



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3421

Introduced 2/8/2024, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

755 ILCS 45/2-8

from Ch. 110 1/2, par. 802-8

Amends the Illinois Power of Attorney Act. Makes it unlawful for a third party to unreasonably refuse to honor a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution. Provides that it is unreasonable for a third party to refuse to honor a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, if the only reason for the refusal is any of the following: (1) the power of attorney is not on a form the third party receiving such power prescribes regardless of any form the terms of any account agreement between the account holder and third party requires; (2) there has been a lapse of time since the execution of the power of attorney; (3) on the face of the statutory short form power of attorney, there is a lapse of time between the date of acknowledgment of the signature of the principal and the date of the acceptance by the agent; (4) the document provided does not bear an original signature, original witness, or original notarization but is accompanied by an attorney-certified copy; or (5) the document appoints an entity as the agent.

LRB103 37783 JRC 67912 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Power of Attorney Act is amended
5 by changing Section 2-8 as follows:

6 (755 ILCS 45/2-8) (from Ch. 110 1/2, par. 802-8)

7 Sec. 2-8. Reliance on document purporting to establish an
8 agency.

9 (a) Any person who acts in good faith reliance on a copy of
10 a document purporting to establish an agency will be fully
11 protected and released to the same extent as though the
12 reliant had dealt directly with the named principal as a
13 fully-competent person. The named agent shall furnish an
14 affidavit or Agent's Certification and Acceptance of Authority
15 to the reliant on demand stating that the instrument relied on
16 is a true copy of the agency and that, to the best of the named
17 agent's knowledge, the named principal is alive and the
18 relevant powers of the named agent have not been altered or
19 terminated; but good faith reliance on a document purporting
20 to establish an agency will protect the reliant without the
21 affidavit or Agent's Certification and Acceptance of
22 Authority.

23 (b) Upon request, the named agent in a power of attorney

1 shall furnish an Agent's Certification and Acceptance of
2 Authority to the reliant in substantially the following form:

3 AGENT'S CERTIFICATION AND ACCEPTANCE OF AUTHORITY

4 I, (insert name of agent), certify that the
5 attached is a true copy of a power of attorney naming the
6 undersigned as agent or successor agent for
7 (insert name of principal).

8 I certify that to the best of my knowledge the principal
9 had the capacity to execute the power of attorney, is alive,
10 and has not revoked the power of attorney; that my powers as
11 agent have not been altered or terminated; and that the power
12 of attorney remains in full force and effect.

13 I accept appointment as agent under this power of
14 attorney.

15 This certification and acceptance is made under penalty of
16 perjury.*

17 Dated:

18

19 (Agent's Signature)

20

21 (Print Agent's Name)

22

23 (Agent's Address)

24 *(NOTE: Perjury is defined in Section 32-2 of the Criminal

1 Code of 2012, and is a Class 3 felony.)

2 (c) Any person dealing with an agent named in a copy of a
3 document purporting to establish an agency may presume, in the
4 absence of actual knowledge to the contrary, that the document
5 purporting to establish the agency was validly executed, that
6 the agency was validly established, that the named principal
7 was competent at the time of execution, and that, at the time
8 of reliance, the named principal is alive, the agency was
9 validly established and has not terminated or been amended,
10 the relevant powers of the named agent were properly and
11 validly granted and have not terminated or been amended, and
12 the acts of the named agent conform to the standards of this
13 Act. No person relying on a copy of a document purporting to
14 establish an agency shall be required to see to the
15 application of any property delivered to or controlled by the
16 named agent or to question the authority of the named agent.

17 (d) Each person to whom a direction by the named agent in
18 accordance with the terms of the copy of the document
19 purporting to establish an agency is communicated shall comply
20 with that direction, and any person who fails to comply
21 arbitrarily or without reasonable cause shall be subject to
22 civil liability for any damages resulting from noncompliance.
23 A health care provider who complies with Section 4-7 shall not
24 be deemed to have acted arbitrarily or without reasonable
25 cause.

1 (e) It shall be deemed unreasonable for a third party to
2 refuse to honor a statutory short form power of attorney
3 properly executed in accordance with the laws in effect at the
4 time of its execution, if the only reason for the refusal is
5 any of the following: (1) the power of attorney is not on a
6 form the third party receiving such power prescribes
7 [regardless of any form the terms of any account agreement
8 between the account holder and third party requires]; (2)
9 there has been a lapse of time since the execution of the power
10 of attorney; (3) on the face of the statutory short form power
11 of attorney, there is a lapse of time between the date of
12 acknowledgment of the signature of the principal and the date
13 of the acceptance by the agent; (4) the document provided does
14 not bear an original signature, original witness, or original
15 notarization but is accompanied by an attorney-certified copy;
16 or (5) the document appoints an entity as the agent.

17 (f) Except as provided in subparagraph (d) of this
18 Section, it shall be deemed unlawful for a third party to
19 unreasonably refuse to honor a statutory short form power of
20 attorney properly executed in accordance with the laws in
21 effect at the time of its execution.

22 (Source: P.A. 96-1195, eff. 7-1-11; 97-1150, eff. 1-25-13.)