15 if:

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

18 (2) the person's engaging in a transaction with the
19 agent or the principal in the same circumstances would be
20 inconsistent with federal law or state law other than this chapter;

21 (3) the person has actual knowledge of the termination
22 of the agent's authority or of the power of attorney before exercise
23 of the power;

24 (4) a request for a certification, a translation, or
25 an opinion of counsel under Section 561 of this code is refused;

26 (5) the person in good faith believes that the power is
27 not valid or that the agent does not have the authority to perform

1 the act requested, whether or not a certification, a translation,
2 or an opinion of counsel under Section 561 of this code has been
3 requested or provided; or

4 (6) the person makes, or has actual knowledge that
5 another person has made, a report to a law enforcement agency or
6 other federal or state agency, including the Department of Family
7 and Protective Services, stating a good faith belief that the
8 principal may be subject to physical or financial abuse, neglect,
9 exploitation, or abandonment by the agent or a person acting for or
10 with the agent.

11 (e) A person that refuses to accept a power of attorney in
12 violation of this section is subject to:

13 (1) a judgment for damages to the same extent as if the
14 person had refused to allow the principal to act on the principal's
15 own behalf;

16 (2) a court order mandating acceptance of the power of
17 attorney; and

18 (3) liability for reasonable attorney's fees and costs
19 incurred in any action or proceeding that:

20 (A) confirms the validity of the power of
21 attorney;

22 (B) results in the award of damages against the
23 person; or

24 (C) mandates acceptance of the power of attorney.

25 PART 5. EXERCISE OF POWER OF ATTORNEY; CONSTRUCTION OF POWERS

26 RELATED TO POWER OF ATTORNEY

27 Sec. 571. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT OF

1 GENERAL AUTHORITY. (a) An agent under a power of attorney may do
2 the following on behalf of the principal or with the principal's
3 property only if the power of attorney expressly grants the agent
4 the authority and exercise of the authority is not otherwise
5 prohibited by another agreement or instrument to which the
6 authority or property is subject:

7 (1) create, amend, revoke, or terminate an inter vivos
8 trust;

9 (2) make a gift;

10 (3) create or change rights of survivorship;

11 (4) create or change a beneficiary designation; or

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

15 (b) Notwithstanding a grant of authority to perform an act
16 described in Subsection (a) of this section, unless the power of
17 attorney otherwise provides, an agent that is not an ancestor,
18 spouse, or descendant of the principal may not exercise authority
19 under a power of attorney to create in the agent, or in an
20 individual to whom the agent owes a legal obligation of support, an
21 interest in the principal's property, whether by gift, right of
22 survivorship, beneficiary designation, disclaimer, or otherwise.

23 (c) Subject to Subsections (a), (b), (d), and (e) of this
24 section, if a power of attorney grants to an agent authority to
25 perform all acts that a principal could perform, the agent has the
26 general authority described in Sections 574 through 586 of this
27 code.

1 (d) Unless the power of attorney otherwise provides, a grant
2 of authority to make a gift is subject to Section 587 of this code.

3 (e) Subject to Subsections (a), (b), and (d) of this
4 section, if the subjects over which authority is granted in a power
5 of attorney are similar or overlap, the broadest authority
6 controls.

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

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

16 Sec. 572. INCORPORATION OF AUTHORITY. (a) An agent has
17 authority described in this chapter if the power of attorney refers
18 to general authority with respect to the descriptive term for the
19 subjects stated in Sections 574 through 586 of this code or cites
20 the section in which the authority is described.

21 (b) A reference in a power of attorney to general authority
22 with respect to the descriptive term for a subject in Sections 574
23 through 586 of this code or a citation to one of those sections
24 incorporates the entire section as if it were set out in its
25 entirety in the power of attorney.

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

1 Sec. 573. CONSTRUCTION OF AUTHORITY GENERALLY. Except as
2 otherwise provided in the power of attorney, by executing a power of
3 attorney that incorporates by reference a subject described in
4 Sections 574 through 586 of this code or that grants to an agent
5 authority to perform all acts that a principal could perform
6 pursuant to Section 571(c) of this code, a principal authorizes the
7 agent, with respect to that subject, to:

8 (1) demand, receive, and obtain by litigation or
9 otherwise any money or other thing of value to which the principal
10 is, may become, or may claim to be entitled, and conserve, invest,
11 disburse, or use any money or other thing of value received or
12 obtained under this subdivision for the purposes intended;

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

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

23 (4) with respect to a claim existing in favor of or
24 against the principal:

25 (A) initiate, participate in, submit to
26 alternative dispute resolution, settle, oppose, or propose or
27 accept a compromise; or

1 (B) intervene in litigation relating to the
2 claim;

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

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

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

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

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

18 (10) perform any lawful act with respect to the
19 subject that the principal may perform with respect to the subject
20 or property related to the subject.

21 Sec. 574. REAL PROPERTY. (a) Unless the power of attorney
22 otherwise provides, language in a power of attorney granting
23 general authority with respect to real property authorizes the
24 agent to:

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

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

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

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

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

21 (A) insuring against liability, a casualty, or
22 other loss;

23 (B) obtaining or regaining possession of or
24 protecting the interest or right by litigation or otherwise;

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

1 (D) purchasing supplies, hiring assistance or
2 labor, and making repairs or alterations to the real property;

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

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

12 (A) selling or otherwise disposing of the stocks,
13 bonds, or other property received in the reorganization plan;

14 (B) exercising or selling an option, right of
15 conversion, or similar right with respect to the stocks, bonds, or
16 other property received in the reorganization plan; and

17 (C) exercising any voting rights with respect to
18 the property in person or by proxy;

19 (8) change the form of title of an interest in or right
20 incident to real property;

21 (9) dedicate to public use, with or without
22 consideration, easements or other real property in which the
23 principal has or claims to have an interest;

24 (10) enter into mineral transactions, including:

25 (A) negotiating and making oil, gas, and other
26 mineral leases covering any land, mineral, or royalty interest in
27 which the principal has, or claims to have, an interest;

1 (B) pooling and unitizing part or all of the
2 principal's land, mineral leasehold, mineral, royalty, or other
3 interest with land, mineral leasehold, mineral, royalty, or other
4 interest of one or more persons for the purpose of developing and
5 producing oil, gas, or other minerals, and making leases or
6 assignments granting the right to pool and unitize;

7 (C) entering into contracts and agreements
8 concerning the installation and operation of plants or other
9 facilities for the cycling, repressuring, processing, or other
10 treating or handling of oil, gas, or other minerals;

11 (D) conducting or contracting for the conducting
12 of seismic evaluation operations;

13 (E) drilling or contracting for the drilling of
14 wells for oil, gas, or other minerals;

15 (F) contracting for and making "dry hole" and
16 "bottom hole" contributions of cash, leasehold interests, or other
17 interests towards the drilling of wells;

18 (G) using or contracting for the use of any
19 method of secondary or tertiary recovery of any mineral, including
20 the injection of water, gas, air, or other substances;

21 (H) purchasing oil, gas, or other mineral leases,
22 leasehold interests, or other interests for any type of
23 consideration, including farmout agreements requiring the drilling
24 or reworking of wells or participation therein;

25 (I) entering into farmout contracts or
26 agreements committing the principal to assign oil, gas, or other
27 mineral leases or interests in consideration for the drilling of

1 wells or other oil, gas, or mineral operations;

2 (J) negotiating the transfer of and transferring
3 oil, gas, or other mineral leases or interests for any
4 consideration, such as retained overriding royalty interests of any
5 nature, drilling or reworking commitments, or production
6 interests; and

7 (K) executing and entering into contracts,
8 conveyances, and other agreements or transfers considered
9 necessary or desirable to carry out the powers granted in this
10 section, whether or not the action is now or subsequently
11 recognized or considered as a common or proper practice by those
12 engaged in the business of prospecting for, developing, producing,
13 processing, transporting, or marketing minerals, including
14 entering into and executing division orders, oil, gas, or other
15 mineral sales contracts, exploration agreements, processing
16 agreements, and other contracts relating to the processing,
17 handling, treating, transporting, and marketing of oil, gas, or
18 other mineral production from or accruing to the principal and
19 receiving and receipting for the proceeds thereof on behalf of the
20 principal; and

21 (11) designate the property that constitutes the
22 principal's homestead.

23 (b) If a real property transaction requires the agent to
24 execute an instrument that is to be recorded, then the power of
25 attorney shall be recorded in the office of the county clerk in
26 which the real property that is the subject of the transaction is
27 located.

1 Sec. 575. TANGIBLE PERSONAL PROPERTY. Unless the power of
2 attorney otherwise provides, language in a power of attorney
3 granting general authority with respect to tangible personal
4 property authorizes the agent to:

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

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

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

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

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

25 (A) insuring the property or interest against
26 liability, casualty, or other loss;

27 (B) obtaining or regaining possession of or

- 1 protecting the property or interest, by litigation or otherwise;
2 (C) paying, assessing, compromising, or
3 contesting taxes or assessments or applying for and receiving
4 refunds in connection with taxes or assessments;
5 (D) moving the property from place to place;
6 (E) storing the property for hire or on a
7 gratuitous bailment; and
8 (F) using and making repairs, alterations, or
9 improvements to the property; and
10 (6) change the form of title of an interest in tangible
11 personal property.

12 Sec. 576. STOCKS AND BONDS. Unless the power of attorney
13 otherwise provides, language in a power of attorney granting
14 general authority with respect to stocks and bonds authorizes the
15 agent to:

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

27 Sec. 577. COMMODITIES AND OPTIONS. Unless the power of

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

4 (1) buy, sell, exchange, assign, settle, and exercise
5 commodity futures contracts and call or put options on stocks or
6 stock indexes traded on a regulated option exchange; and

7 (2) establish, continue, modify, or terminate option
8 accounts.

9 Sec. 578. BANKS AND OTHER FINANCIAL INSTITUTIONS. Unless
10 the power of attorney otherwise provides, language in a power of
11 attorney granting general authority with respect to banks and other
12 financial institutions authorizes the agent to:

13 (1) continue, modify, or terminate an account or other
14 banking arrangement made by the principal or on the principal's
15 behalf;

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

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

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

26 (5) receive statements of account, vouchers, notices,
27 or similar documents from a financial institution and act with

1 respect to those documents;

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

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

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

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

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

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

25 Sec. 579. OPERATION OF ENTITY OR BUSINESS. Subject to the
26 terms of a document or an agreement governing an entity or an entity
27 ownership interest, and unless the power of attorney otherwise

1 provides, language in a power of attorney granting general
2 authority with respect to operation of an entity or business
3 authorizes the agent to:

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

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

9 (3) enforce the terms of an ownership agreement;

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

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

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

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

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

27 (B) determine:

- 1 (i) the location of the entity's or
2 business's operation;
- 3 (ii) the nature and extent of the business;
4 (iii) the methods of manufacturing,
5 selling, merchandising, financing, accounting, and advertising
6 employed in the entity's or business's operation;
- 7 (iv) the amount and types of insurance
8 carried; and
- 9 (v) the method of engaging, compensating,
10 and dealing with the entity's or business's employees and
11 accountants, attorneys, or other advisors;
- 12 (C) change the name or form of organization under
13 which the entity or business is operated and enter into an ownership
14 agreement with other persons to take over all or part of the
15 operation of the entity or business; and
- 16 (D) demand and receive money due or claimed by
17 the principal or on the principal's behalf in the operation of the
18 entity or business and control and disburse the money in the
19 operation of the entity or business;
- 20 (8) put additional capital into an entity or business
21 in which the principal has an interest;
- 22 (9) join in a plan of reorganization, consolidation,
23 conversion, domestication, or merger of the entity or business;
- 24 (10) sell or liquidate all or part of an entity or
25 business;
- 26 (11) establish the value of an entity or business
27 under a buy-out agreement to which the principal is a party;

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

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

10 Sec. 580. INSURANCE AND ANNUITIES. Unless the power of
11 attorney otherwise provides, language in a power of attorney
12 granting general authority with respect to insurance and annuities
13 authorizes the agent to:

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

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

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

26 (4) apply for and receive a loan secured by an
27 insurance contract or annuity;

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

24 Sec. 581. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS.

25 (a) In this section, "estate, trust, or other beneficial interest"
26 means a trust, probate estate, guardianship, conservatorship, life
27 estate, escrow, or custodianship or a fund from which the principal

1 is, may become, or claims to be, entitled to a share or payment.

2 (b) Unless the power of attorney otherwise provides,
3 language in a power of attorney granting general authority with
4 respect to estates, trusts, and other beneficial interests
5 authorizes the agent to:

6 (1) accept, receive, receipt for, sell, assign,
7 pledge, or exchange a share in or payment from an estate, trust, or
8 other beneficial interest;

9 (2) demand or obtain by litigation or otherwise money
10 or any other thing of value to which the principal is, may become,
11 or claims to be entitled because of an estate, trust, or other
12 beneficial interest;

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

15 (4) initiate, participate in, submit to alternative
16 dispute resolution, settle, oppose, or propose or accept a
17 compromise with respect to litigation to:

18 (A) ascertain the meaning, validity, or effect of
19 a deed, will, declaration of trust, or other instrument or
20 transaction affecting the interest of the principal; or

21 (B) remove, substitute, or surcharge a
22 fiduciary;

23 (5) conserve, invest, disburse, or use anything
24 received for an authorized purpose;

25 (6) transfer an interest of the principal in real
26 property, stocks, bonds, accounts with financial institutions or
27 securities intermediaries, insurance, annuities, and other

1 property to the trustee of a revocable trust created by the
2 principal as settlor; and

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

6 Sec. 582. CLAIMS AND LITIGATION. Unless the power of
7 attorney otherwise provides, language in a power of attorney
8 granting general authority with respect to claims and litigation
9 authorizes the agent to:

10 (1) assert and maintain before a court or
11 administrative agency a claim, claim for relief, cause of action,
12 counterclaim, offset, recoupment, or defense, including an action
13 to:

- 14 (A) recover property or another thing of value;
15 (B) recover damages sustained by the principal;
16 (C) eliminate or modify tax liability; or
17 (D) seek an injunction, specific performance, or
18 other relief;

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

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

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

1 litigation;

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

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

15 (7) act for the principal with respect to voluntary or
16 involuntary bankruptcy or insolvency proceedings concerning the
17 principal or another person, or with respect to a reorganization,
18 receivership, or application for the appointment of a receiver or
19 trustee that affects an interest of the principal in property or
20 other thing of value;

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

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

26 Sec. 583. PERSONAL AND FAMILY MAINTENANCE. (a) Unless the
27 power of attorney otherwise provides, language in a power of

1 attorney granting general authority with respect to personal and
2 family maintenance authorizes the agent to:

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

7 (A) the principal's children;

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

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

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

15 (3) provide living quarters for the individuals
16 described by Subsection (a)(1) of this section by:

17 (A) purchase, lease, or other contract; or

18 (B) paying the operating costs, including
19 interest, amortization payments, repairs, improvements, and taxes,
20 for premises owned by the principal or occupied by those
21 individuals;

22 (4) provide for the individuals described by
23 Subsection (a)(1) of this section:

24 (A) normal domestic help;

25 (B) usual vacations and travel expenses; and

26 (C) funds for shelter, clothing, food,
27 appropriate education, including postsecondary and vocational

1 education, and other current living costs;

2 (5) pay expenses for necessary health care and
3 custodial care on behalf of the individuals described by Subsection
4 (a)(1) of this section;

5 (6) act as the principal's personal representative
6 pursuant to Sections 1171 through 1179, Health Insurance
7 Portability and Accountability Act of 1996 (42 U.S.C. Sections
8 1320d through 1320d-8), and applicable regulations, in making
9 decisions related to the past, present, or future payment for the
10 provision of health care consented to by the principal or anyone
11 authorized under the law of this state to consent to health care on
12 behalf of the principal;

13 (7) continue any provision made by the principal for
14 the individuals described by Subsection (a)(1) of this section for
15 automobiles or other means of transportation, including
16 registering, licensing, insuring, and replacing the automobiles or
17 other means of transportation;

18 (8) maintain credit and debit accounts for the
19 convenience of the individuals described by Subsection (a)(1) of
20 this section and open new accounts; and

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

25 (b) Authority with respect to personal and family
26 maintenance is neither dependent on, nor limited by, authority that
27 an agent may or may not have with respect to gifts under this

1 chapter.

2 Sec. 584. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR
3 MILITARY SERVICE. (a) In this section, "benefits from
4 governmental programs or civil or military service" means any
5 benefit, program, or assistance provided under a statute or
6 regulation, including social security, Medicare, and Medicaid.

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

11 (1) execute vouchers in the principal's name for an
12 allowance or reimbursement payable by the United States, a foreign
13 government, or a state or subdivision of a state to the principal,
14 including an allowance or reimbursement for transportation of the
15 individuals described by Section 583(a)(1) of this code, and for
16 shipment of their household effects;

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

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

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

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

6 (6) receive the financial proceeds of a claim
7 described in Subsection (b)(4) of this section and conserve,
8 invest, disburse, or use for a lawful purpose anything so received.

9 Sec. 585. RETIREMENT PLANS. (a) In this section,
10 "retirement plan" means a plan or account created by an employer,
11 the principal, or another individual to provide retirement benefits
12 or deferred compensation of which the principal is a participant,
13 beneficiary, or owner, including a plan or account under the
14 following:

15 (1) an individual retirement account described by
16 Section 408, Internal Revenue Code of 1986;

17 (2) a Roth IRA described by Section 408A, Internal
18 Revenue Code of 1986;

19 (3) a deemed IRA described by Section 408(q), Internal
20 Revenue Code of 1986;

21 (4) an annuity or mutual fund custodial account
22 described by Section 403(b), Internal Revenue Code of 1986;

23 (5) a pension, profit-sharing, stock bonus, or other
24 retirement plan qualified described by Section 401(a), Internal
25 Revenue Code of 1986;

26 (6) a deferred compensation plan described by Section
27 457(b), Internal Revenue Code of 1986; and

1 (7) a nonqualified deferred compensation plan
2 described by Section 409A, Internal Revenue Code of 1986.

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

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

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

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

13 (4) make contributions to a retirement plan;

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

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

18 Sec. 586. TAXES. Unless the power of attorney otherwise
19 provides, language in a power of attorney granting general
20 authority with respect to taxes authorizes the agent to:

21 (1) prepare, sign, and file:

22 (A) federal, state, local, and foreign income,
23 gift, payroll, property, Federal Insurance Contributions Act, and
24 other tax returns;

25 (B) claims for refunds;

26 (C) requests for extension of time;

27 (D) petitions regarding tax matters; and

1 (E) any other tax-related documents, including:
2 (i) receipts and offers;
3 (ii) waivers and consents, including
4 consents and agreements under Section 2032A, Internal Revenue Code
5 of 1986;
6 (iii) closing agreements; and
7 (iv) any power of attorney required by the
8 Internal Revenue Service or other taxing authority with respect to
9 a tax year on which the statute of limitations has not run and 25
10 years following that tax year;
11 (2) pay taxes due, collect refunds, post bonds,
12 receive confidential information, and contest deficiencies
13 determined by the Internal Revenue Service or other taxing
14 authority;
15 (3) exercise any election available to the principal
16 under federal, state, local, or foreign tax law; and
17 (4) act for the principal in all tax matters for all
18 periods before the Internal Revenue Service, or other taxing
19 authority.
20 Sec. 587. GIFTS. (a) In this section, a gift for the
21 benefit of a person includes:
22 (1) a gift to a trust;
23 (2) an account under the Texas Uniform Transfers to
24 Minors Act; and
25 (3) a tuition savings account or prepaid tuition plan
26 as described by Section 529, Internal Revenue Code of 1986.
27 (b) Unless the power of attorney otherwise provides,

1 language in a power of attorney granting general authority with
2 respect to gifts authorizes the agent to only:

3 (1) make outright to, or for the benefit of, a person,
4 a gift of any of the principal's property, including by the exercise
5 of a presently exercisable general power of appointment held by the
6 principal, in an amount per donee not to exceed:

7 (A) the annual dollar limits of the federal gift
8 tax exclusion under Section 2503(b), Internal Revenue Code of 1986,
9 without regard to whether the federal gift tax exclusion applies to
10 the gift; or

11 (B) if the principal's spouse agrees to consent
12 to a split gift pursuant to Section 2513, Internal Revenue Code of
13 1986, twice the annual federal gift tax exclusion limit; and

14 (2) consent, pursuant to Section 2513, Internal
15 Revenue Code of 1986, to the splitting of a gift made by the
16 principal's spouse in an amount per donee not to exceed the
17 aggregate annual gift tax exclusions for both spouses.

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

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

24 (2) the principal's foreseeable obligations and need
25 for maintenance;

26 (3) minimization of taxes, including income, estate,
27 inheritance, generation-skipping transfer, and gift taxes;

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

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

5 PART 6. STATUTORY FORM POWER OF ATTORNEY

6 Sec. 591. STATUTORY FORM POWER OF ATTORNEY. A document
7 substantially in the following form may be used to create a
8 statutory form power of attorney that has the meaning and effect
9 prescribed by this chapter.

10 TEXAS STATUTORY FORM POWER OF ATTORNEY

11 IMPORTANT INFORMATION

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

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

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

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

27 If your agent is unable or unwilling to act for you, your

1 power of attorney will end unless you have named a successor agent.

2 You may also name a second successor agent.

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

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

8 DESIGNATION OF AGENT

9 I _____ (Name of Principal)

10 name the following person as my agent:

11 Name of Agent: _____

12 Agent's Address: _____

13 Agent's Telephone Number: _____

14 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

17 Name of Successor Agent: _____

18 Successor Agent's Address: _____

19 Successor Agent's Telephone Number: _____

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

22 Name of Second Successor Agent: _____

23 Second Successor Agent's Address: _____

24 Second Successor Agent's Telephone Number: _____

25 GRANT OF GENERAL AUTHORITY

26 I grant my agent and any successor agent general authority to
27 act for me with respect to the following subjects as defined in the

1 Power of Attorney Act, Chapter XIIIA, Texas Probate Code, except the
2 subjects that I have crossed out below:

3 (TO WITHHOLD A SUBJECT, YOU MUST CROSS OUT EACH SUBJECT
4 WITHHELD.)

5 Real Property

6 Tangible Personal Property

7 Stocks and Bonds

8 Commodities and Options

9 Banks and Other Financial Institutions

10 Operation of Entity or Business

11 Insurance and Annuities

12 Estates, Trusts, and Other Beneficial Interests

13 Claims and Litigation

14 Personal and Family Maintenance

15 Benefits from Governmental Programs or Civil or Military

16 Service

17 Retirement Plans

18 Taxes

19 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

20 My agent MAY NOT do any of the following specific acts for me

21 UNLESS I have INITIALED the specific authority listed below:

22 (CAUTION: Granting any of the following will give your agent
23 the authority to take actions that could significantly reduce your
24 property or change how your property is distributed at your death.

25 INITIAL ONLY the specific authority you WANT to give your agent. If
26 you DO NOT want to grant your agent one or more of the following
27 powers, you may also CROSS OUT such power.)

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

2 () Make a gift, subject to the limitations of Section 587,

3 Power of Attorney Act, and any special instructions in this power of

4 attorney

5 () Create or change rights of survivorship

6 () Create or change a beneficiary designation

7 () Waive the principal's right to be a beneficiary of a

8 joint and survivor annuity, including a survivor benefit under a

9 retirement plan

10 SPECIAL INSTRUCTIONS (OPTIONAL)

11 You may give special instructions on the following lines:

12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

20 EFFECTIVE DATE

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

23 RELIANCE ON THIS POWER OF ATTORNEY

24 Any person, including my agent, may rely on the validity of
25 this power of attorney or a copy of it unless that person knows it
26 has terminated or is invalid.

27 REVOCATION OF PRIOR POWERS OF ATTORNEY

1 This power of attorney (initial A or B):

2 _____ A. does not revoke any prior power of attorney I have
3 executed.

4 _____ B. revokes all prior powers of attorney I have executed
5 except the following:

6 _____.

7 (If you do not initial A or B, then A shall apply)

8 SIGNATURE AND ACKNOWLEDGMENT

9 _____

10 Your Signature

11 Date _____

12 _____

13 Your Name Printed

14 _____

15 _____

16 Your Address

17 State of _____

18 County of _____

19 This document was acknowledged before me on

20 _____ (Date), by _____ (Name

21 of Principal).

22 _____

23 Signature of Notary - State of Texas

24 (Seal, if any)

25 My commission expires: _____

26 IMPORTANT INFORMATION FOR AGENT

27 Agent's Duties

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

6 (1) do what you know the principal reasonably expects you to
7 do with the principal's property or, if you do not know the
8 principal's expectations, act in the principal's best interest;

9 (2) act in good faith;

10 (3) do nothing beyond the authority granted in this power of
11 attorney; and

12 (4) disclose your identity as an agent whenever you act for
13 the principal by writing or printing the name of the principal and
14 signing your own name as "agent" in the following manner:

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

16 Termination of Agent's Authority

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

21 (1) death of the principal;

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

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

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

1 (5) if you are married to the principal, a legal action is
2 filed with a court to end your marriage or declare it void, unless
3 the Special Instructions in this power of attorney state that such
4 an action will not terminate your authority; or

5 (6) the qualification of a permanent guardian of the estate
6 appointed for the principal.

7 Liability of Agent

8 The meaning of the authority granted to you is defined in the Power
9 of Attorney Act, Chapter XIIIA, Texas Probate Code. If you violate
10 the Power of Attorney Act or act outside the authority granted, you
11 may be liable for any damages caused by your violation and you may
12 be subject to criminal prosecution.

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

15 Sec. 592. AGENT'S CERTIFICATION. The following optional
16 form may be used by an agent to certify facts concerning a power of
17 attorney.

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

20 I, _____ (Name
21 of Agent), certify under penalty of perjury that
22 _____ (Name of Principal)
23 granted me authority as an agent or successor agent in a power of
24 attorney dated _____.

25 I further certify that to my knowledge:

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

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

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

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

8 (4) _____

9 _____

10 _____

11 _____

12 _____ (Insert other relevant
13 statements)

14 I understand that if I violate the Power of Attorney Act,
15 Chapter XIIIA, Texas Probate Code, or act outside the authority
16 granted in the Power of Attorney, I may be liable for any damages
17 caused by my actions and I may be subject to criminal prosecution.

18 _____

19 Agent's Signature

20 Date _____

21 _____

22 Agent's Name Printed

23 _____

24 _____

25 Agent's Address

26 _____

27 Agent's Telephone Number

1 Subscribed and sworn to before me in the State of
2 _____ on _____ (Date),
3 by _____ (Name of Agent).

4 _____
5 Signature of Notary-State of _____

6 (Seal, if any)

7 My commission expires: _____

8 SECTION 2. Section 552.140(c), Government Code, is amended
9 to read as follows:

10 (c) On request and the presentation of proper
11 identification, the following persons may inspect the military
12 discharge record or obtain from the governmental body free of
13 charge a copy or certified copy of the record:

- 14 (1) the veteran who is the subject of the record;
- 15 (2) the legal guardian of the veteran;
- 16 (3) the spouse or a child or parent of the veteran or,
17 if there is no living spouse, child, or parent, the nearest living
18 relative of the veteran;
- 19 (4) the personal representative of the estate of the
20 veteran;
- 21 (5) the person named by the veteran, or by a person
22 described by Subdivision (2), (3), or (4), in an appropriate power
23 of attorney executed in accordance with Section 591, Chapter XIIIA
24 [~~Section 490, Chapter XII~~], Texas Probate Code;

- 25 (6) another governmental body; or
- 26 (7) an authorized representative of the funeral home
27 that assists with the burial of the veteran.

1 SECTION 3. Section 825.508(b), Government Code, is amended
2 to read as follows:

3 (b) The system must honor a power of attorney executed in
4 accordance with Section 541, Chapter XIIA [~~Chapter XII, Section~~
5 ~~490~~], Texas Probate Code.

6 SECTION 4. Section 313.003(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) This chapter does not apply to:

9 (1) a decision to withhold or withdraw life-sustaining
10 treatment from qualified terminal or irreversible patients under
11 Subchapter B, Chapter 166;

12 (2) a health care decision made under a medical power
13 of attorney under Subchapter D, Chapter 166, or under Chapter XIIA
14 [~~XII~~], Texas Probate Code;

15 (3) consent to medical treatment of minors under
16 Chapter 32, Family Code;

17 (4) consent for emergency care under Chapter 773;

18 (5) hospital patient transfers under Chapter 241; or

19 (6) a patient's legal guardian who has the authority to
20 make a decision regarding the patient's medical treatment.

21 SECTION 5. Section 32.45(a)(1), Penal Code, is amended to
22 read as follows:

23 (1) "Fiduciary" includes:

24 (A) a trustee, guardian, administrator,
25 executor, conservator, and receiver;

26 (B) an attorney in fact or agent appointed under
27 a durable power of attorney as provided by Chapter XIIA [~~Chapter~~

1 ~~XII~~], Texas Probate Code;

2 (C) any other person acting in a fiduciary
3 capacity, but not a commercial bailee unless the commercial bailee
4 is a party in a motor fuel sales agreement with a distributor or
5 supplier, as those terms are defined by Section 153.001, Tax Code;
6 and

7 (D) an officer, manager, employee, or agent
8 carrying on fiduciary functions on behalf of a fiduciary.

9 SECTION 6. Notwithstanding the transfer of Chapter XII,
10 Texas Probate Code, to the Estates Code and redesignation as
11 Sections 481 through 506 of that code effective January 1, 2014, by
12 Section 4, Chapter 680 (H.B. 2502), Acts of the 81st Legislature,
13 Regular Session, 2009, Chapter XII, Texas Probate Code, is
14 repealed.

15 SECTION 7. The validity of the execution of a power of
16 attorney before the effective date of this Act is determined
17 according to the terms of the law of this state as it existed at the
18 time of the execution, and the former law is continued in effect for
19 that purpose.

20 SECTION 8. (a) Except as otherwise provided in this Act,
21 this Act applies to:

22 (1) a power of attorney created before, on, or after
23 the effective date of this Act;

24 (2) a judicial proceeding concerning a power of
25 attorney commenced on or after the effective date of this Act; and

26 (3) a judicial proceeding concerning a power of
27 attorney commenced before the effective date of this Act.

1 (b) If the court finds that application of a provision of
2 this Act would substantially interfere with the effective conduct
3 of a judicial proceeding concerning a power of attorney commenced
4 before the effective date of this Act or prejudice the rights of a
5 party to the proceeding, the provision of this Act does not apply
6 and the superseded law applies in those circumstances.

7 (c) An act performed before the effective date of this Act
8 is not affected by this Act.

9 SECTION 9. This Act takes effect September 1, 2011.