

5906

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. TITONE -- read once and referred to the Committee
on Banks

AN ACT to amend the banking law, in relation to the use of powers of
attorney in banking transactions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The banking law is amended by adding two new sections 9-v
2 and 9-w to read as follows:
3 S 9-V. ACCEPTANCE OF STATUTORY SHORT FORM POWER OF ATTORNEY. 1. NO
4 BANK, TRUST COMPANY, NATIONAL BANK, SAVINGS BANK, FEDERAL MUTUAL SAVINGS
5 BANK LOCATED IN THIS STATE, SAVINGS AND LOAN ASSOCIATION, FEDERAL
6 SAVINGS AND LOAN ASSOCIATION, FEDERAL MUTUAL SAVINGS AND LOAN ASSOCI-
7 ATION, CREDIT UNION OR FEDERAL CREDIT UNION OR BRANCH OF A FOREIGN BANK-
8 ING CORPORATION OR ANY OTHER CORPORATION AUTHORIZED TO CONDUCT BANKING
9 BUSINESS IN THIS STATE (EACH OF THE FOREGOING REFERRED TO IN THIS
10 SECTION AS "BANKING INSTITUTION") LOCATED IN THIS STATE SHALL REFUSE TO
11 HONOR A STATUTORY SHORT FORM POWER OF ATTORNEY PROPERLY EXECUTED IN
12 ACCORDANCE WITH SECTION 5-1501B OF THE GENERAL OBLIGATIONS LAW.
13 2. THE FAILURE OF A BANKING INSTITUTION TO HONOR A PROPERLY EXECUTED
14 STATUTORY SHORT FORM POWER OF ATTORNEY SHALL BE DEEMED UNLAWFUL.
15 3. NO BANKING INSTITUTION RECEIVING AND RETAINING A STATUTORY SHORT
16 FORM POWER OF ATTORNEY PRESENTED TO IT AS PROVIDED IN SUBDIVISION ONE OF
17 THIS SECTION NOR ANY OFFICER, AGENT OR EMPLOYEE OF SUCH INSTITUTION
18 SHALL INCUR ANY LIABILITY BY REASON OF ACTING UPON THE AUTHORITY THEREOF
19 UNLESS THE INSTITUTION SHALL HAVE ACTUALLY RECEIVED, AT THE OFFICE WHERE
20 THE ACCOUNT IS LOCATED, WRITTEN NOTICE OF THE REVOCATION OR TERMINATION
21 OF SUCH POWER OF ATTORNEY.
22 4. IF THE APPLICATION OF THE PROVISIONS OF SUBDIVISION ONE OR TWO OF
23 THIS SECTION SHALL BE HELD INVALID TO ANY BANKING INSTITUTION, THE
24 APPLICATION OF SUCH PROVISIONS TO ANY OTHER BANKING INSTITUTION OTHER
25 THAN THOSE TO WHICH IT IS HELD INVALID, SHALL NOT BE AFFECTED THEREBY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 9-W. POWERS OF ATTORNEY WHICH SURVIVE DISABILITY OR INCOMPETENCE. 1.
2 THE SUBSEQUENT DISABILITY OR INCOMPETENCE OF A PRINCIPAL SHALL NOT
3 REVOKE OR TERMINATE THE AUTHORITY OF AN ATTORNEY-IN-FACT WHO ACTS UNDER
4 A POWER OF ATTORNEY IN A WRITING EXECUTED BY SUCH PRINCIPAL WHICH
5 CONTAINS THE WORDS "THIS POWER OF ATTORNEY SHALL NOT BE AFFECTED BY THE
6 SUBSEQUENT DISABILITY OR INCOMPETENCE OF THE PRINCIPAL," OR WORDS OF
7 SIMILAR IMPORT SHOWING THE INTENT OF SUCH PRINCIPAL THAT THE AUTHORITY
8 CONFERRED SHALL BE EXERCISABLE NOTWITHSTANDING HIS SUBSEQUENT DISABILITY
9 OR INCOMPETENCE.

10 2. ALL ACTS DONE BY AN ATTORNEY-IN-FACT PURSUANT TO A POWER GRANTED
11 PURSUANT TO SUBDIVISION ONE OF THIS SECTION DURING ANY PERIOD OF DISA-
12 BILITY OR INCOMPETENCE SHALL HAVE THE SAME EFFECT AND INURE TO THE BENE-
13 FIT OF AND BIND A PRINCIPAL AND HIS DISTRIBUTEES, DEVISEES, LEGATEES AND
14 PERSONAL REPRESENTATIVES AS IF SUCH PRINCIPAL WERE COMPETENT AND NOT
15 DISABLED. IF A COMMITTEE OR CONSERVATOR THEREAFTER IS APPOINTED FOR
16 SUCH PRINCIPAL, SUCH ATTORNEY-IN-FACT, DURING THE CONTINUANCE OF THE
17 APPOINTMENT, SHALL ACCOUNT TO THE COMMITTEE OR CONSERVATOR RATHER THAN
18 TO SUCH PRINCIPAL. THE COMMITTEE OR CONSERVATOR SHALL HAVE THE SAME
19 POWER SUCH PRINCIPAL WOULD HAVE HAD IF HE WERE NOT DISABLED OR INCOMPE-
20 TENT TO REVOKE, SUSPEND OR TERMINATE ALL OR ANY PART OF SUCH POWER OF
21 ATTORNEY.

22 S 2. This act shall take effect immediately.