

SENATE BILL 385

N2

71r2027

By: **Senator Frosh**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Powers of Attorney – Standing to Seek Judicial Relief**

3 FOR the purpose of authorizing certain persons to petition a court to construe a power
4 of attorney or review the agent's conduct and grant appropriate relief; requiring
5 the court to dismiss a petition on motion of the principal, unless the court
6 makes a certain finding; and generally relating to powers of attorney.

7 BY adding to

8 Article – Estates and Trusts

9 Section 13–604

10 Annotated Code of Maryland

11 (2001 Replacement Volume and 2006 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Estates and Trusts**

15 **13–604.**

16 (A) **THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A**
17 **POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND GRANT**
18 **APPROPRIATE RELIEF:**

19 (1) **THE PRINCIPAL OR THE AGENT;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) A GUARDIAN, CONSERVATOR, OR OTHER FIDUCIARY ACTING**
2 **FOR THE PRINCIPAL;**

3 **(3) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS**
4 **FOR THE PRINCIPAL;**

5 **(4) THE PRINCIPAL'S SPOUSE, PARENT, OR DESCENDANT;**

6 **(5) AN INDIVIDUAL WHO WOULD QUALIFY AS A PRESUMPTIVE**
7 **HEIR OF THE PRINCIPAL;**

8 **(6) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY**
9 **PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL'S DEATH OR**
10 **AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A**
11 **FINANCIAL INTEREST IN THE PRINCIPAL'S ESTATE;**

12 **(7) A GOVERNMENTAL AGENCY HAVING REGULATORY**
13 **AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;**

14 **(8) THE PRINCIPAL'S CAREGIVER OR ANOTHER PERSON THAT**
15 **DEMONSTRATES SUFFICIENT INTEREST IN THE PRINCIPAL'S WELFARE; AND**

16 **(9) A PERSON ASKED TO ACCEPT THE POWER OF ATTORNEY.**

17 **(B) ON MOTION BY THE PRINCIPAL, THE COURT SHALL DISMISS A**
18 **PETITION FILED UNDER THIS SECTION, UNLESS THE COURT FINDS THAT THE**
19 **PRINCIPAL LACKS CAPACITY TO REVOKE THE AGENT'S AUTHORITY OR THE**
20 **POWER OF ATTORNEY.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2007.