



Sen. Kirk W. Dillard

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1 AMENDMENT TO SENATE BILL 3204

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3204 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power of Attorney Act is amended  
5 by 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

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

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

1           (1) a proxy or other delegation to exercise voting  
2           rights or management rights with respect to a corporation,  
3           partnership (general or limited), limited liability  
4           company, condominium, commercial entity, or association;

5           (2) an agreement or contract given to a financial  
6           institution to facilitate a specific transfer or  
7           disposition of one or more identified stocks, bonds, or  
8           assets, whether real or personal, tangible or intangible;

9           (3) an agreement or directive authorizing a financial  
10           institution to prepare, execute, deliver, submit, or file a  
11           document or instrument with a government or governmental  
12           subdivision, agency, or instrumentality, or other third  
13           party;

14           (4) an agreement or contract authorizing a financial  
15           institution or an officer of a financial institution to  
16           take a specific action or actions in relation to an account  
17           in which the financial institution (i) holds cash,  
18           securities, commodities, or other financial assets on  
19           behalf of the principal or (ii) acts as an investment  
20           manager with a third-party serving as the custodian of such  
21           cash, securities, commodities, or other financial assets  
22           on behalf of the principal;

23           (5) an agreement or contract authorizing a financial  
24           institution to take specific actions with respect to  
25           collateral in connection with a loan or other secured  
26           credit transaction other than a mortgage;

1           (6) an agreement or contract given to a financial  
2           institution by an individual who is, or is seeking to  
3           become, a director, officer, stockholder, employee,  
4           partner (general or limited), member, unit owner, equity  
5           owner, trustee, manager, or agent of a corporation, a  
6           partnership (general or limited), a limited liability  
7           company, a condominium, a legal or commercial entity, or an  
8           association, in that individual's capacity as such,  
9           including an agreement or directive contained in a  
10           subscription agreement;

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

22           (8) an agreement authorizing the acceptance of the  
23           service of process on behalf of the person executing the  
24           agreement.

25           (d) An agreement or contract described in subsection (c) is  
26           not a "nonstatutory property power" subject to subsection (b)

1 of Section 3-3. This subsection (d) is declarative of existing  
2 law and is applicable to all agreements or contracts whenever  
3 executed.

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

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.".