

AN ACT concerning civil law.

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

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

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

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

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

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

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

AGENT'S CERTIFICATION AND ACCEPTANCE OF AUTHORITY

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

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

I accept appointment as agent under this power of attorney.

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

Dated: .....

.....

(Agent's Signature)

.....

(Print Agent's Name)

.....

(Agent's Address)

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

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

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

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

(e) Unreasonable cause to refuse to honor. It shall be deemed unreasonable for a third party to refuse to honor an Illinois statutory short form power of attorney for property 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 or more than one 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 principal 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 a properly executed Agent's Certification and Acceptance of Authority, Successor Agent's Certification and Acceptance of Authority, or Co-Agent's Certification and Acceptance of Authority bearing the original signature of the named agent; or (5) the document appoints an entity as the agent. Nothing in this Section shall be interpreted as prohibiting or limiting a third party from requiring the named agent to furnish a properly executed Agent's Certification and Acceptance of Authority, Successor Agent's Certification and Acceptance of Authority, or Co-Agent's Certification and Acceptance of Authority under

this Act.

(f) Reasonable cause to refuse to honor. Reasons for which it shall be deemed reasonable cause for a third party to refuse to honor a power of attorney for property include, but are not limited to, the following:

(1) the refusal by the agent to provide an affidavit or properly executed Agent's Certification and Acceptance of Authority, Successor Agent's Certification and Acceptance of Authority, or Co-Agent's Certification and Acceptance of Authority;

(2) the refusal by the agent to provide a copy of the original document that is certified to be valid by an attorney, a court order, or governmental entity;

(3) the person's good faith referral of the principal and the agent or a person acting for or with the agent to the local adult protective services unit;

(4) actual knowledge or a reasonable basis for believing in the existence of a report having been made by any person to the local adult protective services unit alleging physical or financial abuse, neglect, exploitation, or abandonment of the principal by the agent or a person acting for the agent;

(5) actual knowledge of the principal's death or a reasonable basis for believing the principal has died;

(6) actual knowledge of the incapacity of the principal or a reasonable basis for believing the

principal is incapacitated if the power of attorney tendered is a nondurable power of attorney;

(7) actual knowledge or a reasonable basis for believing that the principal was incapacitated at the time the power of attorney was executed;

(8) actual knowledge or a reasonable basis for believing: (A) the power of attorney was procured through fraud, duress, or undue influence, or (B) the agent is engaged in fraud or abuse of the principal;

(9) actual notice of the termination or revocation of the power of attorney or a reasonable basis for believing that the power of attorney has been terminated or revoked;

(10) the refusal by a title insurance company to underwrite title insurance for a gift of real property made pursuant to a statutory short form power of attorney that does not contain express instructions or purposes of the principal with respect to gifts in paragraph 3 of the statutory short form power of attorney;

(11) the refusal of the principal's attorney to provide a certificate that the power of attorney is valid;

(12) a missing or incorrect signature, an invalid notarization, or an unacceptable power of attorney identification;

(13) the third party: (A) has filed a suspicious activity report as described by 31 U.S.C. 5318(g) with respect to the principal or agent; (B) believes in good

faith that the principal or agent has a prior criminal history involving financial crimes; or (C) has had a previous, unsatisfactory business relationship with the agent due to or resulting in material loss to the third party, financial mismanagement by the agent, or litigation between the third party and the agent alleging substantial damages; or

(14) the third party has reasonable cause to suspect the abuse, abandonment, neglect, or financial exploitation of the principal, if the principal is an eligible adult under the Adult Protective Services Act.

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