

# SENATE BILL 663

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8lr2393  
CF 8lr2319

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By: Senator Simonaire

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Power of Attorney Accountability Act (Lorretta's Law)**

3 FOR the purpose of establishing certain duties of an agent under a power of attorney;  
4 requiring an agent to disclose certain receipts, disbursements, or transactions if  
5 ordered by a court or requested by certain persons; requiring an agent to comply  
6 with a certain request within a certain period; establishing that an agent that  
7 violates certain provisions is liable for certain amounts; requiring that a power  
8 of attorney executed in this State contain a certain notice; authorizing certain  
9 persons to petition a court to construe a power of attorney or review the agent's  
10 conduct; providing for the application of certain provisions of this Act; and  
11 generally relating to powers of attorney.

12 BY adding to

13 Article – Estates and Trusts  
14 Section 13–604 through 13–606  
15 Annotated Code of Maryland  
16 (2001 Replacement Volume and 2007 Supplement)

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

19 **Article – Estates and Trusts**

20 **13–604.**

21 **(A) NOTWITHSTANDING ANY PROVISION IN THE POWER OF ATTORNEY,**  
22 **AN AGENT THAT HAS ACCEPTED APPOINTMENT SHALL:**

23 **(1) ACT IN THE PRINCIPAL'S BEST INTEREST;**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**(2) ACT IN GOOD FAITH;**

4 (4) ACT WITH THE CARE, COMPETENCE, AND DILIGENCE  
5 ORDINARILY EXERCISED BY AGENTS IN SIMILAR CIRCUMSTANCES; AND

6 (5) KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND  
7 TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL.

8                   (B) (1) AN AGENT SHALL DISCLOSE RECEIPTS, DISBURSEMENTS, OR  
9 TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL IF ORDERED BY A  
10 COURT OR REQUESTED BY THE PRINCIPAL, A GUARDIAN, ANOTHER FIDUCIARY  
11 ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY HAVING AUTHORITY  
12 TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, ON THE DEATH OF THE  
13 PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OF THE PRINCIPAL'S ESTATE.

**(I) COMPLY WITH THE REQUEST WITHIN 30 DAYS; OR**

17 (II) SUBSTANTIATE IN WRITING WHY ADDITIONAL TIME IS  
18 NEEDED AND COMPLY WITH THE REQUEST WITHIN AN ADDITIONAL 30 DAYS.

19 (C) AN AGENT THAT VIOLATES THIS SECTION IS LIABLE TO THE  
20 PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR THE AMOUNT  
21 REQUIRED TO:

22 (1) RESTORE THE VALUE OF THE PRINCIPAL'S PROPERTY TO  
23 WHAT IT WOULD HAVE BEEN HAD THE VIOLATION NOT OCCURRED; AND

27 13-605.

28           **A POWER OF ATTORNEY EXECUTED IN THIS STATE SHALL CONTAIN THE**  
29           **FOLLOWING NOTICE IN AT LEAST 12 POINT, BOLDFACE TYPE:**

1           **THIS POWER OF ATTORNEY GRANTS YOU THE AUTHORITY TO ACT FOR**  
2 **(INSERT NAME OF PRINCIPAL), ALSO KNOWN AS THE “PRINCIPAL”. AS THE**  
3 **AGENT FOR THE PRINCIPAL UNDER THIS POWER OF ATTORNEY, YOU HAVE THE**  
4 **FOLLOWING DUTIES:**

5           **(1) TO ACT IN THE PRINCIPAL’S BEST INTEREST;**

6           **(2) TO ACT IN GOOD FAITH;**

7           **(3) TO ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED IN**  
8 **THE POWER OF ATTORNEY;**

9           **(4) TO ACT WITH THE CARE, COMPETENCE, AND DILIGENCE**  
10 **ORDINARILY EXERCISED BY AGENTS IN SIMILAR CIRCUMSTANCES; AND**

11           **(5) TO KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND**  
12 **TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL.**

13           **UNDER STATE LAW, YOU MUST DISCLOSE RECEIPTS, DISBURSEMENTS, OR**  
14 **TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL IF ORDERED BY A**  
15 **COURT OR REQUESTED BY THE PRINCIPAL, THE PRINCIPAL’S GUARDIAN,**  
16 **ANOTHER FIDUCIARY ACTING FOR THE PRINCIPAL, A GOVERNMENTAL AGENCY**  
17 **HAVING AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL, OR, ON THE**  
18 **DEATH OF THE PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OF THE**  
19 **PRINCIPAL’S ESTATE.”.**

20 **13–606.**

21           **(A) THE FOLLOWING PERSONS MAY PETITION A COURT TO CONSTRUE A**  
22 **POWER OF ATTORNEY OR REVIEW THE AGENT’S CONDUCT, AND GRANT**  
23 **APPROPRIATE RELIEF:**

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

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

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

29           **(4) THE PRINCIPAL’S SPOUSE, PARENT, OR DESCENDANT;**

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

5 (7) A GOVERNMENTAL AGENCY HAVING REGULATORY  
6 AUTHORITY TO PROTECT THE WELFARE OF THE PRINCIPAL;

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That § 13-605 of the Estates  
15 and Trusts Article as enacted by Section 1 of this Act shall apply to any power of  
16 attorney executed in the State on or after October 1, 2008.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2008.