

SB0150/678475/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 150
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 13, after the first “effect” insert “under certain circumstances”; and strike beginning with “requiring” in line 15 down through “appointment;” in line 16.

On page 2, in line 11, after “reimbursement” insert “of expenses”; strike beginning with “authorizing” in line 22 down through “presumption” in line 23 and substitute “providing that a person who accepts a certain power of attorney under certain circumstances is not liable for a claim”; in line 24, after “attorney” insert “without liability under certain circumstances”; in line 26, after “investigation” insert “and without liability under certain circumstances”; and in line 37, after “action;” insert “providing that a court may award certain fees and costs if a proceeding to mandate acceptance of a power of attorney was brought other than in good faith,”.

AMENDMENT NO. 2

On page 7, in line 14, after “POWER,” insert “**IS GIVEN AS SECURITY, OR IS GIVEN FOR CONSIDERATION, REGARDLESS OF WHETHER THE POWER IS HELD FOR THE BENEFIT OF THE AGENT OR ANOTHER PERSON,**”; in line 18, after “EXERCISE” insert “**ANY AND ALL RIGHTS WITH RESPECT TO AN ENTITY, INCLUDING**”; in line 19, strike “WITH RESPECT TO AN ENTITY; AND” and substitute “**OR BOTH, OR A DELEGATION OF AUTHORITY TO EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT GOVERNING AN ENTITY OR ENTITY OWNERSHIP INTEREST;**”; and in line 22, after “PURPOSE” insert “;

(5) A POWER CREATED AS PART OF, OR IN CONNECTION WITH, AN AGREEMENT ESTABLISHING AN ATTORNEY AND CLIENT RELATIONSHIP; AND

(Over)

(6) A POWER OF ATTORNEY THAT STATES THAT IT IS NOT SUBJECT TO THIS TITLE”.

AMENDMENT NO. 3

On page 8, in line 30, after “(D)” insert “(1)”; in line 31, after “TITLE” insert “**AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**”; and after line 32, insert:

“(2) A CLERK OF COURT MAY REFUSE TO RECORD A PHOTOCOPY OR ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY.”

AMENDMENT NO. 4

On page 9, strike in their entirety lines 7 through 14, and substitute:

“(A) IN A POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A GUARDIAN OF THE PRINCIPAL’S ESTATE IN ACCORDANCE WITH THE PROVISIONS OF § 13-207 OF THIS ARTICLE.”

AMENDMENT NO. 5

On page 11, in line 14, strike “ACCOMPLISHED” and substitute “**FULLY ACCOMPLISHED, IF THE POWER OF ATTORNEY EXPRESSLY STATES THAT IT IS GIVEN FOR A SPECIFIC PURPOSE**”.

AMENDMENT NO. 6

On page 13, in line 21, before “UNLESS” insert “(A)”; strike beginning with “AND” in line 23 down through “CIRCUMSTANCES” in line 24 and substitute “**, BUT IS NOT ENTITLED TO COMPENSATION**”; and after line 24, insert:

“(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT THE AGENT IS ENTITLED TO COMPENSATION, THE AGENT MAY RECEIVE

COMPENSATION BASED ON WHAT IS REASONABLE UNDER THE CIRCUMSTANCES OR ON SUCH OTHER BASIS AS MAY BE SET FORTH IN THE POWER OF ATTORNEY.”.

AMENDMENT NO. 7

On page 18, after line 3, insert:

“(B) A PERSON THAT IN GOOD FAITH ACCEPTS AN ACKNOWLEDGED POWER OF ATTORNEY WITHOUT ACTUAL KNOWLEDGE THAT THE SIGNATURE IS NOT GENUINE MAY RELY ON THE PRESUMPTIONS SET FORTH IN § 17-104(B) OF THIS SUBTITLE, AND IS NOT LIABLE FOR A CLAIM BASED ON THE FACT THAT THE SIGNATURE IS NOT GENUINE.”;

in line 4, strike “(B)” and substitute “(C)”; in line 9, after “ATTORNEY” insert “WITHOUT LIABILITY”; in line 16, strike “(C)” and substitute “(D)”; in line 18, after “INVESTIGATION” insert “AND WITHOUT ANY LIABILITY FOR THE RELIANCE”; and in line 28, strike “(D)” and substitute “(E)”.

On page 19, in line 12, strike “(C)” and substitute “(D)”; and in line 16, strike “(C)” and substitute “(D)”.

AMENDMENT NO. 8

On page 20, in line 2, strike “(C)” and substitute “(D)”; in line 6, strike “(C)” and substitute “(D)”; and after line 22, insert:

“(E) IF A COURT DETERMINES THAT A PROCEEDING TO MANDATE ACCEPTANCE OF A POWER OF ATTORNEY WAS BROUGHT OTHER THAN IN GOOD FAITH, THE COURT MAY AWARD REASONABLE ATTORNEY’S FEES AND COSTS TO THE PREVAILING PARTY.”.

AMENDMENT NO. 9

On page 21, strike in their entirety lines 1 and 2 and substitute:

(Over)

“(1) (I) CREATE A NEW INTER VIVOS TRUST; OR

(II) IF AN EXISTING INTER VIVOS TRUST EXPRESSLY AUTHORIZES THE ACTION BY AN AGENT, AMEND, REVOKE, OR TERMINATE THE EXISTING INTER VIVOS TRUST;”.

AMENDMENT NO. 10

On page 24, in line 16, after “PRINCIPAL” insert “, INCLUDING A REVERSE MORTGAGE”.

AMENDMENT NO. 11

On page 40, strike in their entirety lines 28 and 29 and substitute:

“YOUR AGENT IS NOT ENTITLED TO COMPENSATION UNLESS YOU INDICATE OTHERWISE IN THIS POWER OF ATTORNEY. IF YOU INDICATE THAT YOUR AGENT IS TO RECEIVE COMPENSATION, YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS.”.

AMENDMENT NO. 12

On page 43, after line 15, insert:

“COMPENSATION OF AGENT

() MY AGENT IS TO SERVE WITHOUT COMPENSATION

() MY AGENT IS TO RECEIVE COMPENSATION THAT IS REASONABLE UNDER THE CIRCUMSTANCES OR COMPENSATION AS SPECIFIED IN THE SPECIAL INSTRUCTIONS”.