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I N  S E N A T E

March 29, 2010

Introduced by Sens. SAMPSON, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law, in relation to powers of attorney for financial and estate planning; and directing the law revision commission to study the implementation of such powers of attorney

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

Section 1. The title heading of title 15 of article 5 of the general obligations law, as amended by chapter 644 of the laws of 2008, is amended to read as follows:

STATUTORY SHORT FORM AND OTHER POWERS OF ATTORNEY FOR FINANCIAL AND ESTATE PLANNING

S 2. Section 5-1501 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1501. [Definitions] APPLICATION AND DEFINITIONS. 1. THIS TITLE SHALL APPLY TO ALL POWERS OF ATTORNEY EXCEPT POWERS OF ATTORNEY EXCLUDED FROM THIS TITLE BY SECTION 5-1501C OF THIS TITLE.

2. As used in this title the following terms shall have the following meanings:

[1.] (A) "Agent" means a person granted authority to act as attorney-in-fact for the principal under a power of attorney, and includes the original agent and any co-agent or successor agent. Unless the context indicates otherwise, an "agent" designated in a power of attorney shall mean "attorney-in-fact" for the purposes of this title. An agent acting under a power of attorney has a fiduciary relationship with the principal.

[2.] (B) "Benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or governmental regulation, including social security, medicare and medicaid.

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

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[3.] (C) "Capacity" means ability to comprehend the nature and consequences of the act of executing and granting, revoking, amending or modifying a power of attorney, any provision in a power of attorney, or the authority of any person to act as agent under a power of attorney.

[4.] (D) "Compensation" means reasonable compensation authorized to be paid to the agent from assets of the principal for services actually rendered by the agent pursuant to the authority granted in a power of attorney.

[5.] (E) "Financial institution" means a financial entity, including, but not limited to: a bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, federal mutual savings and loan association, credit union, federal credit union, branch of a foreign banking corporation, public pension fund, retirement system, securities broker, securities dealer, securities firm, and insurance company.

[6.] (F) "Incapacitated" means to be without capacity.

[7.] (G) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended. Such references, however, shall be deemed to constitute references to any corresponding provisions of any subsequent federal tax code.

[8.] (H) "Monitor" means a person appointed in the power of attorney who has the authority to request, receive, and seek to compel the agent to provide a record of all receipts, disbursements, and transactions entered into by the agent on behalf of the principal.

[9.] (I) "Person" means an individual, whether acting for himself or herself, or as a fiduciary or as an official of any legal, governmental or commercial entity (including, but not limited to, any such entity identified in this subdivision), corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, government agency, government entity, government instrumentality, public corporation, or any other legal or commercial entity.

[10.] (J) "Power of attorney" means a written document, OTHER THAN A DOCUMENT REFERRED TO IN SECTION 5-1501C OF THIS TITLE, by which a principal with capacity designates an agent to act on his or her behalf.

[11.] (K) "Principal" means an individual who is eighteen years of age or older, ACTING FOR HIMSELF OR HERSELF AND NOT AS A FIDUCIARY OR AS AN OFFICIAL OF ANY LEGAL, GOVERNMENTAL OR COMMERCIAL ENTITY, who executes a power of attorney.

[12.] (L) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[13.] (M) "Sign" means to place any memorandum, mark or sign, written, printed, stamped, photographed, engraved or otherwise upon an instrument or writing, or to use an electronic signature as that term is defined in subdivision three of section three hundred two of the state technology law, with the intent to execute the instrument, writing or electronic record. In accordance with the requirements of section three hundred seven of the state technology law, a power of attorney or any other instrument executed by the principal or agent that is recordable under the real property law shall not be executed with an electronic signature.

[14.] (N) "Statutory [major] gifts rider" or ["SMGR"] "SGR" means a document by which the principal may supplement a statutory short form power of attorney to authorize [major] CERTAIN gift transactions [and other transfers], [that meets] OTHER THAN THOSE PERMITTED BY SUBDIVISION

FOURTEEN OF SECTION 5-1502I OF THIS TITLE. THE DOCUMENT MUST MEET the requirements of subdivision nine of section 5-1514 of this title, and [that contains] CONTAIN the exact wording of the form set forth in subdivision ten of section 5-1514 of this title. A MISTAKE IN WORDING, SUCH AS IN SPELLING, PUNCTUATION OR FORMATTING, OR THE USE OF BOLD OR ITALIC TYPE, SHALL NOT PREVENT A STATUTORY GIFTS RIDER FROM BEING DEEMED A STATUTORY GIFTS RIDER, BUT THE WORDING OF THE FORM SET FORTH IN SUBDIVISION TEN OF SECTION 5-1514 OF THIS TITLE SHALL GOVERN. The use of the form set forth in subdivision ten of section 5-1514 of this title is lawful and when used, it shall be construed as a statutory [major] gifts rider. A statutory [major] gifts rider may contain modifications or additions as provided in section 5-1503 of this title as such modifications or additions relate to [major] ALL gift transactions [and other transfers]. The statutory [major] gifts rider must be executed in the manner provided in section 5-1514 of this title, simultaneously with the statutory short form power of attorney in which the authority [(SMGR)] (SGR) is initialed by the principal. A statutory [major] gifts rider and the statutory short form power of attorney it supplements must be read together as a single instrument.

[15.] (O) "Statutory short form power of attorney" means a power of attorney that meets the requirements of paragraphs (a), (b) and (c) of subdivision one of section 5-1501B of this title, and that contains the exact wording of the form set forth in section 5-1513 of this title. A MISTAKE IN WORDING, SUCH AS IN SPELLING, PUNCTUATION OR FORMATTING, OR THE USE OF BOLD OR ITALIC TYPE, SHALL NOT PREVENT A POWER OF ATTORNEY FROM BEING DEEMED A STATUTORY SHORT FORM POWER OF ATTORNEY, BUT THE WORDING OF THE FORM SET FORTH IN SECTION 5-1513 OF THIS TITLE SHALL GOVERN. The use of the form set forth in section 5-1513 of this title is lawful and when used, it shall be construed as a statutory short form power of attorney. A statutory short form power of attorney may be used to grant authority provided in sections 5-1502A through 5-1502N of this title. A "statutory short form power of attorney" may contain modifications or additions as provided in section 5-1503 of this title, but in no event may it be modified to grant any authority provided in section 5-1514 of this title. If the authority [(SMGR)] (SGR) on the statutory short form is initialed by the principal, the statutory short form power of attorney must be executed in the manner provided in section 5-1501B of this title, simultaneously with the statutory [major] gifts rider. A statutory short form power of attorney and a statutory [major] gifts rider which supplements it must be read together as a single instrument.

[16.] (P) "NON-STATUTORY POWER OF ATTORNEY" MEANS A POWER OF ATTORNEY THAT IS NOT A STATUTORY SHORT FORM POWER OF ATTORNEY.

(Q) "Third party" means a financial institution or person OTHER THAN A PRINCIPAL OR AN AGENT.

S 3. The opening paragraph and paragraphs (b) and (c) of subdivision 1 of section 5-1501B of the general obligations law, as added by chapter 644 of the laws of 2008, are amended to read as follows:

To be valid, EXCEPT AS OTHERWISE PROVIDED IN SECTION 5-1512 OF THIS TITLE, a statutory short form power of attorney, or a non-statutory power of attorney, executed in this state by [an individual] A PRINCIPAL, must:

(b) Be signed and dated by a principal with capacity, with the signature of the principal duly acknowledged in the manner prescribed for the [acknowledgement] ACKNOWLEDGMENT of a conveyance of real property.

(c) Be signed and dated by any agent acting on behalf of the principal with the signature of the agent duly acknowledged in the manner

prescribed for the [acknowledgement] ACKNOWLEDGMENT of a conveyance of real property. A power of attorney executed pursuant to this section is not invalid solely because there has been a lapse of time between the date of acknowledgment of the signature of the principal and the date OR DATES of [acknowledgement] ACKNOWLEDGMENT of the signature OR SIGNATURES of [the] ANY agent [acting] OR AGENTS OR SUCCESSOR AGENT OR SUCCESSOR AGENTS AUTHORIZED TO ACT on behalf of the principal or because the principal became incapacitated during any such lapse of time.

S 4. The opening paragraph and paragraph (a) of subdivision 2 of section 5-1501B of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

In addition to the requirements of subdivision one of this section, to be valid for the purpose of authorizing the agent to make [any gift or other transfer] CERTAIN GIFT TRANSACTIONS described in section 5-1514 of this title:

(a) a statutory short form power of attorney must contain the authority [(SMGR)] (SGR) initialed by the principal and be accompanied by a valid statutory [major] gifts rider; and

S 5. Subdivisions 3 and 4 of section 5-1501B of the general obligations law, as added by chapter 644 of the laws of 2008, are amended to read as follows:

3. (a) The date on which an agent's signature is acknowledged is the effective date of the power of attorney as to that agent; provided, however, that if two or more agents are designated to act together, the power of attorney takes effect when all the agents so designated have signed [the] SUCH power of attorney with their signatures acknowledged.

(b) If the power of attorney states that it takes effect upon the occurrence of a date or a contingency specified in the document, then the power of attorney takes effect only when the date or contingency identified in the document has occurred, and the signature of the agent acting on behalf of the principal has been acknowledged. If the document requires that a person or persons named or otherwise identified therein declare, in writing, that the identified contingency has occurred, such a declaration satisfies the requirement of this paragraph without regard to whether the specified contingency has occurred.

4. Nothing of this title shall be construed to bar the use OR VALIDITY of any other or different form of power of attorney desired by a person other than [an individual] A PRINCIPAL as the term [person] PRINCIPAL is defined in section 5-1501 of this title.

S 6. The general obligations law is amended by adding a new section 5-1501C to read as follows:

S 5-1501C. POWERS OF ATTORNEY EXCLUDED FROM THIS TITLE. THE PROVISIONS OF THIS TITLE SHALL NOT APPLY TO THE FOLLOWING POWERS OF ATTORNEY:

1. A POWER OF ATTORNEY GIVEN PRIMARILY FOR A BUSINESS OR COMMERCIAL PURPOSE, INCLUDING WITHOUT LIMITATION:

(A) A POWER TO THE EXTENT IT IS COUPLED WITH AN INTEREST IN THE SUBJECT OF THE POWER;

(B) A POWER GIVEN TO OR FOR THE BENEFIT OF A CREDITOR IN CONNECTION WITH A LOAN OR OTHER CREDIT TRANSACTION;

(C) A POWER GIVEN TO FACILITATE TRANSFER OR DISPOSITION OF ONE OR MORE SPECIFIC STOCKS, BONDS OR OTHER ASSETS, WHETHER REAL, PERSONAL, TANGIBLE OR INTANGIBLE;

2. A PROXY OR OTHER DELEGATION TO EXERCISE VOTING RIGHTS OR MANAGEMENT RIGHTS WITH RESPECT TO AN ENTITY;

3. A POWER CREATED ON A FORM PRESCRIBED BY A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY FOR A GOVERNMENTAL PURPOSE;

4. A POWER AUTHORIZING A THIRD PARTY TO PREPARE, EXECUTE, DELIVER, SUBMIT AND/OR FILE A DOCUMENT OR INSTRUMENT WITH A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY OR OTHER THIRD PARTY;

5. A POWER AUTHORIZING A FINANCIAL INSTITUTION OR EMPLOYEE OF A FINANCIAL INSTITUTION TO TAKE ACTION RELATING TO AN ACCOUNT IN WHICH THE FINANCIAL INSTITUTION HOLDS CASH, SECURITIES, COMMODITIES OR OTHER FINANCIAL ASSETS ON BEHALF OF THE PERSON GIVING THE POWER;

6. A POWER GIVEN BY AN INDIVIDUAL WHO IS OR IS SEEKING TO BECOME A DIRECTOR, OFFICER, SHAREHOLDER, EMPLOYEE, PARTNER, LIMITED PARTNER, MEMBER, UNIT OWNER OR MANAGER OF A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, CONDOMINIUM OR OTHER LEGAL OR COMMERCIAL ENTITY IN HIS OR HER CAPACITY AS SUCH;

7. A POWER CONTAINED IN A PARTNERSHIP AGREEMENT, LIMITED LIABILITY COMPANY OPERATING AGREEMENT, DECLARATION OF TRUST, DECLARATION OF CONDOMINIUM, CONDOMINIUM BYLAWS, CONDOMINIUM OFFERING PLAN OR OTHER AGREEMENT OR INSTRUMENT GOVERNING THE INTERNAL AFFAIRS OF AN ENTITY AUTHORIZING A DIRECTOR, OFFICER, SHAREHOLDER, EMPLOYEE, PARTNER, LIMITED PARTNER, MEMBER, UNIT OWNER, MANAGER OR OTHER PERSON TO TAKE LAWFUL ACTION RELATING TO SUCH ENTITY;

8. A POWER GIVEN TO A CONDOMINIUM MANAGING AGENT TO TAKE ACTION IN CONNECTION WITH THE USE, MANAGEMENT AND OPERATION OF A CONDOMINIUM UNIT;

9. A POWER GIVEN TO A LICENSED REAL ESTATE BROKER TO TAKE ACTION IN CONNECTION WITH A LISTING OF REAL PROPERTY, MORTGAGE LOAN, LEASE OR MANAGEMENT AGREEMENT;

10. A POWER AUTHORIZING ACCEPTANCE OF SERVICE OF PROCESS ON BEHALF OF THE PRINCIPAL; AND

11. A POWER CREATED PURSUANT TO AUTHORIZATION PROVIDED BY A FEDERAL OR STATE STATUTE, OTHER THAN THIS TITLE, THAT SPECIFICALLY CONTEMPLATES CREATION OF THE POWER, INCLUDING WITHOUT LIMITATION A POWER TO MAKE HEALTH CARE DECISIONS OR DECISIONS INVOLVING THE DISPOSITION OF REMAINS.

NOTHING IN THIS SECTION SHALL BE DEEMED TO PROHIBIT USE OF A STATUTORY SHORT FORM POWER OF ATTORNEY OR A NONSTATUTORY POWER OF ATTORNEY IN CONNECTION WITH ANY OF THE TRANSACTIONS DESCRIBED IN THIS SECTION.

S 7. Subdivisions 2, 9 and 10 of section 5-1502A of the general obligations law, subdivisions 2 and 9 as amended by chapter 644 of the laws of 2008, are amended to read as follows:

2. To sell, to exchange, to convey either with or without covenants, to quit-claim, to release, to surrender, to mortgage, to incumber, to partition or to consent to the partitioning, TO CREATE, MODIFY OR REVOKE A TRUST UNLESS SUCH CREATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, to grant options concerning, to lease or to sublet, or otherwise to dispose of, any estate or interest in land;

9. To execute, to acknowledge, to seal and to deliver any deed, CREATION, MODIFICATION OR REVOCATION OF A TRUST UNLESS SUCH CREATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, mortgage, lease, notice, check or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

10. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the princi-

pal based on or involving any real estate transaction or to intervene in any action or proceeding relating thereto;

S 8. Subdivisions 2, 7 and 8 of section 5-1502B of the general obligations law, subdivisions 2 and 7 as amended by chapter 644 of the laws of 2008, are amended to read as follows:

2. To sell, to exchange, to convey either with or without covenants, to release, to surrender, to mortgage, to incumber, to pledge, to hypothecate, to pawn, TO CREATE, MODIFY OR REVOKE A TRUST UNLESS SUCH CREATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE to grant options concerning, to lease or to sublet to others, or otherwise to dispose of any chattel or goods or any interest in any chattel or goods;

7. To execute, to acknowledge, to seal and to deliver any conveyance, mortgage, lease, CREATION, REVOCATION OR MODIFICATION OF A TRUST UNLESS SUCH CREATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, notice, check or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

8. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any chattel or goods transaction or to intervene in any action or proceeding relating thereto;

S 9. Subdivisions 2, 9 and 11 of section 5-1502C of the general obligations law, subdivisions 2 and 9 as amended by chapter 644 of the laws of 2008, are amended to read as follows:

2. To sell (including short sales), to exchange, to transfer either with or without a guaranty, to release, to surrender, to hypothecate, to pledge, TO CREATE, MODIFY OR REVOKE A TRUST UNLESS SUCH CREATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, to grant options concerning, to loan, to trade in, or otherwise to dispose of any bond, share, instrument of similar character, commodity interest or any instrument with respect thereto;

9. To execute, to acknowledge, to seal and to deliver any consent, agreement, authorization, CREATION, MODIFICATION OR REVOCATION OF A TRUST UNLESS SUCH CREATION, DECLARATION, MODIFICATION OR REVOCATION IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, assignment, notice, waiver of notice, check, or other instrument which the agent may think useful for the accomplishment of any of the purposes enumerated in this section;

11. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any bond, share or commodity transaction or to intervene in any action or proceeding relating thereto;

S 10. Paragraphs (a) and (b) of subdivision 1 of section 5-1502D of the general obligations law, as added by chapter 644 of the laws of 2008, are amended to read as follows:

(a) with respect to joint accounts existing at the creation of the agency, the authority granted hereby shall not include the power to change the title of the account by the addition of a new joint tenant or the deletion of an existing joint tenant, unless the authority to make such changes is conveyed in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgement

of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title, and

(b) with respect to totten trust accounts existing at the creation of the agency, the authority granted hereby shall not include the power to add, delete, or otherwise change the designation of beneficiaries in effect for any such accounts, unless the authority to make such additions, deletions or changes is conveyed in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title.

S 11. Subdivision 15 of section 5-1502D of the general obligations law is amended to read as follows:

15. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any banking transaction or to intervene in any action or proceeding relating thereto;

S 12. Subdivisions 1, 2 and 8 of section 5-1502E of the general obligations law are amended to read as follows:

1. To the extent that an agent is permitted by law thus to act for a principal, to discharge and to perform any duty or liability and also to exercise any right, power, privilege or option which the principal has, or claims to have, under any contract of partnership whether the principal is a general or special partner thereunder, to enforce the terms of any such partnership agreement for the protection of the principal, by action, proceeding or otherwise, as the agent shall think to be desirable or necessary, and to defend, submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, settle or compromise any action or other legal proceeding to which the principal is a party because of his membership in said partnership;

2. To exercise in person or by proxy or to enforce by action, proceeding or otherwise, any right, power, privilege or option which the principal has as the holder of any bond, share, or other instrument of similar character and to defend, submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, settle or compromise any action or other legal proceeding to which the principal is a party because of any such bond, share, or other instrument of similar character;

8. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any business operating transaction or to intervene in any action or proceeding relating thereto;

S 13. Subdivisions 1, 3 and 11 of section 5-1502F of the general obligations law, subdivisions 1 and 3 as amended by chapter 644 of the laws of 2008, are amended to read as follows:

1. To continue, to pay the premium or assessment on, to modify, to rescind, to release or to terminate any contract of life, accident, health, disability or liability insurance or any combination of such insurance procured by or on behalf of the principal prior to the creation of the agency which insures either the principal or any other person, without regard to whether the principal is or is not a beneficiary thereunder; provided, however, with respect to life insurance

contracts existing at the creation of the agency, the authority granted hereby shall not include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract, unless the authority to make such additions, deletions or changes is conveyed in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title;

3. To apply for and to receive any available loan on the security of the contract of insurance, whether for the payment of a premium or for the procuring of cash, to surrender and thereupon to receive the cash surrender value, to exercise an election as to beneficiary or mode of payment, to change the manner of paying premiums, and to change or to convert the type of insurance contract, with respect to any contract of life, accident, health, disability or liability insurance as to which the principal has, or claims to have, any one or more of the powers described in this section; provided, however, that the authority granted hereby shall not include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract, unless the authority to make such additions, deletions or changes is conveyed in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title;

11. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to any claim existing in favor of, or against, the principal based on or involving any insurance transaction or to intervene in any action or proceeding relating thereto;

S 14. Subdivision 8 of section 5-1502G of the general obligations law is amended to read as follows:

8. To submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION or to settle, and to propose or to accept a compromise with respect to any controversy or claim which affects the estate of a decedent, absentee, infant or incompetent, or the administration of a trust or other fund, in any one of which the principal has, or claims to have, an interest, and to do any and all acts which the agent shall think to be desirable or necessary in effectuating such compromise;

S 15. Subdivision 5 of section 5-1502H of the general obligations law is amended to read as follows:

5. To submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of or against the principal, or any litigation to which the principal is, or may become or be designated a party;

S 16. Subdivisions 12 and 14 of section 5-1502I of the general obligations law, subdivision 14 as added by chapter 644 of the laws of 2008, are amended to read as follows:

12. To prosecute, to defend, to submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, to settle, and to propose or to accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any transaction enumerated in this section or to intervene in any action or proceeding relating thereto;

14. To continue gifts that the principal customarily made to individuals and charitable organizations prior to the creation of the agency, provided that [no person or charitable organization may be the recipient of gifts] in any one calendar year [which, in the aggregate,] ALL SUCH GIFTS SHALL NOT exceed five hundred dollars IN THE AGGREGATE; and

S 17. Subdivisions 2, 4 and 6 of section 5-1502L of the general obligations law, subdivisions 2 and 4 as amended by chapter 644 of the laws of 2008 and subdivision 6 as added by chapter 499 of the laws of 1996, are amended to read as follows:

2. To make investment directions, to select and change payment options, and to exercise any other election for the principal with regard to any retirement benefit or plan in which the principal has an interest, provided, however, that the authority granted hereby shall not include the authority to add, delete, or otherwise change the designation of beneficiaries in effect for any such retirement benefit or plan, unless the authority to make such additions, deletions or changes is conveyed in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title;

4. To prepare, execute and deliver any application, agreement, TRUST AGREEMENT UNLESS SUCH TRUST AGREEMENT IS A GIFT TRANSACTION GOVERNED BY SECTION 5-1514 OF THIS TITLE, authorization, check or other instrument or document which may be required under the terms of any retirement benefit or plan in which the principal has an interest or by the administrator thereof, or which the agent deems useful for the accomplishment of any of the purposes enumerated in this section;

6. To prosecute, defend, submit to [arbitration] ALTERNATIVE DISPUTE RESOLUTION, settle, and propose or accept a compromise with respect to any claim existing in favor of, or against, the principal based upon or involving any retirement benefit or plan and to intervene in any action or proceeding relating thereto;

S 18. Section 5-1503 of the general obligations law, as amended by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1503. Modifications of the statutory short form power of attorney and of the statutory [major] gifts rider. A power of attorney which satisfies the requirements of paragraphs (a), (b) and (c) of subdivision one of section 5-1501B and section 5-1513 of this title is not prevented from being a "statutory short form power of attorney", and a document which satisfies the requirements of section 5-1514 of this title is not prevented from being a "statutory [major] gifts rider" as either of these terms is used in the sections of this title, by the fact that it also contains additional language at the section labeled "modifications" which:

1. Eliminates from the statutory short form power of attorney or from the statutory [major] gifts rider one or more of the powers enumerated in one or more of the constructional sections of this title with respect to a subdivision of the statutory short form power of attorney or of the statutory [major] gifts rider, affirmatively chosen by the principal; or

2. Supplements one or more of the powers enumerated in one or more of the constructional sections in this title with respect to a subdivision of the statutory short form power of attorney or of the statutory [major] gifts rider, affirmatively chosen by the principal, by specifically listing additional powers of the agent; or

3. Makes some additional provision which is not inconsistent with the other provisions of the statutory short form power of attorney or of the statutory [major] gifts rider, INCLUDING A PROVISION REVOKING ONE OR MORE POWERS OF ATTORNEY PREVIOUSLY EXECUTED BY THE PRINCIPAL.

S 19. The opening paragraph of subdivision 1 of section 5-1504 of the general obligations law, as amended by chapter 644 of the laws of 2008, is amended to read as follows:

No third party located OR DOING BUSINESS in this state shall refuse, without reasonable cause, to honor a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title, including a statutory short form power of attorney which is supplemented by a statutory [major] gifts rider, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution.

S 20. Subparagraphs 1 and 9 of paragraph (a) of subdivision 1 of section 5-1504 of the general obligations law, as amended by chapter 644 of the laws of 2008, are amended to read as follows:

(1) the refusal by the agent to provide an original power of attorney or a copy certified by an attorney pursuant to [rule] SECTION twenty-one hundred five of the civil practice law and rules, or by a court or other government entity;

(9) the refusal by a title insurance company to underwrite title insurance for a [transfer] GIFT of real property made pursuant to a [major] STATUTORY gifts rider or non-statutory power of attorney that does not contain express instructions or purposes of the principal.

S 21. Paragraph (b) of subdivision 1 of section 5-1504 of the general obligations law, as amended by chapter 644 of the laws of 2008, is amended to read as follows:

(b) It shall be deemed unreasonable for a third party to refuse to honor a statutory short form power of attorney, including a statutory short form power of attorney which is supplemented by a statutory [major] gifts rider, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, if the only reason for the refusal is any of the following:

(1) the power of attorney is not on a form prescribed by the third party to whom the power of attorney is presented.

(2) there has been a lapse of time since the execution of the power of attorney.

(3) on the face of the statutory SHORT form power of attorney, there is a lapse of time between the date of acknowledgment of the signature of the principal and the date of acknowledgment of the signature of any agent.

S 22. Subdivisions 2, 3 and 5 of section 5-1504 of the general obligations law, subdivisions 2 and 3 as amended and subdivision 5 as added by chapter 644 of the laws of 2008, are amended and a new subdivision 7 is added to read as follows:

2. Except as provided in subdivision three of this section, it shall be deemed unlawful for a third party to unreasonably refuse to honor a properly executed statutory short form power of attorney, including a statutory short form power of attorney which is supplemented by a statutory [major] gifts rider, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution. A special proceeding as authorized by section 5-1510 of this title shall be the exclusive remedy for a violation of this section.

3. In the absence of actual knowledge that the principal lacked capacity to execute a statutory short form power of attorney or that the statutory short form power of attorney was procured through fraud, duress or undue influence, no third party receiving and retaining a properly executed statutory short form power of attorney, including a statutory short form power of attorney which is supplemented by a statutory [major] gifts rider or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution, or a complete photostatic copy of the properly executed original thereof, nor any officer, agent, attorney-in-fact or employee of such third party shall incur any liability by reason of acting upon the authority thereof unless the third party shall have received actual notice of the revocation or termination of such power of attorney.

If a principal maintains an account at a financial institution, the financial institution is deemed to have actual notice after it has had a reasonable opportunity to act on a written notice of the revocation or termination following its receipt of the same at its office where such account is located.

5. When the power of attorney is presented to a third party, it shall not be deemed unreasonable for a third party to require the agent to execute an acknowledged affidavit pursuant to this subdivision stating that the power of attorney is in full force and effect. Such an affidavit is conclusive proof to the third party relying on the power of attorney that the power of attorney is valid and effective, and has not been terminated [or], revoked OR MODIFIED, except as to any third party who had actual notice that the power of attorney had terminated [or], been revoked OR BEEN MODIFIED prior to the execution of the affidavit. Such affidavit shall state that:

(a) the agent does not have, at the time of the transaction, actual notice of the termination or revocation of the power of attorney, or notice of any facts indicating that the power of attorney has been terminated or revoked;

(b) the agent does not have, at the time of the transaction, actual notice that the power of attorney has been modified in any way that would affect the ability of the agent to authorize or engage in the transaction, or notice of any facts indicating that the power of attorney has been so modified; [and]

(c) if the agent was named as a successor agent, the prior agent is no longer able or willing to serve[.]; AND

(D) IF THE AGENT HAS BEEN THE PRINCIPAL'S SPOUSE, THE POWER OF ATTORNEY EXPRESSLY PROVIDES THAT DIVORCE OR ANNULMENT AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (F) OF SECTION 5-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW DOES NOT TERMINATE THE AGENT'S AUTHORITY THEREUNDER, OR THE AGENT DOES NOT HAVE ACTUAL NOTICE THAT THE MARRIAGE HAS BEEN TERMINATED BY DIVORCE OR ANNULMENT AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (F) OF SECTION 5-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW AT THE TIME OF THE TRANSACTION.

7. A STATUTORY SHORT FORM POWER OF ATTORNEY OR A NON-STATUTORY POWER OF ATTORNEY THAT MEETS THE REQUIREMENTS OF SUBDIVISION ONE OF SECTION 5-1501B OF THIS TITLE SHALL BE ACCEPTED FOR RECORDING SO LONG AS IT HAS BEEN SIGNED BY ONE AGENT NAMED THEREIN WHOSE SIGNATURE HAS BEEN ACKNOWLEDGED. IF TWO OR MORE AGENTS ACTING ON BEHALF OF THE PRINCIPAL ARE REQUIRED TO ACT TOGETHER, THE POWER OF ATTORNEY SHALL BE ACCEPTED FOR RECORDING AS LONG AS THEIR SIGNATURES HAVE BEEN ACKNOWLEDGED. WHEN A SUCCESSOR OR CO-AGENT AUTHORIZED TO ACT SEPARATELY FROM ANY OTHER AGENTS PRESENTS A CERTIFIED COPY OF A RECORDED STATUTORY SHORT FORM POWER OF

ATTORNEY OR NON-STATUTORY POWER OF ATTORNEY WITH THE AGENT'S SIGNATURE ACKNOWLEDGED, THE INSTRUMENT SHALL BE ACCEPTED FOR RECORDING.

S 23. Section 5-1505 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1505. Standard of care; fiduciary [duty] DUTIES; compelling disclosure of record. 1. Standard of care. In dealing with property of the principal, an agent shall observe the standard of care that would be observed by a prudent person dealing with property of another.

2. Fiduciary [duty] DUTIES. (a) An agent acting under a power of attorney has a fiduciary [duty to] RELATIONSHIP WITH the principal. The fiduciary [duty includes] DUTIES INCLUDE BUT ARE NOT LIMITED TO each of the following obligations:

(1) To act according to any instructions from the principal or, where there are no instructions, in the best interest of the principal, and to avoid conflicts of interest.

(2) To keep the principal's property separate and distinct from any other property owned or controlled by the agent, except for property that is jointly owned by the principal and agent at the time of the execution of the power of attorney, and property that becomes jointly owned after the execution of the power of attorney as the result of the agent's acquisition of an interest in the principal's property by reason of the agent's exercise of authority granted in a statutory [major] gifts rider or in a non-statutory power of attorney signed and dated by the principal with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and which is executed pursuant to the requirements of paragraph (b) of subdivision nine of section 5-1514 of this title. The agent may not [transfer] MAKE GIFTS TO the principal's property to himself or herself without specific authorization IN A POWER OF ATTORNEY.

(3) To keep a record of all receipts, disbursements, and transactions entered into by the agent on behalf of the principal and to make such record and power of attorney available TO THE PRINCIPAL OR TO THIRD PARTIES at the request of the principal. The agent shall make such record and a copy of the power of attorney available within fifteen days of a written request by any of the following:

(i) a monitor;

(ii) a co-agent or successor agent acting under the power of attorney;

(iii) a government entity, or official thereof, investigating a report that the principal may be in need of protective or other services, or investigating a report of abuse or neglect;

(iv) a court evaluator appointed pursuant to section 81.09 of the mental hygiene law;

(v) a guardian ad litem appointed pursuant to section seventeen hundred fifty-four of the surrogate's court procedure act;

(vi) the guardian or conservator of the estate of the principal, if such record has not already been provided to the court evaluator or guardian ad litem; or

(vii) the personal representative of the estate of a deceased principal if such record has not already been provided to the guardian or conservator of the estate of the principal.

The failure of the agent to make the record available pursuant to this paragraph may result in a special proceeding under subdivision one of section 5-1510 of this title. [Such proceeding shall be the exclusive remedy to compel the agent to provide such record.]

(b) The agent may be subject to liability for conduct or omissions which violate [the] ANY fiduciary duty.

(c) The agent is not liable to third parties for any act pursuant to a power of attorney if the act was authorized at the time and the act did not violate subdivision one or two of this section.

3. Resignation. (a) An agent who has signed the power of attorney may resign by giving written notice to the principal and the agent's co-agent, successor agent or the monitor, if one has been named, or the principal's guardian if one has been appointed. If no co-agent, successor agent, monitor or guardian is known to the agent and the principal is incapacitated or the agent has notice of any facts indicating the principal's incapacity, the agent may give written notice to a government entity having authority to protect the welfare of the principal, or may petition the court to approve the resignation.

(b) The principal may provide for alternative means for an agent's resignation in the power of attorney.

S 24. Subdivision 2 of section 5-1508 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

2. A principal may designate one or more successor agents to serve, if [every] ANY initial or predecessor agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. Unless the principal provides otherwise in the power of attorney, a successor agent has the same authority as that granted to an initial agent. A PRINCIPAL MAY PROVIDE FOR SPECIFIC SUCCESSION RULES.

S 25. Section 5-1508 of the general obligations law is amended by adding a new subdivision 4 to read as follows:

4. ANY PERSON, OTHER THAN AN ESTATE OR A TRUST, MAY ACT AS AN AGENT, CO-AGENT OR SUCCESSOR AGENT UNDER A POWER OF ATTORNEY.

S 26. Subdivisions 2, 3, 4, 5 and 6 of section 5-1511 of the general obligations law, as added by chapter 644 of the laws of 2008, are amended to read as follows:

2. An agent's authority terminates when:

(a) the principal revokes the agent's authority;

(b) the agent dies, becomes incapacitated or resigns;

(c) the agent's marriage to the principal is terminated by divorce[,] OR annulment [or declaration of nullity], AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (F) OF SECTION 5-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW, unless the power of attorney expressly provides otherwise. If the authority of an agent is revoked solely by this subdivision, it shall be revived by the principal's remarriage to the former spouse; or

(d) the power of attorney terminates.

3. A principal may revoke a power of attorney[;]:

(a) in accordance with the terms of the power of attorney; OR

(b) by delivering a [written, signed and dated] revocation of the power of attorney [as follows:

(1)] to the agent[, and the] IN PERSON OR BY SENDING A SIGNED AND DATED REVOCATION BY MAIL, COURIER, ELECTRONIC TRANSMISSION OR FACSIMILE TO THE AGENT'S LAST KNOWN ADDRESS. THE agent must comply with the principal's revocation notwithstanding the actual or perceived incapacity of the principal unless the principal is subject to a guardianship under article eighty-one of the mental hygiene law[; and

(2) to any third party that the principal has reason to believe has received, retained or acted upon, the power of attorney].

4. Where [the] A power of attorney has been recorded pursuant to section two hundred ninety-four of the real property law, the principal shall also record [a written] THE revocation IN THE OFFICE IN WHICH THE POWER OF ATTORNEY IS RECORDED pursuant to section three hundred twenty-

six of the real property law, PROVIDED THE REVOCATION COMPLIES WITH SECTION THREE HUNDRED SEVEN OF THE STATE TECHNOLOGY LAW. [Notwithstanding the recording of a revocation, a third party must have actual notice of the revocation for the revocation to be effective.]

5. (A) Termination of an agent's authority or of the power of attorney is not effective as to any third party who has not received actual notice of the termination and acts in good faith under the power of attorney. Any action so taken, unless otherwise invalid or unenforceable, shall bind the principal and the principal's successors in interest. A financial institution is deemed to have actual notice after it has had a reasonable opportunity to act on a written notice of the revocation or termination following receipt of the same at its office where an account is located.

(B) TERMINATION OF AN AGENT'S AUTHORITY OR OF THE POWER OF ATTORNEY IS NOT EFFECTIVE AS TO THE AGENT UNTIL THE AGENT HAS RECEIVED A REVOCATION AS REQUIRED BY SUBDIVISION THREE OF THIS SECTION. AN AGENT IS DEEMED TO HAVE RECEIVED A REVOCATION WHEN IT HAS BEEN DELIVERED TO THE AGENT IN PERSON, OR WITHIN A REASONABLE TIME AFTER IT HAS BEEN SENT BY MAIL, COURIER, ELECTRONIC TRANSMISSION OR FACSIMILE IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION.

6. [Unless the principal expressly provides otherwise, the execution of a power of attorney revokes any and all prior powers of attorney executed by the principal] THE EXECUTION OF A POWER OF ATTORNEY DOES NOT REVOKE ANY POWER OF ATTORNEY PREVIOUSLY EXECUTED BY THE PRINCIPAL.

S 27. Section 5-1512 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1512. Powers of attorney executed in other jurisdictions. [A] NOTWITHSTANDING THE PROVISIONS OF SECTION 5-1501B OF THIS TITLE, A power of attorney executed in another state or jurisdiction in compliance with the law of that state or jurisdiction or the law of this state is valid in this state, regardless of whether the principal is a domiciliary of this state. A POWER OF ATTORNEY THAT COMPLIES WITH SECTION 5-1501B OF THIS TITLE AND IS EXECUTED IN ANOTHER STATE OR JURISDICTION BY A DOMICILIARY OF THIS STATE IS VALID IN THIS STATE. A POWER OF ATTORNEY EXECUTED IN THIS STATE BY A DOMICILIARY OF ANOTHER STATE OR JURISDICTION IN COMPLIANCE WITH THE LAW OF THAT STATE OR JURISDICTION OR THE LAW OF THIS STATE IS VALID IN THIS STATE.

S 28. Section 5-1513 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1513. Statutory short form power of attorney. 1. The use of the following form in the creation of a power of attorney is lawful, and, when used, and executed in accordance with subdivision one of section 5-1501B of this title, it shall be construed as a statutory short form power of attorney in accordance with the provisions of this title:

"POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM

(a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific

instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney [by executing this Power of Attorney], you should provide written notice of the revocation to your prior agent(s) and to ANY THIRD PARTIES WHO MAY HAVE ACTED UPON IT, INCLUDING the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.senate.state.ny.us or www.assembly.state.ny.us.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) DESIGNATION OF AGENT(S):

I, _____, hereby appoint:

name and address of principal

_____as my agent(s)

name(s) and address(es) of agent(s)

If you designate more than one agent above, they must act together unless you initial the statement below.

( ) My agents may act SEPARATELY.

(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)

If [every] ANY agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

_____

name(s) and address(es) of successor agent(s)

Successor agents designated above must act together unless you initial the statement below.

( ) My successor agents may act SEPARATELY.

YOU MAY PROVIDE FOR SPECIFIC SUCCESSION RULES IN THIS SECTION. INSERT SPECIFIC SUCCESSION PROVISIONS HERE:

(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".

(e) This POWER OF ATTORNEY [REVOKES] DOES NOT REVOKE any [and all prior] Powers of Attorney PREVIOUSLY executed by me unless I have stated otherwise below, under "Modifications."

If [your are] YOU DO NOT [revoking] INTEND TO REVOKE your prior Powers of Attorney, and if you [are granting] HAVE GRANTED the same authority in [two or more Powers] THIS POWER of Attorney[, you must also indicate under "Modifications" whether the agents given these powers] AS YOU GRANTED TO ANOTHER AGENT IN A PRIOR POWER OF ATTORNEY, EACH AGENT CAN

ACT SEPARATELY UNLESS YOU INDICATE UNDER "MODIFICATIONS" THAT THE AGENTS WITH THE SAME AUTHORITY are to act together [or separately].

(f) GRANT OF AUTHORITY:

To grant your agent some or all of the authority below, either

(1) Initial the bracket at each authority you grant, or

(2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

( ) (A) real estate transactions;

( ) (B) chattel and goods transactions;

( ) (C) bond, share, and commodity transactions;

( ) (D) banking transactions;

( ) (E) business operating transactions;

( ) (F) insurance transactions;

( ) (G) estate transactions;

( ) (H) claims and litigation;

( ) (I) personal and family maintenance. IF YOU GRANT YOUR AGENT THIS AUTHORITY, IT WILL ALLOW THE AGENT TO MAKE GIFTS THAT YOU CUSTOMARILY HAVE MADE TO INDIVIDUALS, INCLUDING THE AGENT, AND CHARITABLE ORGANIZATIONS. THE TOTAL AMOUNT OF ALL SUCH GIFTS IN ANY ONE CALENDAR YEAR CANNOT EXCEED FIVE HUNDRED DOLLARS;

( ) (J) benefits from governmental programs or civil or military service;

( ) (K) health care billing and payment matters; records, reports, and statements;

( ) (L) retirement benefit transactions;

( ) (M) tax matters;

( ) (N) all other matters;

( ) (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;

( ) (P) EACH of the matters identified by the following letters_____.

You need not initial the other lines if you initial line (P).

(g) MODIFICATIONS: (OPTIONAL)

In this section, you may make additional provisions, including language to limit or supplement authority granted to your agent.

However, you cannot use this Modifications section to grant your agent authority to make [major] gifts or changes to interests in your property. If you wish to grant your agent such authority, you MUST complete the Statutory [Major] Gifts Rider.

(h) [MAJOR GIFTS AND OTHER TRANSFERS] CERTAIN GIFT TRANSACTIONS: STATUTORY [MAJOR] GIFTS RIDER (OPTIONAL)

In order to authorize your agent to make [major] gifts [and other transfers of your property] IN EXCESS OF AN ANNUAL TOTAL OF $500 FOR ALL GIFTS DESCRIBED IN (I) OF THE GRANT OF AUTHORITY SECTION OF THIS DOCUMENT (UNDER PERSONAL AND FAMILY MAINTENANCE), you must initial the statement below and execute a Statutory [Major] Gifts Rider at the same time as this instrument. Initialing the statement below by itself does

not authorize your agent to make [major] gifts [and other transfers]. The preparation of the Statutory [Major] Gifts Rider should be supervised by a lawyer.

( )[(SMGR)] (SGR) I grant my agent authority to make [major] gifts [and other transfers of my property,] in accordance with the terms and conditions of the Statutory [Major] Gifts Rider that supplements this STATUTORY Power of Attorney.

(i) DESIGNATION OF MONITOR(S): (OPTIONAL)

IF YOU WISH TO APPOINT MONITOR(S), INITIAL AND FILL IN THE SECTION BELOW:

( ) I wish to designate _____, whose address(es) is (are) _____, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

(j) COMPENSATION OF AGENT(S): (OPTIONAL)

Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, initial the statement below. If you wish to define "reasonable compensation", you may do so above, under "Modifications".

( ) My agent(s) shall be entitled to reasonable compensation for services rendered.

(k) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

(l) TERMINATION: This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

(m) SIGNATURE AND ACKNOWLEDGMENT:

In Witness Whereof I have hereunto signed my name on _____,20___.

PRINCIPAL signs here: ==>_____

(acknowledgment)

(n) IMPORTANT INFORMATION FOR THE AGENT:

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

(1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
(2) avoid conflicts that would impair your ability to act in the principal's best interest;
(3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
(4) keep a record or all receipts, payments, and transactions conducted for the principal; and
(5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following [manner] MANNERS: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself OR ANYONE ELSE or [give major] MAKE gifts to yourself or anyone else unless the principal has specifically granted you that authority in this [Power of Attorney or in a Statutory Major Gifts Rider attached to this Power of Attorney] DOCUMENT, WHICH IS EITHER A STATUTORY GIFTS RIDER ATTACHED TO A STATUTORY SHORT FORM POWER OF ATTORNEY OR A NON-STATUTORY POWER OF ATTORNEY. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

Liability of agent:

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

(o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, _____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

Agent(s) sign(s) here:==>_____

(acknowledgment(s))["]

(P) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

IT IS NOT REQUIRED THAT THE PRINCIPAL AND THE SUCCESSOR AGENT(S), IF ANY, SIGN AT THE SAME TIME, NOR THAT MULTIPLE SUCCESSOR AGENTS SIGN AT THE SAME TIME. FURTHERMORE, SUCCESSOR AGENTS CAN NOT USE THIS POWER OF ATTORNEY UNLESS THE AGENT(S) DESIGNATED ABOVE IS/ARE UNABLE OR UNWILLING TO SERVE.

I/WE, _____, HAVE READ THE FOREGOING POWER OF ATTORNEY. I AM/WE ARE THE PERSON(S) IDENTIFIED THEREIN AS SUCCESSOR AGENT(S) FOR THE PRINCIPAL NAMED THEREIN.

SUCCESSOR AGENT(S) SIGN(S) HERE:==>_____

(ACKNOWLEDGMENT(S))"

S 29. Section 5-1514 of the general obligations law, as added by chapter 644 of the laws of 2008, is amended to read as follows:

S 5-1514. [Major gifts and other transfers] CERTAIN GIFT TRANSACTIONS; formal requirements; statutory form. 1. If the principal intends to authorize the agent to make gifts [and transfers] other than gifts authorized by subdivision fourteen of section 5-1502I of this title, the principal must expressly grant such authority either in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney executed pursuant to the requirements of paragraph (b) of subdivision nine of this section.

2. The principal may authorize the agent to make gifts to the principal's spouse, children and more remote descendents, and parents, not to exceed, for each donee, the annual federal gift tax exclusion amount pursuant to the Internal Revenue Code. For gifts to the principal's children and more remote descendants, and parents, the maximum amount of the gift to each donee shall not exceed twice the gift tax exclusion amount, if the principal's spouse agrees to split gift treatment pursuant to the Internal Revenue Code.

3. The principal may also authorize the agent to:

(a) make gifts up to a specified dollar amount, or unlimited in amount;

(b) make gifts to any person or persons;

(c) make GIFTS IN ANY OF the following [specified transactions] WAYS:

(1) [open, modify or terminate] OPENING, MODIFYING OR TERMINATING a deposit account in the name of the principal and other joint tenants;

(2) [open, modify or terminate] OPENING, MODIFYING OR TERMINATING any other joint account in the name of the principal and other joint tenants;

(3) [open, modify or terminate] OPENING, MODIFYING OR TERMINATING a bank account in trust form as described in section 7-5.1 of the estates, powers and trusts law, and designate or change the beneficiary or beneficiaries of such account;

(4) [open, modify or terminate] OPENING, MODIFYING OR TERMINATING a transfer on death account as described in part four of article thirteen of the estates, powers and trusts law, and designate or change the beneficiary or beneficiaries of such account;

(5) [change] CHANGING the beneficiary or beneficiaries of any contract of insurance on the life of the principal or annuity contract for the benefit of the principal;

(6) [procure] PROCURING new, different or additional contracts of insurance on the life of the principal or annuity contracts for the benefit of the principal and designate the beneficiary or beneficiaries of any such contract;

(7) [designate or change] DESIGNATING OR CHANGING the beneficiary or beneficiaries of any type of retirement benefit or plan;

(8) [create, amend, revoke, or terminate] CREATING, AMENDING, REVOKING OR TERMINATING an inter vivos trust; and

(9) [create, change or terminate] OPENING, MODIFYING OR TERMINATING other property interests or rights of survivorship, and designate or change the beneficiary or beneficiaries therein.

A gift [or other transfer] to an individual authorized by this subdivision may be made outright, BY EXERCISE OR RELEASE OF A PRESENTLY EXERCISABLE GENERAL OR SPECIAL POWER OF APPOINTMENT HELD BY THE PRINCIPAL, to a trust established or created for such individual, to a Uniform Transfers to Minors Act account for such individual (regardless of who is the custodian), or to a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code for the benefit of such individual (without regard to who is the account owner or responsible individual for such account).

4. An agent may not:

(a) exercise any authority described in subdivision two or three of this section unless such authority is expressly granted in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney executed pursuant to the requirements of paragraph (b) of subdivision nine of this section;

(b) make a gift to himself or herself or create in himself or herself an interest in the principal's property pursuant to any grant of authority described in subdivision two or three of this section unless such authority is expressly granted in a statutory [major] gifts rider to a statutory short form power of attorney or in a non-statutory power of attorney executed pursuant to the requirements of paragraph (b) of subdivision nine of this section.

5. Any authority granted to an agent pursuant to subdivision two or three or paragraph (b) of subdivision four of this section must be exercised according to any instructions IN THIS DOCUMENT OR IN ANY OTHER WRITING provided by the principal REGARDING THE EXERCISE OF ANY AUTHORITY, or otherwise for purposes which the agent reasonably deems to be in the best interest of the principal, specifically including financial, estate, or tax planning, including minimization of income, estate, inheritance, generation-skipping transfer or gift taxes.

6. Construction of the provisions of the statutory [major] gifts rider. (a) In a statutory [major] gifts rider to a statutory short form power of attorney, the language "I grant authority to my agent to make gifts to my spouse, children and more remote descendants, and parents, not to exceed, for each donee, the annual federal gift tax exclusion amount pursuant to the Internal Revenue Code. For gifts to my children and more remote descendants, and parents, the maximum amount of the gift to each donee shall not exceed twice the gift tax exclusion amount, if my spouse agrees to split gift treatment pursuant to the Internal Revenue Code" must be construed to mean that the principal authorizes the agent:

(1) To make gifts on behalf of the principal to the principal's spouse, children and other descendants, and parents. Gifts to a donee shall not exceed in any calendar year the amount of the federal gift tax exclusion available to the principal under section 2503(b) of the Internal Revenue Code. Gifts may be made outright or by exercise or release of a presently exercisable general power OR SPECIAL POWER of appointment held by the principal, to a trust established or created for such individual (provided that gifts to such trust qualify for the federal gift tax exclusion under section 2503(b) or (c) of the Internal Revenue Code), to a Uniform Transfers to Minors Act account for such individual (regardless of who is the custodian), to a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Reven-

ue Code for the benefit of such individual (without regard to who is the account owner of or responsible person for such account);

(2) To make gifts up to twice the annual federal gift tax exclusion amount on behalf of both the principal and the principal's spouse, to the principal's children and other descendants, and parents, if the principal's spouse consents to the splitting of such gifts pursuant to section 2513 of the Internal Revenue Code;

(3) To consent, pursuant to Section 2513(a) of the Internal Revenue Code, to the splitting of gifts made by the principal's spouse to the principal's children and other descendants in any amount, and to the splitting of gifts made by the principal's spouse to any other persons in amounts not exceeding the aggregate annual gift tax exclusions for both spouses under Section 2503(b) of said Code (or cognate provisions of any successor statute); and

(4) To satisfy pledges made to organizations, whether charitable or otherwise, by the principal[; and].

(b) Any authority granted to an agent under a statutory [major] gifts rider to a statutory short form power of attorney must be construed to mean that the principal authorizes the agent:

(1) To prepare, execute, consent to on behalf of the principal, and file any return, report, declaration or other document required by the laws of the United States, or by any state or political subdivision thereof, or by any foreign country or political subdivision thereof, which the agent deems to be desirable or necessary with respect to any gift made under the authority of this section;

(2) To execute, acknowledge, seal and deliver any deed, assignment, agreement, trust agreement, authorization, check, or other instrument which the agent deems useful for the accomplishment of any of the purposes enumerated in this section;

(3) To prosecute, defend, submit to alternative dispute resolution, settle and propose or accept a compromise with respect to any claim existing in favor of or against the principal based on or involving any gift transaction or to intervene in any related action or proceeding;

(4) To hire, discharge and compensate any attorney, accountant, expert witness, or other assistant or assistants when the agent deems that action to be desirable for the proper execution by the agent of any of the authorities described in this section, and for the keeping of needed records thereof; and

(5) In general, and in addition to but not in contravention of all the specific acts listed in this section, to do any other act or acts which the agent deems desirable or necessary to complete any such gift on behalf of the principal.

(c) The authority explicitly authorized in this section shall be construed to include any like authority authorized in any other section of this title. Accordingly, such like authorities as are authorized in any other section of this title may not be exercised by the agent unless they are expressly granted to the agent in the statutory [major] gifts rider or in a non-statutory power of attorney executed pursuant to the requirements of paragraph (b) of subdivision nine of this section.

(d) The statutory [major] gifts rider may be modified pursuant to section 5-1503 of this title to contain additional provisions authorizing the agent to make any or all of the transactions specified in subdivision three of this section.

7. All authority described in this section shall be exercisable equally with respect to a gift of any property in which the principal is interested at the time the power of attorney is given or in which the

principal becomes interested after that time, and whether located in this state or elsewhere.

8. If, after naming the spouse as a permissible recipient of gifting [or other transfers], the [principal is divorced, his or her marriage is annulled or its nullity declared, the] PRINCIPAL'S MARRIAGE IS TERMINATED BY divorce[,] OR annulment[, declaration of nullity or dissolution], AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (F) OF SECTION 5-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW, THE DIVORCE OR ANNULMENT revokes the authority to gift to the former spouse, unless the statutory [major] gifts rider or the non-statutory power of attorney executed pursuant to the requirements of paragraph (b) of subdivision nine of this section expressly provides otherwise. If the authority to gift to the former spouse is revoked solely by this subdivision, it shall be revived by the principal's remarriage to the former spouse.

9. To be valid, a statutory [major] gifts rider to a statutory short form power of attorney must:

(a) Be typed or printed using letters which are legible or of clear type no less than twelve point in size, or, if in writing, a reasonable equivalent thereof.

(b) Be signed and dated by a principal with capacity, with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and witnessed by two persons who are not named in the instrument as permissible recipients of gifts [or other transfers], in the manner described [at paragraph] IN SUBPARAGRAPH two of [subdivision] PARAGRAPH (a) of section 3-2.1 of the estates, powers and trusts law. THE PERSON WHO TAKES THE ACKNOWLEDGMENT, UNDER THIS PARAGRAPH, MAY ALSO SERVE AS ONE OF THE WITNESSES.

(c) Be accompanied by a statutory short form power of attorney in which the authority [(SMGR)] (SGR) is initialed by the principal.

(d) Be executed simultaneously with the statutory short form power of attorney and in the manner provided in this section.

10. The use of the following shall be construed as the "Statutory [Major] Gifts Rider" for a statutory short form power of attorney:

"POWER OF ATTORNEY
NEW YORK STATUTORY [MAJOR] GIFTS RIDER
AUTHORIZATION [TO MAKE MAJOR GIFTS OR
OTHER TRANSFERS] FOR CERTAIN GIFT TRANSACTIONS

CAUTION TO THE PRINCIPAL: This OPTIONAL rider allows you to authorize your agent to make [major] gifts IN EXCESS OF AN ANNUAL TOTAL OF $500 FOR ALL GIFTS DESCRIBED IN (I) OF THE GRANT OF AUTHORITY SECTION OF THE STATUTORY SHORT FORM POWER OF ATTORNEY (UNDER PERSONAL AND FAMILY MAINTENANCE), or [other transfers of your money or other property] CERTAIN OTHER GIFT TRANSACTIONS during your lifetime. YOU DO NOT HAVE TO EXECUTE THIS RIDER IF YOU ONLY WANT YOUR AGENT TO MAKE GIFTS DESCRIBED IN (I) OF THE GRANT OF AUTHORITY SECTION OF THE STATUTORY SHORT FORM POWER OF ATTORNEY AND YOU INITIALED "(I)" ON THAT SECTION OF THAT FORM. Granting any of the following authority to your agent gives your agent the authority to take actions which could significantly reduce your property or change how your property is distributed at your death. ["Major gifts or other transfers"] "CERTAIN GIFT TRANSACTIONS" are described in section 5-1514 of the General Obligations Law. This [Major] Gifts Rider does not require your agent to exercise granted authority, but when he or she exercises this authority, he or she must act according to any instructions you provide, or otherwise in your best interest.

This [Major] Gifts Rider and the Power of Attorney it supplements must be read together as a single instrument.

Before signing this document authorizing your agent to make [major] gifts [and other transfers], you should seek legal advice to ensure that your intentions are clearly and properly expressed.

(a) GRANT OF LIMITED AUTHORITY TO MAKE GIFTS

Granting gifting authority to your agent gives your agent the authority to take actions which could significantly reduce your property.

If you wish to allow your agent to make gifts to himself or herself, you must separately grant that authority in subdivision (c) below.

To grant your agent the gifting authority provided below, initial the bracket to the left of the authority.

( ) I grant authority to my agent to make gifts to my spouse, children and more remote descendants, and parents, not to exceed, for each donee, the annual federal gift tax exclusion amount pursuant to the Internal Revenue Code. For gifts to my children and more remote descendants, and parents, the maximum amount of the gift to each donee shall not exceed twice the gift tax exclusion amount, if my spouse agrees to split gift treatment pursuant to the Internal Revenue Code.

This authority must be exercised pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest.

(b) MODIFICATIONS:

Use this section if you wish to authorize gifts in AMOUNTS SMALLER THAN THE GIFT TAX EXCLUSION AMOUNT, IN AMOUNTS IN excess of the [above amount] GIFT TAX EXCLUSION AMOUNT, gifts to other beneficiaries, or other [types of transfers] GIFT TRANSACTIONS.

Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. If you wish to authorize your agent to make gifts [or transfers] to himself or herself, you must separately grant that authority in subdivision (c) below.

( ) I grant the following authority to my agent to make gifts [or transfers] pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest[.]:

(c) GRANT OF SPECIFIC AUTHORITY FOR AN AGENT TO MAKE [MAJOR] GIFTS [OR OTHER TRANSFERS] TO HIMSELF OR HERSELF: (OPTIONAL)

If you wish to authorize your agent to make gifts [or transfers] to himself or herself, you must grant that authority in this section, indicating to which agent(s) the authorization is granted, and any limitations and guidelines.

( ) I grant specific authority for the following agent(s) to make the following [major] gifts [or other transfers] to himself or herself:

This authority must be exercised pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest.

(d) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this [Major] STATUTORY Gifts Rider.

(e) SIGNATURE OF PRINCIPAL AND ACKNOWLEDGMENT:

In Witness Whereof I have hereunto signed my name on _____, 20____.

PRINCIPAL signs here:

_____

[(acknowledgement)] (ACKNOWLEDGMENT)

(f) SIGNATURES OF WITNESSES:

By signing as a witness, I acknowledge that the principal signed the [Major] STATUTORY Gifts Rider in my presence and the presence of the

other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at his or her direction. I also acknowledge that the principal has stated that this [Major] STATUTORY Gifts Rider reflects his or her wishes and that he or she has signed it voluntarily. I am not named herein as a permissible recipient of [major] gifts.

| | |
|---|---|
| _____ | _____ |
| Signature of witness 1 | Signature of witness 2 |
| _____ | _____ |
| Date | Date |
| _____ | _____ |
| Print name | Print name |
| _____ | _____ |
| Address | Address |
| _____ | _____ |
| City, State, Zip code | City, State, Zip code |

(g) This document prepared by: _____"

S 30. The law revision commission shall, over a period of two years, study all aspects of the implementation of title 15 of article 5 of the general obligations law, as amended by chapter 644 of the laws of 2008 and this act. Such commission shall consult with individuals and entities regularly engaged in the utilization of such title, and those individuals and entities affected by the provisions of such title.

On or before September 1, 2010, the law revision commission shall submit a preliminary report of its findings, conclusions and recommendations to the governor and the legislature regarding the statutory gifts rider. In addition to providing the aforementioned preliminary report, the law revision commission shall, on or before January 1, 2012, submit a report of its findings, conclusions and recommendations to the governor and the legislature.

S 31. This act shall take effect on the thirtieth day after it shall have become a law and shall be deemed to have been in full force and effect on and after September 1, 2009. Provided, that any statutory short form power of attorney and any statutory gifts rider executed after August 31, 2009 shall remain valid as will any revocation of a prior power of attorney that was delivered to the agent before the effective date of this act.