



## 97TH GENERAL ASSEMBLY

### State of Illinois

#### 2011 and 2012

##### HB1712

by Rep. Mark H. Beaubien, Jr.

#### SYNOPSIS AS INTRODUCED:

755 ILCS 45/2-3	from Ch. 110 1/2, par. 802-3
755 ILCS 45/2-4	from Ch. 110 1/2, par. 802-4
755 ILCS 45/2-5	from Ch. 110 1/2, par. 802-5
755 ILCS 45/3-3	from Ch. 110 1/2, par. 803-3

Amends the Illinois Power of Attorney Act. Defines "excluded power of attorney" to include powers of attorney given primarily for various business, commercial, and governmental purposes. Provides that designated portions of the Act (concerning standard of care and recordkeeping, agency-court relationship, and other matters) do not apply to an excluded power of attorney. Provides that an excluded power of attorney is not revoked by a subsequent power of attorney; it may only be revoked by the mechanism provided in the excluded power of attorney itself, or by a written instrument that makes specific reference to the excluded power of attorney being revoked. Includes a nonacceleration provision.

LRB097 08942 AJ0 49075 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 by  
5 changing Sections 2-3, 2-4, 2-5, and 3-3 as follows:

6 (755 ILCS 45/2-3) (from Ch. 110 1/2, par. 802-3)

7 (Text of Section before amendment by P.A. 96-1195)

8 Sec. 2-3. Definitions. As used in this Act:

9 (a) "Agency" means the written power of attorney or other  
10 instrument of agency governing the relationship between the  
11 principal and agent or the relationship, itself, as appropriate  
12 to the context, and includes agencies dealing with personal or  
13 health care as well as property. An agency is subject to this  
14 Act to the extent it may be controlled by the principal,  
15 excluding agencies and powers for the benefit of the agent.

16 (b) "Agent" means the attorney-in-fact or other person  
17 designated to act for the principal in the agency.

18 (c) "Disabled person" has the same meaning as in the  
19 "Probate Act of 1975", as now or hereafter amended. To be under  
20 a "disability" or "disabled" means to be a disabled person.

21 (d) "Person" means an individual, corporation, trust,  
22 partnership or other entity, as appropriate to the agency.

23 (e) "Principal" means an individual (including, without

1 limitation, an individual acting as trustee, representative or  
2 other fiduciary) who signs a power of attorney or other  
3 instrument of agency granting powers to an agent.

4 (Source: P.A. 85-701.)

5 (Text of Section after amendment by P.A. 96-1195)

6 Sec. 2-3. Definitions. As used in this Act:

7 (a) "Agency" means the written power of attorney or other  
8 instrument of agency governing the relationship between the  
9 principal and agent or the relationship, itself, as appropriate  
10 to the context, and includes agencies dealing with personal or  
11 health care as well as property. An agency is subject to this  
12 Act to the extent it may be controlled by the principal,  
13 excluding agencies and powers for the benefit of the agent.

14 (b) "Agent" means the attorney-in-fact or other person  
15 designated to act for the principal in the agency.

16 (c) "Disabled person" has the same meaning as in the  
17 "Probate Act of 1975", as now or hereafter amended. To be under  
18 a "disability" or "disabled" means to be a disabled person.

19 (c-2) "Excluded Power of Attorney" means any one of the  
20 following:

21 (1) A power of attorney given primarily for a business  
22 or commercial purpose.

23 (2) A power of attorney to the extent it is coupled  
24 with an interest in the subject of the power.

25 (3) A power of attorney given to or for the benefit of

1 a creditor in connection with a loan or other credit  
2 transaction or a secured party in connection with a secured  
3 transaction.

4 (4) A proxy or other delegation to exercise voting  
5 rights or management rights with respect to a corporation,  
6 partnership (general or limited), limited liability  
7 company, condominium, commercial entity, or association.

8 (5) A power of attorney created on a form prescribed by  
9 a government or governmental subdivision, agency, or  
10 instrumentality for a governmental purpose.

11 (6) A power of attorney given to facilitate a specific  
12 transfer or disposition of one or more identified stocks,  
13 bonds, or other assets, whether real or personal, tangible  
14 or intangible.

15 (7) A power of attorney authorizing a third party to  
16 prepare, execute, deliver, submit or file a document or  
17 instrument with a government or governmental subdivision,  
18 agency, or instrumentality, or other third party.

19 (8) A power of attorney authorizing a financial  
20 institution or employee of a financial institution to take  
21 action in relation to an account in which the financial  
22 institution holds cash, securities, commodities, or other  
23 financial assets on behalf of the principal.

24 (9) A power of attorney given by an individual who is,  
25 or is seeking to become, a director, officer, stockholder,  
26 employee, partner (general or limited), member, unit

1 owner, equity owner, trustee, manager, or agent of a  
2 corporation, a partnership (general or limited), a limited  
3 liability company, a condominium, a legal or commercial  
4 entity, or an association, in that individual's capacity as  
5 such, including a power of attorney contained in a  
6 subscription agreement.

7 (10) A power of attorney contained in a certificate of  
8 incorporation, bylaws, general or limited partnership  
9 agreement, limited liability company agreement,  
10 declaration of trust, declaration of condominium,  
11 condominium offering plan, or other agreement or  
12 instrument governing the internal affairs of an entity or  
13 association, authorizing a director, officer, shareholder,  
14 employee, partner (general or limited), member, unit  
15 owner, equity owner, trustee, manager or other person to  
16 take lawful actions relating to such entity or association.

17 (11) A power of attorney given to a licensed real  
18 estate broker to take action in connection with a listing  
19 of real property, mortgage loan, lease, or management  
20 agreement.

21 (12) A power of attorney given to a condominium  
22 managing agent to take action in connection with the use,  
23 management, and operation of a condominium unit.

24 (13) A power of attorney authorizing the acceptance of  
25 the service of process on behalf of the principal.

26 (14) A power of attorney created pursuant to

1 authorization provided by a federal or State statute, other  
2 than this Act, that specifically contemplates creation of  
3 the power.

4 (c-5) "Incapacitated", when used to describe a principal,  
5 means that the principal is under a legal disability as defined  
6 in Section 11a-2 of the Probate Act of 1975. A principal shall  
7 also be considered incapacitated if: (i) a physician licensed  
8 to practice medicine in all of its branches has examined the  
9 principal and has determined that the principal lacks decision  
10 making capacity; (ii) that physician has made a written record  
11 of this determination and has signed the written record within  
12 90 days after the examination; and (iii) the written record has  
13 been delivered to the agent. The agent may rely conclusively on  
14 the written record.

15 (d) "Person" means an individual, corporation, trust,  
16 partnership or other entity, as appropriate to the agency.

17 (e) "Principal" means an individual (including, without  
18 limitation, an individual acting as trustee, representative or  
19 other fiduciary) who signs a power of attorney or other  
20 instrument of agency granting powers to an agent.

21 (Source: P.A. 96-1195, eff. 7-1-11.)

22 (755 ILCS 45/2-4) (from Ch. 110 1/2, par. 802-4)

23 Sec. 2-4. Applicability. (a) The principal may specify in  
24 the agency the event or time when the agency will begin and  
25 terminate, the mode of revocation or amendment and the rights,

1 powers, duties, limitations, immunities and other terms  
2 applicable to the agent and to all persons dealing with the  
3 agent, and the provisions of the agency will control  
4 notwithstanding this Act, except that every health care agency  
5 must comply with Section 4-5 of this Act.

6 (b) From and after the effective date of this Act: (1) this  
7 Act governs every agency, whenever and wherever executed, and  
8 all acts of the agent to the extent the provisions of this Act  
9 are not inconsistent with the agency; and (2) this Act applies  
10 to all agencies exercised in Illinois and to all other agencies  
11 if the principal is a resident of Illinois at the time the  
12 agency is signed or at the time of exercise or if the agency  
13 indicates that Illinois law is to apply. Providing forms of  
14 statutory property and health care powers in Articles III and  
15 IV does not limit the applicability of this Act, it being  
16 intended that every agency, including, without limitation, the  
17 statutory property and health care power agencies, shall have  
18 the benefit of and be governed by Article II, by Sections 4-1  
19 through 4-9 and Section 4-11 of Article IV, and by all other  
20 general provisions of this Act, except to the extent the terms  
21 of the agency are inconsistent with this Act.

22 (c) The following portions of this Act shall not apply to  
23 an excluded power of attorney: Section 2-7(b), Section  
24 2-7(c)(2), Section 2-7(c)(3), Section 2-7(c)(4), Section  
25 2-7(d), Section 2-7(f), Section 2-8(b), Section 2-10(d),  
26 Section 2-10(e), Section 2-10(f), Section 2-10.3(b), Section

1 2-10.3(c), and Section 2-10.5.

2 (Source: P.A. 86-736.)

3 (755 ILCS 45/2-5) (from Ch. 110 1/2, par. 802-5)

4 (Text of Section before amendment by P.A. 96-1195)

5 Sec. 2-5. Duration of agency - amendment and revocation.

6 Unless the agency states an earlier termination date, the  
7 agency continues until the death of the principal,  
8 notwithstanding any lapse of time, the principal's disability  
9 or incapacity or appointment of a guardian for the principal  
10 after the agency is signed. Every agency may be amended or  
11 revoked by the principal at any time and in any manner  
12 communicated to the agent or to any other person related to the  
13 subject matter of the agency, except that revocation and  
14 amendment of health care agencies are governed by Section 4-6  
15 of this Act except to the extent the terms of the agencies are  
16 inconsistent with that Section.

17 (Source: P.A. 86-736.)

18 (Text of Section after amendment by P.A. 96-1195)

19 Sec. 2-5. Duration of agency - amendment and revocation.

20 (a) Unless the agency states an earlier termination date,  
21 the agency continues until the death of the principal,  
22 notwithstanding any lapse of time, the principal's disability  
23 or incapacity or appointment of a guardian for the principal  
24 after the agency is signed. Every agency may be amended or



1 revoked by the principal, if the principal has the capacity to  
2 do so, at any time and in any manner communicated to the agent  
3 or to any other person related to the subject matter of the  
4 agency, except that revocation and amendment of health care  
5 agencies are governed by Section 4-6 of this Act except to the  
6 extent the terms of the agencies are inconsistent with that  
7 Section. The execution of a power of attorney does not revoke a  
8 power of attorney previously executed by the principal unless  
9 the subsequent power of attorney provides that the previous  
10 power of attorney is revoked or that all other powers of  
11 attorney are revoked.

12 (b) Notwithstanding the provisions of subsection (a), an  
13 excluded power of attorney may be revoked only by the mechanism  
14 provided in that power of attorney or, if none, by written  
15 instrument signed by the principal and the agent making  
16 specific reference to the excluded power of attorney in  
17 question. An excluded power of attorney is not revoked by a  
18 subsequent power of attorney, including but not limited to a  
19 subsequent power of attorney that states that all other powers  
20 of attorney are revoked.

21 (Source: P.A. 96-1195, eff. 7-1-11.)

22 (755 ILCS 45/3-3) (from Ch. 110 1/2, par. 803-3)

23 (Text of Section before amendment by P.A. 96-1195)

24 Sec. 3-3. Statutory short form power of attorney for  
25 property. The following form may be known as "statutory

1 property power" and may be used to grant an agent powers with  
2 respect to property and financial matters. When a power of  
3 attorney in substantially the following form is used, including  
4 the "notice" paragraph at the beginning in capital letters and  
5 the notarized form of acknowledgment at the end, it shall have  
6 the meaning and effect prescribed in this Act. The validity of  
7 a power of attorney as meeting the requirements of a statutory  
8 property power shall not be affected by the fact that one or  
9 more of the categories of optional powers listed in the form  
10 are struck out or the form includes specific limitations on or  
11 additions to the agent's powers, as permitted by the form.  
12 Nothing in this Article shall invalidate or bar use by the  
13 principal of any other or different form of power of attorney  
14 for property. Nonstatutory property powers must be executed by  
15 the principal and designate the agent and the agent's powers,  
16 but they need not be acknowledged or conform in any other  
17 respect to the statutory property power.

18 "ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR PROPERTY

19 (NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE  
20 THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE  
21 YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR  
22 OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT  
23 ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THIS FORM DOES NOT  
24 IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS; BUT  
25 WHEN POWERS ARE EXERCISED, YOUR AGENT WILL HAVE TO USE DUE CARE  
26 TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS FORM AND

1 KEEP A RECORD OF RECEIPTS, DISBURSEMENTS AND SIGNIFICANT  
 2 ACTIONS TAKEN AS AGENT. A COURT CAN TAKE AWAY THE POWERS OF  
 3 YOUR AGENT IF IT FINDS THE AGENT IS NOT ACTING PROPERLY. YOU  
 4 MAY NAME SUCCESSOR AGENTS UNDER THIS FORM BUT NOT CO-AGENTS.  
 5 UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN THE  
 6 MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A COURT  
 7 ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY EXERCISE  
 8 THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU  
 9 BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT ARE EXPLAINED  
 10 MORE FULLY IN SECTION 3-4 OF THE ILLINOIS "STATUTORY SHORT FORM  
 11 POWER OF ATTORNEY FOR PROPERTY LAW" OF WHICH THIS FORM IS A  
 12 PART (SEE THE BACK OF THIS FORM). THAT LAW EXPRESSLY PERMITS  
 13 THE USE OF ANY DIFFERENT FORM OF POWER OF ATTORNEY YOU MAY  
 14 DESIRE. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT  
 15 UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.)

16 POWER OF ATTORNEY made this .... day of ..... (month)  
 17 ..... (year)

18 1. I, ....., (insert name and address of  
 19 principal) hereby appoint:

20 .....  
 21 (insert name and address of agent)

22 as my attorney-in-fact (my "agent") to act for me and in my  
 23 name (in any way I could act in person) with respect to the  
 24 following powers, as defined in Section 3-4 of the "Statutory  
 25 Short Form Power of Attorney for Property Law" (including all  
 26 amendments), but subject to any limitations on or additions to

1 the specified powers inserted in paragraph 2 or 3 below:

2 (YOU MUST STRIKE OUT ANY ONE OR MORE OF THE FOLLOWING  
3 CATEGORIES OF POWERS YOU DO NOT WANT YOUR AGENT TO HAVE.  
4 FAILURE TO STRIKE THE TITLE OF ANY CATEGORY WILL CAUSE THE  
5 POWERS DESCRIBED IN THAT CATEGORY TO BE GRANTED TO THE AGENT.  
6 TO STRIKE OUT A CATEGORY YOU MUST DRAW A LINE THROUGH THE TITLE  
7 OF THAT CATEGORY.)

8 (a) Real estate transactions.

9 (b) Financial institution transactions.

10 (c) Stock and bond transactions.

11 (d) Tangible personal property transactions.

12 (e) Safe deposit box transactions.

13 (f) Insurance and annuity transactions.

14 (g) Retirement plan transactions.

15 (h) Social Security, employment and military service  
16 benefits.

17 (i) Tax matters.

18 (j) Claims and litigation.

19 (k) Commodity and option transactions.

20 (l) Business operations.

21 (m) Borrowing transactions.

22 (n) Estate transactions.

23 (o) All other property powers and transactions.

24 (LIMITATIONS ON AND ADDITIONS TO THE AGENT'S POWERS MAY BE  
25 INCLUDED IN THIS POWER OF ATTORNEY IF THEY ARE SPECIFICALLY

1 DESCRIBED BELOW.)

2 2. The powers granted above shall not include the following  
3 powers or shall be modified or limited in the following  
4 particulars (here you may include any specific limitations you  
5 deem appropriate, such as a prohibition or conditions on the  
6 sale of particular stock or real estate or special rules on  
7 borrowing by the agent):

- 8 .....
- 9 .....
- 10 .....
- 11 .....
- 12 .....

13 3. In addition to the powers granted above, I grant my  
14 agent the following powers (here you may add any other  
15 delegable powers including, without limitation, power to make  
16 gifts, exercise powers of appointment, name or change  
17 beneficiaries or joint tenants or revoke or amend any trust  
18 specifically referred to below):

- 19 .....
- 20 .....
- 21 .....
- 22 .....
- 23 .....

24 (YOUR AGENT WILL HAVE AUTHORITY TO EMPLOY OTHER PERSONS AS  
25 NECESSARY TO ENABLE THE AGENT TO PROPERLY EXERCISE THE POWERS  
26 GRANTED IN THIS FORM, BUT YOUR AGENT WILL HAVE TO MAKE ALL

1 DISCRETIONARY DECISIONS. IF YOU WANT TO GIVE YOUR AGENT THE  
 2 RIGHT TO DELEGATE DISCRETIONARY DECISION-MAKING POWERS TO  
 3 OTHERS, YOU SHOULD KEEP THE NEXT SENTENCE, OTHERWISE IT SHOULD  
 4 BE STRUCK OUT.)

5 4. My agent shall have the right by written instrument to  
 6 delegate any or all of the foregoing powers involving  
 7 discretionary decision-making to any person or persons whom my  
 8 agent may select, but such delegation may be amended or revoked  
 9 by any agent (including any successor) named by me who is  
 10 acting under this power of attorney at the time of reference.

11 (YOUR AGENT WILL BE ENTITLED TO REIMBURSEMENT FOR ALL  
 12 REASONABLE EXPENSES INCURRED IN ACTING UNDER THIS POWER OF  
 13 ATTORNEY. STRIKE OUT THE NEXT SENTENCE IF YOU DO NOT WANT YOUR  
 14 AGENT TO ALSO BE ENTITLED TO REASONABLE COMPENSATION FOR  
 15 SERVICES AS AGENT.)

16 5. My agent shall be entitled to reasonable compensation  
 17 for services rendered as agent under this power of attorney.

18 (THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU AT ANY  
 19 TIME AND IN ANY MANNER. ABSENT AMENDMENT OR REVOCATION, THE  
 20 AUTHORITY GRANTED IN THIS POWER OF ATTORNEY WILL BECOME  
 21 EFFECTIVE AT THE TIME THIS POWER IS SIGNED AND WILL CONTINUE  
 22 UNTIL YOUR DEATH UNLESS A LIMITATION ON THE BEGINNING DATE OR  
 23 DURATION IS MADE BY INITIALING AND COMPLETING EITHER (OR BOTH)  
 24 OF THE FOLLOWING:)

25 6. ( ) This power of attorney shall become effective on  
 26 .....

1 (insert a future date or event during your lifetime, such as  
2 court determination of your disability, when you want this  
3 power to first take effect)

4 7. ( ) This power of attorney shall terminate on  
5 .....  
6 (insert a future date or event, such as court determination of  
7 your disability, when you want this power to terminate prior to  
8 your death)

9 (IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAME(S) AND  
10 ADDRESS(ES) OF SUCH SUCCESSOR(S) IN THE FOLLOWING PARAGRAPH.)

11 8. If any agent named by me shall die, become incompetent,  
12 resign or refuse to accept the office of agent, I name the  
13 following (each to act alone and successively, in the order  
14 named) as successor(s) to such agent:

15 .....  
16 .....

17 For purposes of this paragraph 8, a person shall be considered  
18 to be incompetent if and while the person is a minor or an  
19 adjudicated incompetent or disabled person or the person is  
20 unable to give prompt and intelligent consideration to business  
21 matters, as certified by a licensed physician. (IF YOU WISH TO  
22 NAME YOUR AGENT AS GUARDIAN OF YOUR ESTATE, IN THE EVENT A  
23 COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY, BUT ARE  
24 NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING PARAGRAPH.  
25 THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS THAT SUCH  
26 APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND WELFARE. STRIKE

1 OUT PARAGRAPH 9 IF YOU DO NOT WANT YOUR AGENT TO ACT AS  
2 GUARDIAN.)

3 9. If a guardian of my estate (my property) is to be  
4 appointed, I nominate the agent acting under this power of  
5 attorney as such guardian, to serve without bond or security.

6 10. I am fully informed as to all the contents of this form  
7 and understand the full import of this grant of powers to my  
8 agent.

9 Signed .....  
10 (principal)

11 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND  
12 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU  
13 INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST  
14 COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE  
15 AGENTS.)

16 Specimen signatures of agent (and successors) I certify that the signatures  
17 of my agent (and successors)  
18 are correct.

19 .....  
20 (agent) (principal)

21 .....  
22 (successor agent) (principal)

23 .....  
24 (successor agent) (principal)

25 (THIS POWER OF ATTORNEY WILL NOT BE EFFECTIVE UNLESS IT IS  
26 NOTARIZED AND SIGNED BY AT LEAST ONE ADDITIONAL WITNESS, USING



1 THE FORM BELOW.)

2 State of .....

3 ) SS.

4 County of .....

5 The undersigned, a notary public in and for the above  
6 county and state, certifies that .....,  
7 known to me to be the same person whose name is subscribed as  
8 principal to the foregoing power of attorney, appeared before  
9 me and the additional witness in person and acknowledged  
10 signing and delivering the instrument as the free and voluntary  
11 act of the principal, for the uses and purposes therein set  
12 forth (, and certified to the correctness of the signature(s)  
13 of the agent(s)).

14 Dated: ..... (SEAL)

15 .....

16 Notary Public

17 My commission expires .....

18 The undersigned witness certifies that ....., known  
19 to me to be the same person whose name is subscribed as  
20 principal to the foregoing power of attorney, appeared before  
21 me and the notary public and acknowledged signing and  
22 delivering the instrument as the free and voluntary act of the  
23 principal, for the uses and purposes therein set forth. I  
24 believe him or her to be of sound mind and memory.

25 Dated: ..... (SEAL)

26 .....

Witness

(THE NAME AND ADDRESS OF THE PERSON PREPARING THIS FORM SHOULD BE INSERTED IF THE AGENT WILL HAVE POWER TO CONVEY ANY INTEREST IN REAL ESTATE.)

This document was prepared by:

.....  
..... "

The requirement of the signature of an additional witness imposed by this amendatory Act of the 91st General Assembly applies only to instruments executed on or after the effective date of this amendatory Act of the 91st General Assembly.

(Source: P.A. 91-790, eff. 6-9-00.)

(Text of Section after amendment by P.A. 96-1195)

Sec. 3-3. Statutory short form power of attorney for property.

(a) The form prescribed in this Section may be known as "statutory property power" and may be used to grant an agent powers with respect to property and financial matters. The "statutory property power" consists of the following: (1) Notice to the Individual Signing the Illinois Statutory Short Form Power of Attorney for Property; (2) Illinois Statutory Short Form Power of Attorney for Property; and (3) Notice to Agent. When a power of attorney in substantially the form prescribed in this Section is used, including all 3 items above, with item (1), the Notice to Individual Signing the

1 Illinois Statutory Short Form Power of Attorney for Property,  
2 on a separate sheet (coversheet) in 14-point type and the  
3 notarized form of acknowledgment at the end, it shall have the  
4 meaning and effect prescribed in this Act.

5 (b) A power of attorney shall also be deemed to be in  
6 substantially the same format as the statutory form if the  
7 explanatory language throughout the form (the language  
8 following the designation "NOTE:") is distinguished in some way  
9 from the legal paragraphs in the form, such as the use of  
10 boldface or other difference in typeface and font or point  
11 size, even if the "Notice" paragraphs at the beginning are not  
12 on a separate sheet of paper or are not in 14-point type, or if  
13 the principal's initials do not appear in the acknowledgement  
14 at the end of the "Notice" paragraphs.

15 The validity of a power of attorney as meeting the  
16 requirements of a statutory property power shall not be  
17 affected by the fact that one or more of the categories of  
18 optional powers listed in the form are struck out or the form  
19 includes specific limitations on or additions to the agent's  
20 powers, as permitted by the form. Nothing in this Article shall  
21 invalidate or bar use by the principal of any other or  
22 different form of power of attorney for property. Nonstatutory  
23 property powers (i) must be executed by the principal, (ii)  
24 must designate the agent and the agent's powers, (iii) must be  
25 signed by at least one witness to the principal's signature,  
26 and (iv) must indicate that the principal has acknowledged his

1 or her signature before a notary public. However, nonstatutory  
2 property powers need not conform in any other respect to the  
3 statutory property power.

4 (c) The Notice to the Individual Signing the Illinois  
5 Statutory Short Form Power of Attorney for Property shall be  
6 substantially as follows:

7 "NOTICE TO THE INDIVIDUAL SIGNING THE ILLINOIS  
8 STATUTORY SHORT FORM POWER OF ATTORNEY FOR PROPERTY.

9 PLEASE READ THIS NOTICE CAREFULLY. The form that you will  
10 be signing is a legal document. It is governed by the Illinois  
11 Power of Attorney Act. If there is anything about this form  
12 that you do not understand, you should ask a lawyer to explain  
13 it to you.

14 The purpose of this Power of Attorney is to give your  
15 designated "agent" broad powers to handle your financial  
16 affairs, which may include the power to pledge, sell, or  
17 dispose of any of your real or personal property, even without  
18 your consent or any advance notice to you. When using the  
19 Statutory Short Form, you may name successor agents, but you  
20 may not name co-agents.

21 This form does not impose a duty upon your agent to handle  
22 your financial affairs, so it is important that you select an  
23 agent who will agree to do this for you. It is also important  
24 to select an agent whom you trust, since you are giving that

1 agent control over your financial assets and property. Any  
2 agent who does act for you has a duty to act in good faith for  
3 your benefit and to use due care, competence, and diligence. He  
4 or she must also act in accordance with the law and with the  
5 directions in this form. Your agent must keep a record of all  
6 receipts, disbursements, and significant actions taken as your  
7 agent.

8 Unless you specifically limit the period of time that this  
9 Power of Attorney will be in effect, your agent may exercise  
10 the powers given to him or her throughout your lifetime, both  
11 before and after you become incapacitated. A court, however,  
12 can take away the powers of your agent if it finds that the  
13 agent is not acting properly. You may also revoke this Power of  
14 Attorney if you wish.

15 This Power of Attorney does not authorize your agent to  
16 appear in court for you as an attorney-at-law or otherwise to  
17 engage in the practice of law unless he or she is a licensed  
18 attorney who is authorized to practice law in Illinois.

19 The powers you give your agent are explained more fully in  
20 Section 3-4 of the Illinois Power of Attorney Act. This form is  
21 a part of that law. The "NOTE" paragraphs throughout this form  
22 are instructions.

23 You are not required to sign this Power of Attorney, but it  
24 will not take effect without your signature. You should not  
25 sign this Power of Attorney if you do not understand everything  
26 in it, and what your agent will be able to do if you do sign it.

1 Please place your initials on the following line indicating  
2 that you have read this Notice:

3 .....  
4 Principal's initials"

5 (d) The Illinois Statutory Short Form Power of Attorney for  
6 Property shall be substantially as follows:

7 "ILLINOIS STATUTORY SHORT FORM  
8 POWER OF ATTORNEY FOR PROPERTY

9 1. I, ....., (insert name and address of  
10 principal) hereby revoke all prior powers of attorney for  
11 property executed by me, other than excluded powers of attorney  
12 as defined in the Illinois Power of Attorney Act, and appoint:

13 .....  
14 (insert name and address of agent)

15 (NOTE: You may not name co-agents using this form.)  
16 as my attorney-in-fact (my "agent") to act for me and in my  
17 name (in any way I could act in person) with respect to the  
18 following powers, as defined in Section 3-4 of the "Statutory  
19 Short Form Power of Attorney for Property Law" (including all  
20 amendments), but subject to any limitations on or additions to  
21 the specified powers inserted in paragraph 2 or 3 below:

1 (NOTE: You must strike out any one or more of the following  
2 categories of powers you do not want your agent to have.  
3 Failure to strike the title of any category will cause the  
4 powers described in that category to be granted to the agent.  
5 To strike out a category you must draw a line through the title  
6 of that category.)

7 (a) Real estate transactions.

8 (b) Financial institution transactions.

9 (c) Stock and bond transactions.

10 (d) Tangible personal property transactions.

11 (e) Safe deposit box transactions.

12 (f) Insurance and annuity transactions.

13 (g) Retirement plan transactions.

14 (h) Social Security, employment and military service  
15 benefits.

16 (i) Tax matters.

17 (j) Claims and litigation.

18 (k) Commodity and option transactions.

19 (l) Business operations.

20 (m) Borrowing transactions.

21 (n) Estate transactions.

22 (o) All other property transactions.

23 (NOTE: Limitations on and additions to the agent's powers may  
24 be included in this power of attorney if they are specifically  
25 described below.)

26 2. The powers granted above shall not include the following

1 powers or shall be modified or limited in the following  
2 particulars:

3 (NOTE: Here you may include any specific limitations you deem  
4 appropriate, such as a prohibition or conditions on the sale of  
5 particular stock or real estate or special rules on borrowing  
6 by the agent.)

7 .....  
8 .....  
9 .....  
10 .....  
11 .....

12 3. In addition to the powers granted above, I grant my  
13 agent the following powers:

14 (NOTE: Here you may add any other delegable powers including,  
15 without limitation, power to make gifts, exercise powers of  
16 appointment, name or change beneficiaries or joint tenants or  
17 revoke or amend any trust specifically referred to below.)

18 .....  
19 .....  
20 .....  
21 .....  
22 .....

23 (NOTE: Your agent will have authority to employ other persons  
24 as necessary to enable the agent to properly exercise the  
25 powers granted in this form, but your agent will have to make  
26 all discretionary decisions. If you want to give your agent the



1 right to delegate discretionary decision-making powers to  
2 others, you should keep paragraph 4, otherwise it should be  
3 struck out.)

4 4. My agent shall have the right by written instrument to  
5 delegate any or all of the foregoing powers involving  
6 discretionary decision-making to any person or persons whom my  
7 agent may select, but such delegation may be amended or revoked  
8 by any agent (including any successor) named by me who is  
9 acting under this power of attorney at the time of reference.

10 (NOTE: Your agent will be entitled to reimbursement for all  
11 reasonable expenses incurred in acting under this power of  
12 attorney. Strike out paragraph 5 if you do not want your agent  
13 to also be entitled to reasonable compensation for services as  
14 agent.)

15 5. My agent shall be entitled to reasonable compensation  
16 for services rendered as agent under this power of attorney.

17 (NOTE: This power of attorney may be amended or revoked by you  
18 at any time and in any manner. Absent amendment or revocation,  
19 the authority granted in this power of attorney will become  
20 effective at the time this power is signed and will continue  
21 until your death, unless a limitation on the beginning date or  
22 duration is made by initialing and completing one or both of  
23 paragraphs 6 and 7:)

24 6. ( ) This power of attorney shall become effective on  
25 .....

26 (NOTE: Insert a future date or event during your lifetime, such

1 as a court determination of your disability or a written  
2 determination by your physician that you are incapacitated,  
3 when you want this power to first take effect.)

4 7. ( ) This power of attorney shall terminate on  
5 .....

6 (NOTE: Insert a future date or event, such as a court  
7 determination that you are not under a legal disability or a  
8 written determination by your physician that you are not  
9 incapacitated, if you want this power to terminate prior to  
10 your death.)

11 (NOTE: If you wish to name one or more successor agents, insert  
12 the name and address of each successor agent in paragraph 8.)

13 8. If any agent named by me shall die, become incompetent,  
14 resign or refuse to accept the office of agent, I name the  
15 following (each to act alone and successively, in the order  
16 named) as successor(s) to such agent:

17 .....  
18 .....

19 For purposes of this paragraph 8, a person shall be considered  
20 to be incompetent if and while the person is a minor or an  
21 adjudicated incompetent or disabled person or the person is  
22 unable to give prompt and intelligent consideration to business  
23 matters, as certified by a licensed physician.

24 (NOTE: If you wish to, you may name your agent as guardian of  
25 your estate if a court decides that one should be appointed. To  
26 do this, retain paragraph 9, and the court will appoint your

1 agent if the court finds that this appointment will serve your  
2 best interests and welfare. Strike out paragraph 9 if you do  
3 not want your agent to act as guardian.)

4 9. If a guardian of my estate (my property) is to be  
5 appointed, I nominate the agent acting under this power of  
6 attorney as such guardian, to serve without bond or security.

7 10. I am fully informed as to all the contents of this form  
8 and understand the full import of this grant of powers to my  
9 agent.

10 (NOTE: This form does not authorize your agent to appear in  
11 court for you as an attorney-at-law or otherwise to engage in  
12 the practice of law unless he or she is a licensed attorney who  
13 is authorized to practice law in Illinois.)

14 11. The Notice to Agent is incorporated by reference and  
15 included as part of this form.

16 Dated: .....

17 Signed .....

18 (principal)

19 (NOTE: This power of attorney will not be effective unless it  
20 is signed by at least one witness and your signature is  
21 notarized, using the form below. The notary may not also sign  
22 as a witness.)

23 The undersigned witness certifies that ....., known  
24 to me to be the same person whose name is subscribed as

1 principal to the foregoing power of attorney, appeared before  
 2 me and the notary public and acknowledged signing and  
 3 delivering the instrument as the free and voluntary act of the  
 4 principal, for the uses and purposes therein set forth. I  
 5 believe him or her to be of sound mind and memory. The  
 6 undersigned witness also certifies that the witness is not: (a)  
 7 the attending physician or mental health service provider or a  
 8 relative of the physician or provider; (b) an owner, operator,  
 9 or relative of an owner or operator of a health care facility  
 10 in which the principal is a patient or resident; (c) a parent,  
 11 sibling, descendant, or any spouse of such parent, sibling, or  
 12 descendant of either the principal or any agent or successor  
 13 agent under the foregoing power of attorney, whether such  
 14 relationship is by blood, marriage, or adoption; or (d) an  
 15 agent or successor agent under the foregoing power of attorney.

16 Dated: .....

17 .....

18 Witness

19 (NOTE: Illinois requires only one witness, but other  
 20 jurisdictions may require more than one witness. If you wish to  
 21 have a second witness, have him or her certify and sign here:)

22 (Second witness) The undersigned witness certifies that  
 23 ....., known to me to be the same person whose name  
 24 is subscribed as principal to the foregoing power of attorney,

1 appeared before me and the notary public and acknowledged  
 2 signing and delivering the instrument as the free and voluntary  
 3 act of the principal, for the uses and purposes therein set  
 4 forth. I believe him or her to be of sound mind and memory. The  
 5 undersigned witness also certifies that the witness is not: (a)  
 6 the attending physician or mental health service provider or a  
 7 relative of the physician or provider; (b) an owner, operator,  
 8 or relative of an owner or operator of a health care facility  
 9 in which the principal is a patient or resident; (c) a parent,  
 10 sibling, descendant, or any spouse of such parent, sibling, or  
 11 descendant of either the principal or any agent or successor  
 12 agent under the foregoing power of attorney, whether such  
 13 relationship is by blood, marriage, or adoption; or (d) an  
 14 agent or successor agent under the foregoing power of attorney.

15 Dated: .....

16 .....

17 Witness

18 State of .....

19 ) SS.

20 County of .....

21 The undersigned, a notary public in and for the above  
 22 county and state, certifies that .....,  
 23 known to me to be the same person whose name is subscribed as  
 24 principal to the foregoing power of attorney, appeared before  
 25 me and the witness(es) ..... (and ..... ) in

1 person and acknowledged signing and delivering the instrument  
 2 as the free and voluntary act of the principal, for the uses  
 3 and purposes therein set forth (, and certified to the  
 4 correctness of the signature(s) of the agent(s)).

5 Dated: .....

6 .....

7 Notary Public

8 My commission expires .....

9 (NOTE: You may, but are not required to, request your agent and  
 10 successor agents to provide specimen signatures below. If you  
 11 include specimen signatures in this power of attorney, you must  
 12 complete the certification opposite the signatures of the  
 13 agents.)

14 Specimen signatures of	I certify that the signatures
15 agent (and successors)	of my agent (and successors)
16	are genuine.

17 .....	.....
----------	-------

18 (agent)	(principal)
------------	-------------

19 .....	.....
----------	-------

20 (successor agent)	(principal)
----------------------	-------------

21 .....	.....
----------	-------

22 (successor agent)	(principal)
----------------------	-------------

23 (NOTE: The name, address, and phone number of the person

1 preparing this form or who assisted the principal in completing  
2 this form should be inserted below.)

3 Name: .....

4 Address: .....

5 .....

6 .....

7 Phone: ..... "

8 (e) Notice to Agent. The following form may be known as  
9 "Notice to Agent" and shall be supplied to an agent appointed  
10 under a power of attorney for property.

11 "NOTICE TO AGENT

12 When you accept the authority granted under this power of  
13 attorney a special legal relationship, known as agency, is  
14 created between you and the principal. Agency imposes upon you  
15 duties that continue until you resign or the power of attorney  
16 is terminated or revoked.

17 As agent you must:

18 (1) do what you know the principal reasonably expects  
19 you to do with the principal's property;

20 (2) act in good faith for the best interest of the  
21 principal, using due care, competence, and diligence;

22 (3) keep a complete and detailed record of all  
23 receipts, disbursements, and significant actions conducted  
24 for the principal;

1           (4) attempt to preserve the principal's estate plan, to  
2           the extent actually known by the agent, if preserving the  
3           plan is consistent with the principal's best interest; and

4           (5) cooperate with a person who has authority to make  
5           health care decisions for the principal to carry out the  
6           principal's reasonable expectations to the extent actually  
7           in the principal's best interest.

8           As agent you must not do any of the following:

9           (1) act so as to create a conflict of interest that is  
10           inconsistent with the other principles in this Notice to  
11           Agent;

12           (2) do any act beyond the authority granted in this  
13           power of attorney;

14           (3) commingle the principal's funds with your funds;

15           (4) borrow funds or other property from the principal,  
16           unless otherwise authorized;

17           (5) continue acting on behalf of the principal if you  
18           learn of any event that terminates this power of attorney  
19           or your authority under this power of attorney, such as the  
20           death of the principal, your legal separation from the  
21           principal, or the dissolution of your marriage to the  
22           principal.

23           If you have special skills or expertise, you must use those  
24           special skills and expertise when acting for the principal. You  
25           must disclose your identity as an agent whenever you act for  
26           the principal by writing or printing the name of the principal



1 and signing your own name "as Agent" in the following manner:

2 "(Principal's Name) by (Your Name) as Agent"

3 The meaning of the powers granted to you is contained in  
4 Section 3-4 of the Illinois Power of Attorney Act, which is  
5 incorporated by reference into the body of the power of  
6 attorney for property document.

7 If you violate your duties as agent or act outside the  
8 authority granted to you, you may be liable for any damages,  
9 including attorney's fees and costs, caused by your violation.

10 If there is anything about this document or your duties  
11 that you do not understand, you should seek legal advice from  
12 an attorney."

13 (f) The requirement of the signature of a witness in  
14 addition to the principal and the notary, imposed by Public Act  
15 91-790, applies only to instruments executed on or after June  
16 9, 2000 (the effective date of that Public Act).

17 (NOTE: This amendatory Act of the 96th General Assembly deletes  
18 provisions that referred to the one required witness as an  
19 "additional witness", and it also provides for the signature of  
20 an optional "second witness".)

21 (Source: P.A. 96-1195, eff. 7-1-11.)

22 Section 95. No acceleration or delay. Where this Act makes  
23 changes in a statute that is represented in this Act by text  
24 that is not yet or no longer in effect (for example, a Section

1 represented by multiple versions), the use of that text does  
2 not accelerate or delay the taking effect of (i) the changes  
3 made by this Act or (ii) provisions derived from any other  
4 Public Act.