

Article - Estates and Trusts

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§11–108.

(a) Unless the instrument creating a power of appointment expressly provides to the contrary, the power may be wholly or partially released as to all or a portion of the assets subject to it by an instrument signed by the person holding the power and attested by two witnesses. If the person is under 18 years of age or is otherwise under disability, a release pursuant to this section may be executed by order of the court having jurisdiction of the person or property of the person under disability.

(b) (1) A release pursuant to subsection (a) of this section shall:

(i) Identify the instrument creating the power of appointment;

(ii) State the place the instrument was recorded or admitted to probate;

(iii) Contain a statement of the extent to which the power is released; and

(iv) Specify any limitation which the release, if partial, places upon the persons, objects, or classes in whose favor the power would otherwise be exercisable.

(2) The release, whether or not for consideration or under seal, after delivery as provided in subsection (c) of this section, is irrevocable from and after the time it is delivered.

(c) A release pursuant to subsection (a) shall be delivered:

(1) To the register of the county in which the will creating the power of appointment was admitted to probate or recorded;

(2) To the clerk of the appropriate court for recordation among the land records of the county in which the instrument creating the power of appointment has been recorded; or

(3) In the case of instruments creating powers of appointment which are not recorded, to the person making the instrument which created the power of appointment or to any person holding, individually, or jointly with others, a substantial portion of the assets subject to the power of appointment.

(d) A release referred to in this section also may be recorded among the land records of the county in which the maker or fiduciary resides.

(e) The register or clerk shall index and record the release in the same manner as the instrument creating the power of appointment was recorded and shall make a

reference in the margin of the place of recording of the original instrument of the date and place of recording of the release. The releases shall be subject to the usual fees for indexing and recordation, but shall not be subject to a recordation tax now or hereafter imposed.

(f) A power of appointment also may be released by any means or method valid or effective in the absence of this section.

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