

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 Section 2-4 as follows:

6 (755 ILCS 45/2-4) (from Ch. 110 1/2, par. 802-4)

7 Sec. 2-4. Applicability. (a) The principal may specify in
8 the agency the event or time when the agency will begin and
9 terminate, the mode of revocation or amendment and the rights,
10 powers, duties, limitations, immunities and other terms
11 applicable to the agent and to all persons dealing with the
12 agent, and the provisions of the agency will control
13 notwithstanding this Act, except that every health care agency
14 must comply with Section 4-5 of this Act.

15 (b) From and after the effective date of this Act: (1) this
16 Act governs every agency, whenever and wherever executed, and
17 all acts of the agent to the extent the provisions of this Act
18 are not inconsistent with the agency; and (2) this Act applies
19 to all agencies exercised in Illinois and to all other agencies
20 if the principal is a resident of Illinois at the time the
21 agency is signed or at the time of exercise or if the agency
22 indicates that Illinois law is to apply. Providing forms of
23 statutory property and health care powers in Articles III and

1 IV does not limit the applicability of this Act, it being
2 intended that every agency, including, without limitation, the
3 statutory property and health care power agencies, shall have
4 the benefit of and be governed by Article II, by Sections 4-1
5 through 4-9 and Section 4-11 of Article IV, and by all other
6 general provisions of this Act, except to the extent the terms
7 of the agency are inconsistent with this Act.

8 (c) Notwithstanding the provisions of subsections (a) and
9 (b), this Act shall not apply to an agreement or contract
10 described in any of items (1) through (8) of this subsection
11 under which a financial institution, defined as a (i) bank,
12 trust company, savings bank, savings and loan, or credit union
13 holding a federal charter or a charter from any of the states
14 that is subject to regulation by the Illinois Secretary of
15 Financial and Professional Regulation or (ii) broker-dealer
16 registered with the United States Securities and Exchange
17 Commission, is named as an agent for any person, provided that
18 the agreement or contract does not include in its terms a
19 durable power of attorney that survives the incapacity of the
20 principal:

21 (1) a proxy or other delegation to exercise voting
22 rights or management rights with respect to a corporation,
23 partnership (general or limited), limited liability
24 company, condominium, commercial entity, or association;

25 (2) an agreement or contract given to a financial
26 institution to facilitate a specific transfer or

1 disposition of one or more identified stocks, bonds, or
2 assets, whether real or personal, tangible or intangible;

3 (3) an agreement or directive authorizing a financial
4 institution to prepare, execute, deliver, submit, or file a
5 document or instrument with a government or governmental
6 subdivision, agency, or instrumentality, or other third
7 party;

8 (4) an agreement or contract authorizing a financial
9 institution or an officer of a financial institution to
10 take a specific action or actions in relation to an account
11 in which the financial institution (i) holds cash,
12 securities, commodities, or other financial assets on
13 behalf of the principal or (ii) acts as an investment
14 manager with a third party serving as the custodian of such
15 cash, securities, commodities, or other financial assets
16 on behalf of the principal;

17 (5) an agreement or contract authorizing a financial
18 institution to take specific actions with respect to
19 collateral in connection with a loan or other secured
20 credit transaction other than a mortgage;

21 (6) an agreement or contract given to a financial
22 institution by an individual who is, or is seeking to
23 become, a director, officer, stockholder, employee,
24 partner (general or limited), member, unit owner, equity
25 owner, trustee, manager, or agent of a corporation, a
26 partnership (general or limited), a limited liability

1 company, a condominium, a legal or commercial entity, or an
2 association, in that individual's capacity as such,
3 including an agreement or directive contained in a
4 subscription agreement;

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

16 (8) an agreement authorizing the acceptance of the
17 service of process on behalf of the person executing the
18 agreement.

19 (d) An agreement or contract described in subsection (c) is
20 not a "nonstatutory property power" subject to subsection (b)
21 of Section 3-3. This subsection (d) is declarative of existing
22 law and is applicable to all agreements or contracts whenever
23 executed.

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

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.