

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 2-4 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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