



Sen. Kirk W. Dillard

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09700SB3204sam002

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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, savings and loan, or credit union
20 holding a federal charter or a charter from any of the states
21 that is subject to regulation by the Illinois Secretary of
22 Financial and Professional Regulation or (ii) broker-dealer
23 registered with the United States Securities and Exchange
24 Commission, is named as an agent for any person, provided that
25 the agreement or contract does not include in its terms a
26 durable power of attorney that survives the incapacity of the

1 principal:

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

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

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

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

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

1 credit transaction other than a mortgage;

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

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

22 or

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

26 (d) An agreement or contract described in subsection (c) is

1 not a "nonstatutory property power" subject to subsection (b)
2 of Section 3-3. This subsection (d) is declarative of existing
3 law and is applicable to all agreements or contracts whenever
4 executed.

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

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