

HOUSE BILL 497

N2

9lr1288

By: **Delegates Simmons and Kramer**

Introduced and read first time: February 4, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Power of Attorney Form and Oversight Act**

3 FOR the purpose of establishing the Maryland Power of Attorney Form and Oversight
4 Act; establishing certain exceptions to the application of this Act; requiring a
5 power of attorney to be signed by the principal or a certain other individual;
6 requiring a power of attorney to be attested and witnessed by at least a certain
7 number of disinterested witnesses; requiring a certain recordation of a power of
8 attorney or a revocation of a power of attorney; requiring a clerk of a circuit
9 court to perform certain duties regarding a power of attorney; requiring a
10 certain certification regarding preparation of a power of attorney; providing for
11 the validity of certain powers of attorney under certain circumstances;
12 establishing that the execution of a power of attorney does not revoke a
13 previously executed power of attorney, with certain exceptions; specifying the
14 circumstances under which an agent is entitled to reimbursement of expenses or
15 compensation; requiring an agent to keep certain records and disclose certain
16 information under certain circumstances; requiring an agent to file a certain
17 accounting under certain circumstances; providing for a certain emergency
18 hearing under certain circumstances; granting certain authority to a circuit
19 court for certain purposes; authorizing certain persons to petition a circuit court
20 for certain purposes; authorizing a request for a certain certification,
21 translation, or opinion under certain circumstances; requiring a person to
22 accept a certain power of attorney or request a certain certification, translation,
23 or opinion of counsel within a certain period after presentation of the power of
24 attorney, except under certain circumstances; requiring a person to accept a
25 certain power of attorney within a certain period after receiving the
26 certification, translation, or opinion of counsel, except under certain
27 circumstances; authorizing a circuit court to mandate acceptance of a power of
28 attorney under certain circumstances; authorizing a circuit court to award
29 certain fees and costs incurred by a prevailing party in a certain action;
30 establishing that a document substantially in a certain form may be used to
31 create a certain statutory form power of attorney; establishing that a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 optional form may be used by an agent to certify certain facts concerning a
2 power of attorney; authorizing the Court of Appeals to adopt certain rules;
3 providing for the application of this Act; defining a certain term; and generally
4 relating to powers of attorney.

5 BY adding to
6 Article – Estates and Trusts
7 Section 17–101 through 17–202 to be under the new title “Title 17. Maryland
8 Power of Attorney Form and Oversight Act”
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2008 Supplement)

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

13 **Article – Estates and Trusts**

14 **TITLE 17. MARYLAND POWER OF ATTORNEY FORM ACT.**

15 **SUBTITLE 1. GENERAL PROVISIONS.**

16 **17–101.**

17 **IN THIS TITLE, “INTERESTED PERSON” MEANS:**

18 **(1) THE PRINCIPAL NAMED IN A POWER OF ATTORNEY;**

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

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

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

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

26 **(6) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY**
27 **PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE PRINCIPAL’S DEATH OR**
28 **AS A BENEFICIARY OF A TRUST CREATED BY OR FOR THE PRINCIPAL THAT HAS A**
29 **FINANCIAL INTEREST IN THE PRINCIPAL’S ESTATE;**

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

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

3 **(9) ON THE DEATH OF THE PRINCIPAL, THE PERSONAL**
4 **REPRESENTATIVE OR SUCCESSOR IN INTEREST OF THE PRINCIPAL'S ESTATE.**

5 **17-102.**

6 **THIS TITLE APPLIES TO A POWER OF ATTORNEY EXECUTED IN THE STATE**
7 **ON OR AFTER OCTOBER 1, 2009, EXCEPT:**

8 **(1) A POWER TO THE EXTENT THE POWER IS COUPLED WITH AN**
9 **INTEREST IN THE SUBJECT OF THE POWER, IS GIVEN AS SECURITY, OR IS GIVEN**
10 **FOR CONSIDERATION, REGARDLESS OF WHETHER THE POWER IS HELD FOR THE**
11 **BENEFIT OF THE AGENT OR ANOTHER PERSON, INCLUDING A POWER GIVEN TO**
12 **OR FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A CREDIT**
13 **TRANSACTION;**

14 **(2) A POWER TO MAKE HEALTH CARE DECISIONS;**

15 **(3) A PROXY OR OTHER DELEGATION TO EXERCISE ANY AND ALL**
16 **RIGHTS WITH RESPECT TO AN ENTITY, INCLUDING VOTING RIGHTS OR**
17 **MANAGEMENT RIGHTS OR BOTH, OR A DELEGATION OF AUTHORITY TO**
18 **EXECUTE, BECOME A PARTY TO, OR AMEND A DOCUMENT OR AGREEMENT**
19 **GOVERNING AN ENTITY OR ENTITY OWNERSHIP INTEREST;**

20 **(4) A POWER CREATED ON A FORM PRESCRIBED BY A**
21 **GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR**
22 **INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE; AND**

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

25 **17-103.**

26 **(A) A POWER OF ATTORNEY SHALL BE SIGNED BY THE PRINCIPAL OR IN**
27 **THE PRINCIPAL'S CONSCIOUS PRESENCE BY ANOTHER INDIVIDUAL DIRECTED**
28 **BY THE PRINCIPAL TO SIGN THE PRINCIPAL'S NAME ON THE POWER OF**
29 **ATTORNEY.**

30 **(B) (1) A POWER OF ATTORNEY SHALL BE ATTESTED AND SIGNED BY**
31 **AT LEAST TWO DISINTERESTED WITNESSES IN THE CONSCIOUS PRESENCE OF**
32 **THE PRINCIPAL.**

1 **(2) A PRINCIPAL'S SIGNATURE IS PRESUMED TO BE GENUINE IF**
2 **THE REQUIREMENTS OF THIS SECTION ARE MET.**

3 **17-104.**

4 **(A) A POWER OF ATTORNEY IS VALID IF THE POWER OF ATTORNEY:**

5 **(1) COMPLIES WITH § 17-103 OF THIS SUBTITLE;**

6 **(2) CONTAINS:**

7 **(I) THE DATE THAT THE POWER OF ATTORNEY WAS**
8 **EXECUTED;**

9 **(II) THE PRINCIPAL'S ADDRESS AND TELEPHONE NUMBER,**
10 **IF ANY, AS OF THE DATE THAT THE POWER OF ATTORNEY WAS EXECUTED;**

11 **(III) A CERTIFICATION BY AN ATTORNEY AT LAW THAT THE**
12 **POWER OF ATTORNEY WAS PREPARED BY AN ATTORNEY OR UNDER AN**
13 **ATTORNEY'S SUPERVISION, OR A CERTIFICATION THAT THE POWER OF**
14 **ATTORNEY WAS PREPARED BY THE PRINCIPAL OR AN AGENT NAMED IN THE**
15 **POWER OF ATTORNEY; AND**

16 **(IV) THE NAME, ADDRESS, AND TELEPHONE NUMBER, IF**
17 **ANY, OF THE PERSON WHO PREPARED THE POWER OF ATTORNEY; AND**

18 **(3) IS RECORDED IN THE CIRCUIT COURT OF THE COUNTY IN**
19 **WHICH THE PRINCIPAL RESIDED ON THE DATE THAT THE POWER OF ATTORNEY**
20 **WAS EXECUTED.**

21 **(B) A COPY OF A POWER OF ATTORNEY CERTIFIED BY A CLERK OF A**
22 **CIRCUIT COURT SHALL BE PRESUMED TO BE RECORDED IN THE CIRCUIT COURT.**

23 **(C) A POWER OF ATTORNEY EXECUTED IN A JURISDICTION OTHER THAN**
24 **IN THIS STATE IS VALID IN THIS STATE IF, WHEN THE POWER OF ATTORNEY WAS**
25 **EXECUTED, THE EXECUTION COMPLIED WITH:**

26 **(1) THE LAW OF THE OTHER JURISDICTION; OR**

27 **(2) THE REQUIREMENTS FOR A MILITARY POWER OF ATTORNEY**
28 **IN ACCORDANCE WITH 10 U.S.C. § 1044B.**

29 **17-105.**

1 **(A) THE PROPER JURISDICTION FOR RECORDING A POWER OF**
2 **ATTORNEY OR A REVOCATION OF A POWER OF ATTORNEY IS THE COUNTY IN**
3 **WHICH THE PRINCIPAL RESIDED AT THE TIME OF THE EXECUTION OF THE**
4 **POWER OF ATTORNEY.**

5 **(B) (1) A CLERK OF A CIRCUIT COURT SHALL RECORD AND INDEX A**
6 **POWER OF ATTORNEY OR A REVOCATION OF THE POWER OF ATTORNEY.**

7 **(2) A CLERK OF A CIRCUIT COURT SHALL INDEX A POWER OF**
8 **ATTORNEY OR A REVOCATION OF THE POWER OF ATTORNEY UNDER THE NAME**
9 **OF THE PRINCIPAL AND EACH AGENT AT THE TIME OF THE EXECUTION OF THE**
10 **POWER OF ATTORNEY.**

11 **(3) THE PROVISIONS OF TITLE 3, SUBTITLE 6 OF THE REAL**
12 **PROPERTY ARTICLE APPLY TO A POWER OF ATTORNEY OR A REVOCATION OF A**
13 **POWER OF ATTORNEY THAT IS RECORDED.**

14 **17-106.**

15 **(A) A REVOCATION OF A POWER OF ATTORNEY IS VALID IF:**

16 **(1) THE REVOCATION IS IN WRITING, DATED, SIGNED BY THE**
17 **PRINCIPAL, ATTESTED AND SIGNED BY WITNESSES, CERTIFIED, AND RECORDED**
18 **IN THE SAME MANNER AS REQUIRED FOR A POWER OF ATTORNEY UNDER THIS**
19 **TITLE; AND**

20 **(2) THE PRINCIPAL PROVIDES NOTICE OF THE REVOCATION TO**
21 **THE AGENT.**

22 **(B) THE EXECUTION OF A POWER OF ATTORNEY DOES NOT REVOKE A**
23 **POWER OF ATTORNEY PREVIOUSLY EXECUTED BY THE PRINCIPAL UNLESS:**

24 **(1) THE SUBSEQUENT POWER OF ATTORNEY PROVIDES THAT THE**
25 **PREVIOUS POWER OF ATTORNEY IS REVOKED OR THAT ALL OTHER POWERS OF**
26 **ATTORNEY ARE REVOKED; AND**

27 **(2) IF THE PREVIOUS POWER OF ATTORNEY WAS RECORDED IN A**
28 **CIRCUIT COURT, THE SUBSEQUENT POWER OF ATTORNEY IS RECORDED IN THAT**
29 **CIRCUIT COURT.**

30 **17-107.**

1 **A CLERK OF A CIRCUIT COURT MAY REFUSE TO RECORD A PHOTOCOPY OR**
2 **ELECTRONICALLY TRANSMITTED COPY OF AN ORIGINAL POWER OF ATTORNEY**
3 **OR A REVOCATION OF A POWER OF ATTORNEY.**

4 **17-108.**

5 **(A) UNLESS THE POWER OF ATTORNEY OTHERWISE PROVIDES, AN**
6 **AGENT IS NOT ENTITLED TO REIMBURSEMENT OF EXPENSES INCURRED ON**
7 **BEHALF OF THE PRINCIPAL OR COMPENSATION.**

8 **(B) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT**
9 **AN AGENT IS ENTITLED TO REIMBURSEMENT OF EXPENSES INCURRED ON**
10 **BEHALF OF THE PRINCIPAL, THE AGENT IS ENTITLED TO REIMBURSEMENT OF**
11 **EXPENSES ON THE BASIS OF WHAT EXPENSES ARE REASONABLE UNDER THE**
12 **CIRCUMSTANCES OR ON ANOTHER BASIS AS MAY BE SET FORTH IN THE POWER**
13 **OF ATTORNEY.**

14 **(C) IF THE PRINCIPAL INDICATES IN THE POWER OF ATTORNEY THAT**
15 **AN AGENT IS ENTITLED TO COMPENSATION, THE AGENT IS ENTITLED TO**
16 **COMPENSATION ON THE BASIS OF WHAT COMPENSATION IS REASONABLE**
17 **UNDER THE CIRCUMSTANCES OR ON ANOTHER BASIS AS MAY BE SET FORTH IN**
18 **THE POWER OF ATTORNEY.**

19 **17-109.**

20 **(A) (1) AN AGENT SHALL KEEP A RECORD OF ALL RECEIPTS,**
21 **DISBURSEMENTS, AND TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL.**

22 **(2) AN AGENT SHALL DISCLOSE RECEIPTS, DISBURSEMENTS, OR**
23 **TRANSACTIONS CONDUCTED ON BEHALF OF THE PRINCIPAL IF ORDERED BY A**
24 **COURT.**

25 **(3) (I) AN AGENT SHALL DISCLOSE RECEIPTS,**
26 **DISBURSEMENTS, OR TRANSACTIONS CONDUCTED ON BEHALF OF THE**
27 **PRINCIPAL IF REQUESTED BY AN INTERESTED PERSON, OR, ON THE DEATH OF**
28 **THE PRINCIPAL, BY THE PERSONAL REPRESENTATIVE OR SUCCESSOR IN**
29 **INTEREST OF THE PRINCIPAL'S ESTATE.**

30 **(II) AN AGENT SHALL COMPLY WITH A REQUEST BY AN**
31 **INTERESTED PERSON FOR DISCLOSURE UNDER THIS SECTION WITHIN 30 DAYS**
32 **AFTER THE DATE OF THE REQUEST.**

33 **(B) EXCEPT AS OTHERWISE PROVIDED IN THE POWER OF ATTORNEY, AN**
34 **AGENT SHALL FILE AN ANNUAL ACCOUNTING IN THE CIRCUIT COURT IN WHICH**

1 THE POWER OF ATTORNEY IS RECORDED, WITH A CERTIFICATION THAT THE
2 AGENT HAS MAILED OR DELIVERED A NOTICE OF THE FILING TO THE PRINCIPAL
3 AND EACH INTERESTED PERSON.

4 17-110.

5 (A) THIS SECTION APPLIES TO:

6 (1) AN AGENT THAT DOES NOT COMPLY WITH A REQUEST FOR
7 DISCLOSURE UNDER § 17-109 OF THIS SUBTITLE OR WHOSE DISCLOSURE IS
8 ALLEGED TO SHOW A BREACH OF ANY DUTY OF THE AGENT TO THE PRINCIPAL;
9 OR

10 (2) AN AGENT THAT DOES NOT FILE AN ACCOUNTING AND
11 PROVIDE NOTICE OF THE FILING AS REQUIRED UNDER § 17-109 OF THIS
12 SUBTITLE OR WHOSE ACCOUNTING IS ALLEGED TO SHOW A BREACH OF ANY
13 DUTY OF THE AGENT TO THE PRINCIPAL.

14 (B) A PRINCIPAL OR AN INTERESTED PERSON MAY FILE A PETITION IN
15 THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE POWER OF ATTORNEY IS
16 RECORDED FOR THE AGENT TO SHOW CAUSE FOR FAILURE TO COMPLY WITH §
17 17-109 OF THIS SUBTITLE OR FOR A BREACH OF ANY DUTY OF THE AGENT TO
18 THE PRINCIPAL.

19 (C) A CIRCUIT COURT SHALL SCHEDULE AN EMERGENCY HEARING TO
20 BE HELD WITHIN 7 DAYS AFTER A PETITION IS FILED UNDER THIS SECTION AND
21 AT WHICH THE PETITIONER, OR THE PETITIONER'S LEGAL REPRESENTATIVE,
22 AND THE AGENT SHALL APPEAR.

23 (D) AFTER THE EMERGENCY HEARING, THE CIRCUIT COURT MAY:

24 (1) ISSUE AN ORDER THAT GRANTS APPROPRIATE RELIEF,
25 INCLUDING:

26 (I) A LIMITATION, SUSPENSION, OR TERMINATION OF THE
27 AGENT'S AUTHORITY;

28 (II) APPOINTMENT OF ANOTHER PERSON TO SERVE AS THE
29 PRINCIPAL'S AGENT; AND

30 (III) A LIMITATION, SUSPENSION, OR TERMINATION OF THE
31 RIGHT, IF ANY, OF THE AGENT TO REIMBURSEMENT FOR EXPENSES OR
32 COMPENSATION OR BOTH;

1 (2) **ISSUE ANY OTHER APPROPRIATE ORDER; AND**

2 (3) **CONDUCT ANY FURTHER PROCEEDINGS NECESSARY TO**
3 **PROTECT THE INTERESTS OF THE PRINCIPAL.**

4 (E) **THIS SECTION DOES NOT LIMIT THE RIGHT OF A PRINCIPAL OR AN**
5 **INTERESTED PERSON TO FILE A PETITION UNDER § 17-111 OF THIS SUBTITLE.**

6 **17-111.**

7 **THE FOLLOWING PERSONS MAY PETITION A CIRCUIT COURT TO**
8 **CONSTRUE A POWER OF ATTORNEY OR REVIEW THE AGENT'S CONDUCT, AND**
9 **GRANT APPROPRIATE RELIEF:**

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

11 (2) **AN INTERESTED PERSON; AND**

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

13 **17-112.**

14 (A) **AN AGENT THAT BREACHES A DUTY TO THE PRINCIPAL IS LIABLE TO**
15 **THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST FOR:**

16 (1) **THE AMOUNT REQUIRED TO RESTORE THE VALUE OF THE**
17 **PRINCIPAL'S PROPERTY TO WHAT IT WOULD HAVE BEEN HAD THE BREACH NOT**
18 **OCCURRED; AND**

19 (2) **THE AMOUNT OF THE ATTORNEY'S FEES AND COSTS**
20 **INCURRED BY THE PRINCIPAL OR THE PRINCIPAL'S SUCCESSORS IN INTEREST**
21 **IN OBTAINING APPROPRIATE RELIEF UNDER THIS TITLE OR OTHERWISE AS**
22 **PROVIDED BY LAW.**

23 (B) **THE REMEDIES UNDER THIS SECTION ARE NOT EXCLUSIVE AND DO**
24 **NOT ABROGATE ANY RIGHT OR REMEDY UNDER THE LAW OF THE STATE.**

25 **17-113.**

26 (A) **A PERSON THAT IS ASKED TO ACCEPT A POWER OF ATTORNEY MAY**
27 **REQUEST THAT THE AGENT PROVIDE TO THE PERSON:**

1 (1) AN AGENT'S CERTIFICATION UNDER PENALTY OF PERJURY OF
2 A FACTUAL MATTER CONCERNING THE PRINCIPAL, AGENT, OR POWER OF
3 ATTORNEY;

4 (2) AN ENGLISH TRANSLATION OF THE POWER OF ATTORNEY IF
5 THE POWER OF ATTORNEY CONTAINS, WHOLLY OR PARTLY, LANGUAGE OTHER
6 THAN ENGLISH; AND

7 (3) AN OPINION OF COUNSEL AS TO A MATTER OF LAW
8 CONCERNING THE POWER OF ATTORNEY IF THE PERSON MAKING THE REQUEST
9 PROVIDES IN A WRITING OR OTHER RECORD THE REASON FOR THE REQUEST.

10 17-114.

11 (A) IN THIS SECTION, "STATUTORY FORM POWER OF ATTORNEY" MEANS
12 A POWER OF ATTORNEY SUBSTANTIALLY IN THE FORM PROVIDED IN § 17-201
13 OF THIS TITLE OR THAT MEETS THE REQUIREMENTS FOR A MILITARY POWER OF
14 ATTORNEY IN ACCORDANCE WITH 10 U.S.C. § 1044B.

15 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION:

16 (1) A PERSON EITHER SHALL ACCEPT A STATUTORY FORM POWER
17 OF ATTORNEY THAT MEETS THE REQUIREMENTS OF § 17-104 OF THIS SUBTITLE
18 OR REQUEST A CERTIFICATION BY THE AGENT, A TRANSLATION, OR AN OPINION
19 OF COUNSEL UNDER § 17-113 OF THIS SUBTITLE NO LATER THAN 7 BUSINESS
20 DAYS AFTER PRESENTATION OF THE POWER OF ATTORNEY FOR ACCEPTANCE;

21 (2) IF A PERSON REQUESTS A CERTIFICATION BY THE AGENT, A
22 TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17-113 OF THIS SUBTITLE,
23 THE PERSON SHALL ACCEPT THE STATUTORY FORM POWER OF ATTORNEY NO
24 LATER THAN 5 BUSINESS DAYS AFTER RECEIPT OF THE CERTIFICATION BY THE
25 AGENT, TRANSLATION, OR OPINION OF COUNSEL; AND

26 (3) A PERSON MAY NOT REQUIRE AN ADDITIONAL OR DIFFERENT
27 FORM OF POWER OF ATTORNEY FOR AUTHORITY GRANTED IN THE STATUTORY
28 FORM POWER OF ATTORNEY THAT WAS PRESENTED.

29 (C) A PERSON IS NOT REQUIRED TO ACCEPT A STATUTORY FORM
30 POWER OF ATTORNEY IF:

31 (1) THE PERSON IS NOT OTHERWISE REQUIRED TO ENGAGE IN A
32 TRANSACTION WITH THE PRINCIPAL UNDER THE SAME CIRCUMSTANCES;

1 (2) **ENGAGING IN A TRANSACTION WITH THE AGENT OR THE**
2 **PRINCIPAL UNDER THE SAME CIRCUMSTANCES WOULD BE INCONSISTENT WITH**
3 **FEDERAL LAW;**

4 (3) **THE PERSON HAS NOTICE OR KNOWLEDGE OF THE**
5 **TERMINATION OF THE AUTHORITY OF THE AGENT OR OF THE POWER OF**
6 **ATTORNEY BEFORE EXERCISE OF THE POWER OF ATTORNEY;**

7 (4) **A REQUEST FOR A CERTIFICATION BY THE AGENT, A**
8 **TRANSLATION, OR AN OPINION OF COUNSEL UNDER § 17-113 OF THIS SUBTITLE**
9 **IS REFUSED;**

10 (5) **THE PERSON MAKES, OR HAS ACTUAL KNOWLEDGE THAT**
11 **ANOTHER PERSON HAS MADE, A REPORT TO THE LOCAL DEPARTMENT OF**
12 **SOCIAL SERVICES OFFICE STATING A GOOD-FAITH BELIEF THAT THE PRINCIPAL**
13 **MAY BE SUBJECT TO PHYSICAL OR FINANCIAL ABUSE, NEGLECT, EXPLOITATION,**
14 **OR ABANDONMENT BY THE AGENT OR A PERSON ACTING FOR OR WITH THE**
15 **AGENT; OR**

16 (6) **THE PERSON IS OTHERWISE ALLOWED BY THE LAW OF THE**
17 **STATE TO REFUSE TO ACCEPT THE POWER OF ATTORNEY.**

18 (D) **A PERSON THAT REFUSES IN VIOLATION OF THIS SECTION TO**
19 **ACCEPT A STATUTORY FORM POWER OF ATTORNEY THAT MEETS THE**
20 **REQUIREMENTS OF § 17-104 OF THIS SUBTITLE IS SUBJECT TO:**

21 (1) **A COURT ORDER MANDATING ACCEPTANCE OF THE POWER OF**
22 **ATTORNEY; AND**

23 (2) **LIABILITY FOR REASONABLE ATTORNEY'S FEES AND COSTS**
24 **UNDER SUBSECTION (E) OF THIS SECTION.**

25 (E) **IN AN ACTION FOR A COURT ORDER TO MANDATE ACCEPTANCE OF A**
26 **POWER OF ATTORNEY, A COURT MAY AWARD REASONABLE ATTORNEY'S FEES**
27 **AND COSTS TO THE PREVAILING PARTY.**

28 **17-115.**

29 **THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THIS TITLE.**

30 **17-116.**

31 (A) **A POWER OF ATTORNEY CREATED BEFORE OCTOBER 1, 2009, IS**
32 **NOT AFFECTED BY THIS TITLE.**

1 **(B) AN ACT DONE BEFORE OCTOBER 1, 2009, IS NOT AFFECTED BY THIS**
2 **TITLE.**

3 **17-117.**

4 **THIS TITLE MAY BE CITED AS THE MARYLAND POWER OF ATTORNEY**
5 **FORM AND OVERSIGHT ACT.**

6 **SUBTITLE 2. STATUTORY FORMS.**

7 **17-201.**

8 **A DOCUMENT SUBSTANTIALLY IN THE FOLLOWING FORM MAY BE USED TO**
9 **CREATE A STATUTORY FORM POWER OF ATTORNEY THAT HAS THE MEANING**
10 **AND EFFECT PRESCRIBED BY THIS TITLE:**

11 **“MARYLAND**
12 **STATUTORY FORM POWER OF ATTORNEY**

13 **WARNING**

14 **YOU SHOULD BE VERY CAREFUL IN DECIDING WHETHER OR NOT**
15 **TO SIGN THIS DOCUMENT.**

16 **THE POWERS GRANTED BY YOU (THE “PRINCIPAL”) IN THIS**
17 **DOCUMENT ARE VERY BROAD AND SWEEPING.**

18 **ANOTHER PERSON (THE “AGENT”) NAMED BY YOU IN THIS**
19 **DOCUMENT WILL HAVE THE LEGAL POWER TO MAKE DECISIONS**
20 **AND ACT WITH RESPECT TO YOUR MONEY AND OTHER PROPERTY.**

21 **YOU SHOULD SELECT A PERSON TO SERVE AS YOUR AGENT ONLY**
22 **IF YOU COMPLETELY TRUST THE PERSON.**

23 **YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE BEFORE YOU**
24 **SIGN THIS DOCUMENT IF YOU HAVE ANY QUESTIONS ABOUT THIS**
25 **POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO**
26 **YOUR AGENT.**

27 **IF YOU SIGN THIS DOCUMENT, YOUR AGENT’S LEGAL POWER TO**
28 **MAKE DECISIONS AND ACT WITH RESPECT TO YOUR MONEY AND**
29 **OTHER PROPERTY TAKES EFFECT IMMEDIATELY UNLESS YOU**
30 **STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.**

1 **IF YOU SIGN THIS DOCUMENT, YOUR AGENT WILL HAVE LEGAL**
2 **POWER TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR**
3 **MONEY AND OTHER PROPERTY EVEN IF YOU ARE ABLE TO MAKE**
4 **THE DECISIONS OR ACT YOURSELF.**

5 **THIS DOCUMENT DOES NOT AUTHORIZE YOUR AGENT TO MAKE**
6 **MEDICAL OR HEALTH CARE DECISIONS FOR YOU.**

7 **UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S**
8 **AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE**
9 **POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO**
10 **ACT FOR YOU.**

11 **YOU SHOULD OBTAIN COMPETENT LEGAL ADVICE IF YOU WISH TO**
12 **REVOKE THIS POWER OF ATTORNEY.**

13 **IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR**
14 **POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A**
15 **SUCCESSOR AGENT. YOU ALSO MAY NAME A SECOND SUCCESSOR**
16 **AGENT.**

17 **IN ORDER FOR THIS POWER OF ATTORNEY TO BE VALID, YOUR**
18 **SIGNATURE ON THIS POWER OF ATTORNEY MUST BE ATTESTED**
19 **AND WITNESSED BY AT LEAST TWO PERSONS WITHOUT AN**
20 **INTEREST IN YOUR POWER OF ATTORNEY OR THE AUTHORITY**
21 **THAT YOU ARE GRANTING TO YOUR AGENT.**

22 **IN ORDER FOR THIS POWER OF ATTORNEY TO BE VALID, THIS**
23 **POWER OF ATTORNEY MUST BE RECORDED BY THE CLERK OF THE**
24 **CIRCUIT COURT OF THE COUNTY IN WHICH YOU LIVE.**

25 **IN ORDER FOR THIS POWER OF ATTORNEY TO BE REVOKED, THE**
26 **REVOCATION OF THIS POWER OF ATTORNEY MUST BE IN**
27 **WRITING, SIGNED BY YOU, AND RECORDED IN THE CIRCUIT**
28 **COURT OF THE COUNTY IN WHICH THE POWER OF ATTORNEY WAS**
29 **RECORDED.**

30 **DESIGNATION OF AGENT**

31 **I, _____, NAME THE**
32 **(NAME OF PRINCIPAL)**

33 **FOLLOWING PERSON AS MY AGENT:**

1 NAME OF
 2 AGENT: _____
 3 AGENT'S
 4 ADDRESS: _____
 5 AGENT'S TELEPHONE
 6 NUMBER: _____

7 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

8 IF MY AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS MY
9 SUCCESSOR AGENT:

10 NAME OF SUCCESSOR
 11 AGENT: _____
 12 SUCCESSOR AGENT'S
 13 ADDRESS: _____
 14 SUCCESSOR AGENT'S TELEPHONE
 15 NUMBER: _____

16 IF MY SUCCESSOR AGENT IS UNABLE OR UNWILLING TO ACT FOR ME, I NAME AS
17 MY SECOND SUCCESSOR AGENT:

18 NAME OF SECOND SUCCESSOR
 19 AGENT: _____
 20 SECOND SUCCESSOR AGENT'S
 21 ADDRESS: _____
 22 SECOND SUCCESSOR AGENT'S TELEPHONE
 23 NUMBER: _____

24 WAIVER OF ANNUAL ACCOUNTING

25 () INITIAL ONLY IF YOU DO NOT WANT YOUR AGENT TO FILE AN ANNUAL
26 ACCOUNTING, IN THE CIRCUIT COURT IN WHICH THE POWER OF ATTORNEY IS
27 RECORDED, WITH A CERTIFICATION THAT A NOTICE OF THE FILING HAS BEEN
28 MAILED OR DELIVERED TO YOU AND EACH INTERESTED PERSON DESCRIBED IN
29 TITLE 17, SUBTITLE 1 OF THE ESTATES AND TRUSTS ARTICLE.

30 GRANT OF GENERAL AUTHORITY

31 EXCEPT AS OTHERWISE PROVIDED IN THE SPECIAL INSTRUCTIONS, I GRANT MY
32 AGENT AND ANY SUCCESSOR AGENT GENERAL AUTHORITY TO ACT FOR ME IN MY
33 NAME WITH RESPECT TO THE FOLLOWING MATTERS AND TO THE EXTENT THAT I
34 AM PERMITTED BY LAW TO ACT THROUGH AN AGENT:

1 (INITIAL EACH SUBJECT YOU WANT TO INCLUDE IN THE AGENT'S GENERAL
 2 AUTHORITY. IF YOU WISH TO GRANT GENERAL AUTHORITY OVER ALL OF THE
 3 SUBJECTS YOU MAY INITIAL "ALL PRECEDING SUBJECTS" INSTEAD OF
 4 INITIALING EACH SUBJECT.)

- 5 REAL PROPERTY
 6 TANGIBLE PERSONAL PROPERTY
 7 STOCKS AND BONDS
 8 COMMODITIES AND OPTIONS
 9 BANKS AND OTHER FINANCIAL INSTITUTIONS
 10 OPERATION OF ENTITY OR BUSINESS
 11 INSURANCE AND ANNUITIES
 12 ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS
 13 CLAIMS AND LITIGATION
 14 PERSONAL AND FAMILY MAINTENANCE
 15 BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY
 16 SERVICE
 17 RETIREMENT PLANS
 18 TAXES
- 19 ALL PRECEDING SUBJECTS

20 **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

21 MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME
 22 UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:

23 (CAUTION: GRANTING ANY OF THE FOLLOWING WILL GIVE YOUR
 24 AGENT THE AUTHORITY TO TAKE ACTIONS THAT COULD
 25 SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR
 26 PROPERTY IS DISTRIBUTED AT YOUR DEATH. INITIAL ONLY THE
 27 SPECIFIC AUTHORITY YOU WANT TO GIVE YOUR AGENT.)

- 28 CREATE, AMEND, REVOKE, OR TERMINATE AN INTER VIVOS TRUST
 29 MAKE A GIFT, SUBJECT TO THE LIMITATIONS IN ANY SPECIAL
 30 INSTRUCTIONS IN THIS POWER OF ATTORNEY
 31 CREATE OR CHANGE RIGHTS OF SURVIVORSHIP
 32 CREATE OR CHANGE A BENEFICIARY DESIGNATION
 33 AUTHORIZE ANOTHER PERSON TO EXERCISE THE AUTHORITY GRANTED
 34 UNDER THIS POWER OF ATTORNEY
 35 WAIVE THE PRINCIPAL'S RIGHT TO BE A BENEFICIARY OF A JOINT AND
 36 SURVIVOR ANNUITY, INCLUDING A SURVIVOR BENEFIT UNDER A
 37 RETIREMENT PLAN

- 1 EXERCISE FIDUCIARY POWERS THAT THE PRINCIPAL HAS AUTHORITY TO
- 2 DELEGATE
- 3 DISCLAIM OR REFUSE AN INTEREST IN PROPERTY, INCLUDING A POWER
- 4 OF APPOINTMENT

EXPENSES OF AGENT (CHOOSE ONE)

- 6 MY AGENT MAY NOT RECEIVE REIMBURSEMENT FOR EXPENSES.
- 7 MY AGENT SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES
- 8 OR REIMBURSEMENT FOR EXPENSES AS SPECIFIED IN THE SPECIAL
- 9 INSTRUCTIONS.

COMPENSATION OF AGENT (CHOOSE ONE)

- 11 MY AGENT SHALL SERVE WITHOUT COMPENSATION.
- 12 MY AGENT SHALL RECEIVE COMPENSATION THAT IS REASONABLE UNDER
- 13 THE CIRCUMSTANCES OR COMPENSATION AS SPECIFIED IN THE SPECIAL
- 14 INSTRUCTIONS.

LIMITATION ON AGENT'S AUTHORITY

16 MY AGENT MAY NOT USE MY PROPERTY TO BENEFIT THE AGENT OR A PERSON
17 TO WHOM MY AGENT OWES AN OBLIGATION OF SUPPORT UNLESS I HAVE
18 INCLUDED THAT AUTHORITY IN THE SPECIAL INSTRUCTIONS.

SPECIAL INSTRUCTIONS (OPTIONAL)

20 YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

21 _____

22 _____

23 _____

24 _____

25 _____

26 _____

EFFECTIVE DATE

28 THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY UNLESS I HAVE STATED
29 OTHERWISE IN THE SPECIAL INSTRUCTIONS.

NOMINATION OF GUARDIAN (OPTIONAL)

30

1 IF IT BECOMES NECESSARY FOR A COURT TO APPOINT A GUARDIAN OF MY
2 ESTATE OR GUARDIAN OF MY PERSON, I NOMINATE THE FOLLOWING PERSON(S)
3 FOR APPOINTMENT:

4 NAME OF NOMINEE FOR GUARDIAN OF MY ESTATE:

5 _____

6 NOMINEE'S ADDRESS: _____

7 NOMINEE'S TELEPHONE NUMBER: _____

8 NAME OF NOMINEE FOR GUARDIAN OF MY PERSON:

9 _____

10 NOMINEE'S ADDRESS: _____

11 NOMINEE'S TELEPHONE NUMBER: _____

12 **SIGNATURE OF PRINCIPAL**

13 _____

14 **YOUR SIGNATURE**

DATE

15 _____

16 **YOUR NAME PRINTED**

17 _____

18 _____

19 **YOUR ADDRESS**

20 _____

21 **YOUR TELEPHONE NUMBER**

22 **STATE OF MARYLAND**

23 **(COUNTY) OF** _____

24 **CERTIFICATION OF PREPARATION OF THIS POWER OF ATTORNEY**

25 **THIS POWER OF ATTORNEY WAS PREPARED BY:**

26 _____

27 **NAME OF PREPARER**

28 _____

29 **ADDRESS OF PREPARER**

30 _____

31 **TELEPHONE NUMBER OF PREPARER**

32 _____

33 **ATTORNEY'S SIGNATURE**

DATE

1 _____
2 ATTORNEY'S NAME (PRINTED)

3 SIGNATURE AND ATTESTATION OF WITNESS (TWO REQUIRED)

4 THIS POWER OF ATTORNEY WAS SIGNED AND DECLARED BY
5 _____, THE PRINCIPAL NAMED ABOVE, AS THE PRINCIPAL'S POWER
6 OF ATTORNEY, IN MY PRESENCE AND I HAVE, AT THE REQUEST AND IN THE
7 CONSCIOUS PRESENCE OF THE PRINCIPAL, I HAVE SIGNED MY NAME AS AN
8 ATTESTING WITNESS.

9 _____
10 SIGNATURE OF WITNESS DATE

11 _____
12 PRINTED NAME OF WITNESS

13 _____
14 _____

15 ADDRESS OF WITNESS

16 _____

17 TELEPHONE NUMBER OF WITNESS

18 SIGNATURE AND ATTESTATION OF WITNESS (TWO REQUIRED)

19 THIS POWER OF ATTORNEY WAS SIGNED AND DECLARED BY
20 _____, THE PRINCIPAL NAMED ABOVE, AS THE PRINCIPAL'S
21 POWER OF ATTORNEY, IN MY PRESENCE AND I HAVE, AT THE REQUEST AND IN
22 THE CONSCIOUS PRESENCE OF THE PRINCIPAL, I HAVE SIGNED MY NAME AS AN
23 ATTESTING WITNESS.

24 _____
25 SIGNATURE OF WITNESS DATE

26 _____
27 PRINTED NAME OF WITNESS

28 _____

29 _____

30 ADDRESS OF WITNESS

31 _____

32 TELEPHONE NUMBER OF WITNESS

33 IMPORTANT INFORMATION FOR AGENT

34 AGENT'S DUTIES

1 **WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF**
 2 **ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND**
 3 **THE PRINCIPAL. THIS RELATIONSHIP IMPOSES ON YOU LEGAL DUTIES THAT**
 4 **CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR**
 5 **REVOKED. BEFORE ACCEPTING APPOINTMENT AS AN AGENT, YOU SHOULD**
 6 **SEEK LEGAL ADVICE.**

7 **YOU MUST DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR**
 8 **THE PRINCIPAL BY WRITING OR PRINTING THE NAME OF THE PRINCIPAL AND**
 9 **SIGNING YOUR OWN NAME AS “AGENT” IN THE FOLLOWING MANNER:**

10

11 _____ BY _____
 (PRINCIPAL’S NAME) (YOUR SIGNATURE) AS AGENT

12 **YOU MUST KEEP A RECORD OF ALL RECEIPTS, DISBURSEMENTS, AND**
 13 **TRANSACTIONS MADE ON BEHALF OF THE PRINCIPAL AND, UNLESS OTHERWISE**
 14 **SPECIFIED IN THE SPECIAL INSTRUCTIONS, YOU MUST FILE AN ANNUAL**
 15 **ACCOUNTING IN THE CIRCUIT COURT IN WHICH THIS POWER OF ATTORNEY IS**
 16 **RECORDED WITH A CERTIFICATION OF MAILING OR DELIVERY OF THE FILING**
 17 **TO EACH INTERESTED PERSON DESCRIBED IN § 17-101 OF THE ESTATES AND**
 18 **TRUSTS ARTICLE.**

19 **TERMINATION OF AGENT’S AUTHORITY**

20 **YOU MUST STOP ACTING ON BEHALF OF THE PRINCIPAL IF YOU LEARN OF ANY**
 21 **EVENT THAT TERMINATES THIS POWER OF ATTORNEY OR YOUR AUTHORITY**
 22 **UNDER THIS POWER OF ATTORNEY. AMONG THE EVENTS THAT TERMINATE A**
 23 **POWER OF ATTORNEY OR YOUR AUTHORITY TO ACT UNDER A POWER OF**
 24 **ATTORNEY ARE THE FOLLOWING:**

- 25 (1) **DEATH OF THE PRINCIPAL;**
 26 (2) **THE PRINCIPAL’S REVOCATION OF THE POWER OF ATTORNEY OR**
 27 **YOUR AUTHORITY;**
 28 (3) **THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE**
 29 **POWER OF ATTORNEY; OR**
 30 (4) **THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY**
 31 **ACCOMPLISHED.”**

32 **17-202.**

33 **THE FOLLOWING OPTIONAL FORM MAY BE USED BY AN AGENT TO CERTIFY**
 34 **FACTS CONCERNING A POWER OF ATTORNEY:**

1 **THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON**

2 _____,

3 **(DATE)**

4 **BY** _____.

5 **(NAME OF AGENT)**

6 _____ **(SEAL, IF ANY)**

7 **SIGNATURE OF NOTARY**

8 **MY COMMISSION EXPIRES:** _____

9 **THIS DOCUMENT PREPARED BY:**

10 _____”.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2009.