

1 **SENATE FLOOR VERSION**

2 April 6, 2021

3 ENGROSSED HOUSE
4 BILL NO. 2548

By: Stinson and Moore of the
House

5 and

6 Howard of the Senate

7
8
9 An Act relating to probate procedure; enacting the
10 Uniform Power of Attorney Act; defining terms;
11 providing that this act applies to all powers of
12 attorney except specified instances; providing that a
13 power of attorney is durable; providing power of
14 attorney execution requirements; providing validity
15 requirements for a power of attorney; providing
16 meaning and effect of a power of attorney; providing
17 for a nomination of guardian; providing relation of
18 agent to court-appointed fiduciary; providing when a
19 power of attorney is effective; providing for
20 termination of power of attorney or an agent's
21 authority; providing duties, authorities and
22 requirements of coagents and successor agents;
23 providing for reimbursement and compensation of an
24 agent; providing requirements for an agent's
acceptance under a power of attorney; providing
duties of an agent; providing for exoneration of an
agent's duties with exemptions; providing
requirements for who may petition the court to
construe a power of attorney or review an agent's
conduct and receive appropriate relief; providing for
an agent's liability to principal and principal's
successors; providing for acceptance and reliance
upon an acknowledged power of attorney; providing
liability for refusal to accept an acknowledged power
of attorney; providing that unless displaced by this
act the principles of law and equity apply; providing
that this act does not supersede any other law
applicable to financial institutions or other
entities; providing that remedies under this act are

1 not exclusive and do not abrogate any right or remedy
2 under the law of this state; providing acts that an
3 agent may do only if specifically granted the
4 authority by the power of attorney; providing an
5 agent with general authority except for specified
6 acts; providing for incorporation of authority;
7 providing an agent general authority to carry out
8 specific acts; providing that language in a power of
9 attorney granting general authority, unless otherwise
10 provided, authorizes an agent to perform certain acts
11 in respect to real property, tangible personal
12 property, stocks, bonds, commodities and options,
13 banks and other financial institutions, operation of
14 an entity or business, insurance, annuities, estates,
15 trusts and other beneficial interests, claims,
16 litigation, personal and family maintenance, benefits
17 from governmental programs or civil or military
18 service, retirement plans, taxes, and gifts;
19 providing a statutory power of attorney form;
20 providing an agent's certification form; providing
21 uniformity of application and construction to power
22 of attorney; detailing the relationship between
23 electronic signature requirement in this act and in
24 the Electronic Signatures in Global and National
Commerce Act; providing the effect on existing powers
of attorney; repealing 58 O.S. 2011, Sections 1071,
1072, 1072.1, as amended by Section 6, Chapter 355,
O.S.L. 2016, 1072.2, 1072.3, 1074, as amended by
Section 1, Chapter 7, O.S.L. 2015, 1075, as amended
by Section 2, Chapter 7, O.S.L. 2015, 1076 and 1077
(58 O.S. Supp. 2020, Sections 1072.1, 1074 and 1075),
which relate to the Uniform Durable Power of Attorney
Act; providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 3001 of Title 58, unless there
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Uniform Power
2 of Attorney Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3002 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

7 1. "Agent" means a person granted authority to act for a
8 principal under a power of attorney, whether denominated an agent,
9 attorney-in-fact or otherwise. The term includes an original agent,
10 coagent, successor agent and a person to which an agent's authority
11 is delegated;

12 2. "Durable", with respect to a power of attorney, means not
13 terminated by the principal's incapacity;

14 3. "Electronic" means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic or similar
16 capabilities;

17 4. "Good faith" means honesty in fact;

18 5. "Incapacity" means inability of an individual to manage
19 property or business affairs because the individual:

20 a. has an impairment in the ability to receive and
21 evaluate information or make or communicate decisions
22 even with the use of technological assistance, or

23 b. is:

24 (1) missing,

1 (2) detained including incarcerated in a penal
2 system, or

3 (3) outside the United States and unable to return;

4 6. "Person" means an individual, corporation, business trust,
5 estate, trust, partnership, limited liability company (LLC),
6 association, joint venture, public corporation, government or
7 governmental subdivision, agency or instrumentality, or any other
8 legal or commercial entity;

9 7. "Power of attorney" means a writing or other record that
10 grants authority to an agent to act in the place of the principal,
11 whether or not the term power of attorney is used;

12 8. "Presently exercisable general power of appointment", with
13 respect to property or a property interest subject to a power of
14 appointment, means power exercisable at the time in question to vest
15 absolute ownership in the principal individually, the principal's
16 estate, the principal's creditors or the creditors of the
17 principal's estate. The term includes a power of appointment not
18 exercisable until the occurrence of a specified event, the
19 satisfaction of an ascertainable standard or the passage of a
20 specified period only after the occurrence of the specified event,
21 the satisfaction of the ascertainable standard or the passage of the
22 specified period. The term does not include a power exercisable in
23 a fiduciary capacity or only by will;

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1 9. "Principal" means an individual who grants authority to an
2 agent in a power of attorney;

3 10. "Property" means anything that may be the subject of
4 ownership, whether real or personal, or legal or equitable, or any
5 interest or right therein;

6 11. "Record" means information that is inscribed on a tangible
7 medium or that is stored in an electronic or other medium and is
8 retrievable in perceivable form;

9 12. "Sign" means, with present intent to authenticate or adopt
10 a record:

11 a. to execute or adopt a tangible symbol, or

12 b. to attach to or logically associate with the record an
13 electronic sound, symbol or process;

14 13. "State" means a state of the United States, the District of
15 Columbia, Puerto Rico, the United States Virgin Islands or any
16 territory or insular possession subject to the jurisdiction of the
17 United States; and

18 14. "Stocks and bonds" means stocks, bonds, mutual funds and
19 all other types of securities and financial instruments, whether
20 held directly, indirectly or in any other manner. The term does not
21 include commodity futures contracts and call or put options on
22 stocks or stock indexes.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3003 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 This act applies to all powers of attorney except:

5 1. A power to the extent it is coupled with an interest in the
6 subject of the power including a power given to or for the benefit
7 of a creditor in connection with a credit transaction;

8 2. A power to make health care decisions;

9 3. A proxy or other delegation to exercise voting rights or
10 management rights with respect to an entity; and

11 4. A power created on a form prescribed by a government or
12 governmental subdivision, agency or instrumentality for a
13 governmental purpose.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3004 of Title 58, unless there
16 is created a duplication in numbering, reads as follows:

17 A power of attorney created under this act is durable unless it
18 expressly provides that it is terminated by the incapacity of the
19 principal.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3005 of Title 58, unless there
22 is created a duplication in numbering, reads as follows:

23 A power of attorney must be signed by the principal or in the
24 principal's conscious presence by another individual directed by the

1 principal to sign the principal's name on the power of attorney. A
2 signature on a power of attorney is presumed to be genuine if the
3 principal acknowledges the signature before a notary public or other
4 individual authorized by law to take acknowledgments.

5 SECTION 6. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3006 of Title 58, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A power of attorney executed in this state on or after the
9 effective date of this act is valid if its execution complies with
10 Section 5 of this act.

11 B. A power of attorney executed in this state before the
12 effective date of this act is valid if its execution complied with
13 the law of this state as it existed at the time of execution.

14 C. A power of attorney executed other than in this state is
15 valid in this state if, when the power of attorney was executed, the
16 execution complied with:

17 1. The law of the jurisdiction that determines the meaning and
18 effect of the power of attorney pursuant to Section 7 of this act;
19 or

20 2. The requirements for a military power of attorney pursuant
21 to 10 U.S.C., Section 1044b, as amended.

22 D. Except as otherwise provided by statute other than this act,
23 a photocopy or electronically transmitted copy of an original power
24 of attorney has the same effect as the original.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3007 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 The meaning and effect of a power of attorney is determined by
5 the law of the jurisdiction indicated in the power of attorney and,
6 in the absence of an indication of jurisdiction, by the law of the
7 jurisdiction in which the power of attorney was executed.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3008 of Title 58, unless there
10 is created a duplication in numbering, reads as follows:

11 A. In a power of attorney, a principal may nominate a guardian
12 of the principal's estate or guardian of the principal's person for
13 consideration by the court if protective proceedings for the
14 principal's estate or person are begun after the principal executes
15 the power of attorney. Except for good cause shown or
16 disqualification, the court shall make its appointment in accordance
17 with the principal's most recent nomination.

18 B. If, after a principal executes a power of attorney, a court
19 appoints a guardian of the principal's estate or other fiduciary
20 charged with the management of some or all of the principal's
21 property, the agent is accountable to the fiduciary as well as to
22 the principal. The power of attorney is not terminated and the
23 agent's authority continues unless limited, suspended or terminated
24 by the court.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3009 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A power of attorney is effective when executed unless the
5 principal provides in the power of attorney that it becomes
6 effective at a future date or upon the occurrence of a future event
7 or contingency.

8 B. If a power of attorney becomes effective upon the occurrence
9 of a future event or contingency, the principal, in the power of
10 attorney, may authorize one or more persons to determine in a
11 writing or other record that the event or contingency has occurred.

12 C. If a power of attorney becomes effective upon the
13 principal's incapacity and the principal has not authorized a person
14 to determine whether the principal is incapacitated, or the person
15 authorized is unable or unwilling to make the determination, the
16 power of attorney becomes effective upon a determination in a
17 writing or other record by:

18 1. A physician or licensed psychologist that the principal is
19 incapacitated within the meaning of subparagraph a of paragraph 5 of
20 Section 2 of this act; or

21 2. An attorney at law, a judge or an appropriate governmental
22 official that the principal is incapacitated within the meaning of
23 subparagraph b of paragraph 5 of Section 2 of this act.

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1 D. A person authorized by the principal in the power of
2 attorney to determine that the principal is incapacitated may act as
3 the principal's personal representative pursuant to the Health
4 Insurance Portability and Accountability Act, Sections 1171 through
5 1179 of the Social Security Act, 42 U.S.C., Section 1320d, as
6 amended, and applicable regulations, to obtain access to the
7 principal's health care information and communicate with the
8 principal's health care provider.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3010 of Title 58, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A power of attorney terminates when:

- 13 1. The principal dies;
- 14 2. The principal becomes incapacitated, if the power of
15 attorney is not durable;
- 16 3. The principal revokes the power of attorney;
- 17 4. The power of attorney provides that it terminates;
- 18 5. The purpose of the power of attorney is accomplished; or
- 19 6. The principal revokes the agent's authority or the agent
20 dies, becomes incapacitated or resigns, and the power of attorney
21 does not provide for another agent to act under the power of
22 attorney.

23 B. An agent's authority terminates when:

- 24 1. The principal revokes the authority;

1 2. The agent dies, becomes incapacitated or resigns;

2 3. An action is filed for divorce or annulment of the agent's
3 marriage to the principal or their legal separation, unless the
4 power of attorney otherwise provides; or

5 4. The power of attorney terminates.

6 C. Unless the power of attorney otherwise provides, an agent's
7 authority is exercisable until the authority terminates under
8 subsection B of this section, notwithstanding a lapse of time since
9 the execution of the power of attorney.

10 D. Termination of an agent's authority or of a power of
11 attorney is not effective as to the agent or another person that,
12 without actual knowledge of the termination, acts in good faith
13 under the power of attorney. An act so performed, unless otherwise
14 invalid or unenforceable, binds the principal and the principal's
15 successors in interest.

16 E. Incapacity of the principal of a power of attorney that is
17 not durable does not revoke or terminate the power of attorney as to
18 an agent or other person that, without actual knowledge of the
19 incapacity, acts in good faith under the power of attorney. An act
20 so performed, unless otherwise invalid or unenforceable, binds the
21 principal and the principal's successors in interest.

22 F. The execution of a power of attorney does not revoke a power
23 of attorney previously executed by the principal unless the
24 subsequent power of attorney provides that the previous power of

1 attorney is revoked or that all other powers of attorney are
2 revoked.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3011 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A principal may designate two or more persons to act as
7 coagents. Unless the power of attorney otherwise provides, each
8 coagent may exercise its authority independently.

9 B. A principal may designate one or more successor agents to
10 act if an agent resigns, dies, becomes incapacitated, is not
11 qualified to serve or declines to serve. A principal may grant
12 authority to designate one or more successor agents to an agent or
13 other person designated by name, office or function. Unless the
14 power of attorney otherwise provides, a successor agent:

15 1. Has the same authority as that granted to the original
16 agent; and

17 2. May not act until all predecessor agents have resigned,
18 died, become incapacitated, are no longer qualified to serve or have
19 declined to serve.

20 C. Except as otherwise provided in the power of attorney and
21 subsection D of this section, an agent that does not participate in
22 or conceal a breach of fiduciary duty committed by another agent
23 including a predecessor agent, is not liable for the actions of the
24 other agent.

1 D. An agent that has actual knowledge of a breach or imminent
2 breach of fiduciary duty by another agent shall notify the principal
3 and, if the principal is incapacitated, take any action reasonably
4 appropriate in the circumstances to safeguard the principal's best
5 interest. An agent that fails to notify the principal or take
6 action as required by this subsection is liable for the reasonably
7 foreseeable damages that could have been avoided if the agent had
8 notified the principal or taken such action.

9 SECTION 12. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3012 of Title 58, unless there
11 is created a duplication in numbering, reads as follows:

12 Unless the power of attorney otherwise provides, an agent is
13 entitled to reimbursement of expenses reasonably incurred on behalf
14 of the principal and to compensation that is reasonable under the
15 circumstances.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3013 of Title 58, unless there
18 is created a duplication in numbering, reads as follows:

19 Except as otherwise provided in the power of attorney, a person
20 accepts appointment as an agent under a power of attorney by
21 exercising authority or performing duties as an agent or by any
22 other assertion or conduct indicating acceptance.

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1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3014 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Notwithstanding provisions in the power of attorney, an
5 agent that has accepted appointment shall:

6 1. Act in accordance with the principal's reasonable
7 expectations to the extent actually known by the agent and,
8 otherwise, in the principal's best interest;

9 2. Act in good faith; and

10 3. Act only within the scope of authority granted in the power
11 of attorney.

12 B. Except as otherwise provided in the power of attorney, an
13 agent that has accepted appointment shall:

14 1. Act loyally for the principal's benefit;

15 2. Act so as not to create a conflict of interest that impairs
16 the agent's ability to act impartially in the principal's best
17 interest;

18 3. Act with the care, competence and diligence ordinarily
19 exercised by agents in similar circumstances;

20 4. Keep a record of all receipts, disbursements and
21 transactions made on behalf of the principal;

22 5. Cooperate with a person that has authority to make health
23 care decisions for the principal to carry out the principal's
24

1 reasonable expectations to the extent actually known by the agent
2 and, otherwise, act in the principal's best interest; and

3 6. Attempt to preserve the principal's estate plan, to the
4 extent actually known by the agent, if preserving the plan is
5 consistent with the principal's best interest based on all relevant
6 factors including:

- 7 a. the value and nature of the principal's property,
- 8 b. the principal's foreseeable obligations and need for
9 maintenance,
- 10 c. minimization of taxes including income, estate,
11 inheritance, generation-skipping transfer and gift
12 taxes, and
- 13 d. eligibility for a benefit, a program or assistance
14 under a statute or regulation.

15 C. An agent that acts in good faith is not liable to any
16 beneficiary of the principal's estate plan for failure to preserve
17 the plan.

18 D. An agent that acts with care, competence and diligence for
19 the best interest of the principal is not liable solely because the
20 agent also benefits from the act or has an individual or conflicting
21 interest in relation to the property or affairs of the principal.

22 E. If an agent is selected by the principal because of special
23 skills or expertise possessed by the agent or in reliance on the
24 agent's representation that the agent has special skills or

1 expertise, the special skills or expertise must be considered in
2 determining whether the agent has acted with care, competence and
3 diligence under the circumstances.

4 F. Absent a breach of duty to the principal, an agent is not
5 liable if the value of the principal's property declines.

6 G. An agent that exercises authority to delegate to another
7 person the authority granted by the principal or that engages
8 another person on behalf of the principal is not liable for an act,
9 error of judgment or default of that person if the agent exercises
10 care, competence and diligence in selecting and monitoring the
11 person.

12 H. Except as otherwise provided in the power of attorney, an
13 agent is not required to disclose receipts, disbursements or
14 transactions conducted on behalf of the principal unless ordered by
15 a court or requested by the principal, a guardian, a conservator,
16 another fiduciary acting for the principal, a governmental agency
17 having authority to protect the welfare of the principal or, upon
18 the death of the principal, by the personal representative or
19 successor in interest of the principal's estate. If so requested,
20 within thirty (30) days the agent shall comply with the request or
21 provide a writing or other record substantiating why additional time
22 is needed and shall comply with the request within an additional
23 thirty (30) days.

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1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3015 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 A provision in a power of attorney relieving an agent of
5 liability for breach of duty is binding on the principal and the
6 principal's successors in interest except to the extent the
7 provision:

8 1. Relieves the agent of liability for breach of duty committed
9 dishonestly, with an improper motive or with reckless indifference
10 to the purposes of the power of attorney or the best interest of the
11 principal; or

12 2. Was inserted as a result of an abuse of a confidential or
13 fiduciary relationship with the principal.

14 SECTION 16. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3016 of Title 58, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The following persons may petition a court to construe a
18 power of attorney or review the agent's conduct and grant
19 appropriate relief:

20 1. The principal or the agent;

21 2. A guardian, conservator or other fiduciary acting for the
22 principal;

23 3. A person authorized to make health care decisions for the
24 principal;

1 4. The principal's spouse, parent or descendant;

2 5. An individual who would qualify as a presumptive heir of the
3 principal;

4 6. A person named as a beneficiary to receive any property,
5 benefit or contractual right on the principal's death or as a
6 beneficiary of a trust created by or for the principal that has a
7 financial interest in the principal's estate;

8 7. A governmental agency having regulatory authority to protect
9 the welfare of the principal;

10 8. The principal's caregiver or another person that
11 demonstrates sufficient interest in the principal's welfare; and

12 9. A person asked to accept the power of attorney.

13 B. Upon motion by the principal, the court shall dismiss a
14 petition filed under this section, unless the court finds that the
15 principal lacks capacity to revoke the agent's authority or the
16 power of attorney.

17 SECTION 17. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3017 of Title 58, unless there
19 is created a duplication in numbering, reads as follows:

20 An agent that violates this act is liable to the principal or
21 the principal's successors in interest for the amount required to:

22 1. Restore the value of the principal's property to what it
23 would have been had the violation not occurred; and

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1 2. Reimburse the principal or the principal's successors in
2 interest for the attorney fees and costs paid on the agent's behalf.

3 SECTION 18. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3018 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 Unless the power of attorney provides a different method for an
7 agent's resignation, an agent may resign by giving notice to the
8 principal and, if the principal is incapacitated:

9 1. To the guardian, if one has been appointed for the
10 principal, and a coagent or successor agent; or

11 2. If there is no person described in paragraph 1 of this
12 section, to:

13 a. the principal's caregiver,

14 b. another person reasonably believed by the agent to
15 have sufficient interest in the principal's welfare,
16 or

17 c. a governmental agency having authority to protect the
18 welfare of the principal.

19 SECTION 19. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3019 of Title 58, unless there
21 is created a duplication in numbering, reads as follows:

22 A. For purposes of this section and Section 20 of this act,
23 "acknowledged" means purportedly verified before a notary public or
24 other individual authorized to take acknowledgements.

1 B. A person that in good faith accepts an acknowledged power of
2 attorney without actual knowledge that the signature is not genuine
3 may rely upon the presumption under Section 5 of this act that the
4 signature is genuine.

5 C. A person that in good faith accepts an acknowledged power of
6 attorney without actual knowledge that the power of attorney is
7 void, invalid or terminated, that the purported agent's authority is
8 void, invalid or terminated, or that the agent is exceeding or
9 improperly exercising the agent's authority may rely upon the power
10 of attorney as if the power of attorney were genuine, valid and
11 still in effect, the agent's authority were genuine, valid and still
12 in effect, and the agent had not exceeded and had properly exercised
13 the authority.

14 D. A person that is asked to accept an acknowledged power of
15 attorney may request, and rely upon, without further investigation:

16 1. An agent's certification under penalty of perjury of any
17 factual matter concerning the principal, agent or power of attorney;

18 2. An English translation of the power of attorney if the power
19 of attorney contains, in whole or in part, language other than
20 English; and

21 3. An opinion of counsel as to any matter of law concerning the
22 power of attorney if the person making the request provides in a
23 writing or other record the reason for the request.

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1 E. An English translation or an opinion of counsel requested
2 under this section must be provided at the principal's expense
3 unless the request is made more than seven (7) business days after
4 the power of attorney is presented for acceptance.

5 F. For purposes of this section and Section 20 of this act, a
6 person that conducts activities through employees is without actual
7 knowledge of a fact relating to a power of attorney, a principal or
8 an agent if the employee conducting the transaction involving the
9 power of attorney is without actual knowledge of the fact.

10 SECTION 20. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3020 of Title 58, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Except as otherwise provided in subsection B of this
14 section:

15 1. A person shall either accept an acknowledged power of
16 attorney or request a certification, a translation or an opinion of
17 counsel under subsection D of Section 19 of this act no later than
18 seven (7) business days after presentation of the power of attorney
19 for acceptance;

20 2. If a person requests a certification, a translation or an
21 opinion of counsel under subsection D of Section 19 of this act, the
22 person shall accept the power of attorney no later than five (5)
23 business days after receipt of the certification, translation or
24 opinion of counsel; and

1 3. A person may not require an additional or different form of
2 power of attorney for authority granted in the power of attorney
3 presented.

4 B. A person is not required to accept an acknowledged power of
5 attorney if:

6 1. The person is not otherwise required to engage in a
7 transaction with the principal in the same circumstances;

8 2. Engaging in a transaction with the agent or the principal in
9 the same circumstances would be inconsistent with federal law;

10 3. The person has actual knowledge of the termination of the
11 agent's authority or of the power of attorney before exercise of the
12 power;

13 4. A request for a certification, a translation or an opinion
14 of counsel under subsection D of Section 19 of this act is refused;

15 5. The person in good faith believes that the power is not
16 valid or that the agent does not have the authority to perform the
17 act requested, whether or not a certification, a translation or an
18 opinion of counsel under subsection D of Section 19 of this act has
19 been requested or provided; or

20 6. The person makes, or has actual knowledge that another
21 person has made, a report to the Adult Protective Services office
22 stating a good-faith belief that the principal may be subject to
23 physical or financial abuse, neglect, exploitation or abandonment by
24 the agent or a person acting for or with the agent.

1 C. A person that refuses in violation of this section to accept
2 an acknowledged power of attorney is subject to:

3 1. A court order mandating acceptance of the power of attorney;
4 and

5 2. Liability for reasonable attorney fees and costs incurred in
6 any action or proceeding that confirms the validity of the power of
7 attorney or mandates acceptance of the power of attorney.

8 SECTION 21. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3021 of Title 58, unless there
10 is created a duplication in numbering, reads as follows:

11 Unless displaced by a provision of this act, the principles of
12 law and equity supplement this act.

13 SECTION 22. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3022 of Title 58, unless there
15 is created a duplication in numbering, reads as follows:

16 This act does not supersede any other law applicable to
17 financial institutions or other entities, and the other law controls
18 if inconsistent with this act.

19 SECTION 23. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3023 of Title 58, unless there
21 is created a duplication in numbering, reads as follows:

22 The remedies under this act are not exclusive and do not
23 abrogate any right or remedy under the law of this state other than
24 this act.

1 SECTION 24. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3024 of Title 58, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An agent under a power of attorney may do the following on
5 behalf of the principal or with the principal's property only if the
6 power of attorney expressly grants the agent the authority and
7 exercise of the authority is not otherwise prohibited by another
8 agreement or instrument to which the authority or property is
9 subject:

- 10 1. Create, amend, revoke or terminate an inter vivos trust;
- 11 2. Make a gift;
- 12 3. Create or change rights of survivorship;
- 13 4. Create or change a beneficiary designation;
- 14 5. Delegate authority granted under the power of attorney;
- 15 6. Waive the principal's right to be a beneficiary of a joint
16 and survivor annuity including a survivor benefit under a retirement
17 plan;
- 18 7. Exercise fiduciary powers that the principal has authority
19 to delegate;
- 20 8. Exercise authority over the content of electronic
21 communications, as defined in 18 U.S.C., Section 2510(12), as
22 amended, sent or received by the principal; or
- 23 9. Disclaim property including a power of appointment.

24

1 B. Notwithstanding a grant of authority to do an act described
2 in subsection A of this section, unless the power of attorney
3 otherwise provides, an agent that is not an ancestor, spouse or
4 descendant of the principal may not exercise authority under a power
5 of attorney to create in the agent, or in an individual to whom the
6 agent owes a legal obligation of support, an interest in the
7 principal's property, whether by gift, right of survivorship,
8 beneficiary designation, disclaimer or otherwise.

9 C. Subject to subsections A, B, D and E of this section, if a
10 power of attorney grants to an agent authority to do all acts that a
11 principal could do, the agent has the general authority described in
12 Sections 27 through 39 of this act.

13 D. Unless the power of attorney otherwise provides, a grant of
14 authority to make a gift is subject to Section 40 of this act.

15 E. Subject to subsections A, B and D of this section, if the
16 subjects over which authority is granted in a power of attorney are
17 similar or overlap, the broadest authority controls.

18 F. Authority granted in a power of attorney is exercisable with
19 respect to property that the principal has when the power of
20 attorney is executed or acquires later, whether or not the property
21 is located in this state and whether or not the authority is
22 exercised or the power of attorney is executed in this state.

23 G. An act performed by an agent pursuant to a power of attorney
24 has the same effect and inures to the benefit of and binds the

1 principal and the principal's successors in interest as if the
2 principal had performed the act.

3 SECTION 25. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3025 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An agent has authority described in this act if the power of
7 attorney refers to general authority with respect to the descriptive
8 term for the subjects stated in Sections 27 through 40 of this act
9 or cites the section in which the authority is described.

10 B. A reference in a power of attorney to general authority with
11 respect to the descriptive term for a subject in Sections 27 through
12 40 of this act or a citation to a section of Sections 27 through 40
13 of this act incorporates the entire section as if it were set out in
14 full in the power of attorney.

15 C. A principal may modify authority incorporated by reference.

16 SECTION 26. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3026 of Title 58, unless there
18 is created a duplication in numbering, reads as follows:

19 Except as otherwise provided in the power of attorney, by
20 executing a power of attorney that incorporates by reference a
21 subject described in Sections 27 through 40 of this act or that
22 grants to an agent authority to do all acts that a principal could
23 do pursuant to subsection C of Section 24 of this act, a principal
24 authorizes the agent, with respect to that subject, to:

1 1. Demand, receive and obtain by litigation or otherwise, money
2 or another thing of value to which the principal is, may become or
3 claims to be entitled, and conserve, invest, disburse or use
4 anything so received or obtained for the purposes intended;

5 2. Contract in any manner with any person, on terms agreeable
6 to the agent, to accomplish a purpose of a transaction and perform,
7 rescind, cancel, terminate, reform, restate, release or modify the
8 contract or another contract made by or on behalf of the principal;

9 3. Execute, acknowledge, seal, deliver, file or record any
10 instrument or communication the agent considers desirable to
11 accomplish a purpose of a transaction including creating at any time
12 a schedule listing some or all of the principal's property and
13 attaching it to the power of attorney;

14 4. Initiate, participate in or submit to alternative dispute
15 resolution, and settle, oppose, or propose or accept a compromise
16 with respect to a claim existing in favor of or against the
17 principal or intervene in litigation relating to the claim;

18 5. Seek on the principal's behalf the assistance of a court or
19 other governmental agency to carry out an act authorized in the
20 power of attorney;

21 6. Engage, compensate and discharge an attorney, accountant,
22 discretionary investment manager, expert witness or other advisor;

23

24

1 7. Prepare, execute, and file a record, report or other
2 document to safeguard or promote the principal's interest under a
3 statute or regulation;

4 8. Communicate with any representative or employee of a
5 government or governmental subdivision, agency or instrumentality,
6 on behalf of the principal;

7 9. Access communications intended for, and communicate on
8 behalf of, the principal, whether by mail, electronic transmission,
9 telephone or other means; and

10 10. Do any lawful act with respect to the subject and all
11 property related to the subject.

12 SECTION 27. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3027 of Title 58, unless there
14 is created a duplication in numbering, reads as follows:

15 Unless the power of attorney otherwise provides, language in a
16 power of attorney granting general authority with respect to real
17 property authorizes the agent to:

18 1. Demand, buy, lease, receive, accept as a gift or as security
19 for an extension of credit or otherwise acquire or reject an
20 interest in real property or a right incident to real property;

21 2. Sell; exchange; convey with or without covenants,
22 representations or warranties; quitclaim; release; surrender; retain
23 title for security; encumber; partition or consent to partitioning;
24 subject to an easement or covenant; subdivide; apply for zoning or

1 other governmental permits; plat or consent to platting; develop;
2 grant an option concerning; lease; sublease; contribute to an entity
3 in exchange for an interest in that entity; or otherwise grant or
4 dispose of an interest in real property or a right incident to real
5 property;

6 3. Pledge or mortgage an interest in real property or right
7 incident to real property as security to borrow money or pay, renew
8 or extend the time of payment of a debt of the principal or a debt
9 guaranteed by the principal;

10 4. Release, assign, satisfy or enforce by litigation or
11 otherwise a mortgage, deed of trust, conditional sale contract,
12 encumbrance, lien or other claim to real property which exists or is
13 asserted;

14 5. Manage or conserve an interest in real property or a right
15 incident to real property owned or claimed to be owned by the
16 principal including:

- 17 a. insuring against liability or casualty or other loss,
- 18 b. obtaining or regaining possession of or protecting the
19 interest or right by litigation or otherwise,
- 20 c. paying, assessing, compromising or contesting taxes or
21 assessments or applying for and receiving refunds in
22 connection with them, and
- 23 d. purchasing supplies, hiring assistance or labor, and
24 making repairs or alterations to the real property;

1 6. Use, develop, alter, replace, remove, erect or install
2 structures or other improvements upon real property in or incident
3 to which the principal has, or claims to have, an interest or right;

4 7. Participate in a reorganization with respect to real
5 property or an entity that owns an interest in or right incident to
6 real property and receive, and hold, and act with respect to stocks
7 and bonds or other property received in a plan of reorganization
8 including:

- 9 a. selling or otherwise disposing of them,
- 10 b. exercising or selling an option, right of conversion,
11 or similar right with respect to them, and
- 12 c. exercising any voting rights in person or by proxy;

13 8. Change the form of title of an interest in or right incident
14 to real property; and

15 9. Dedicate to public use, with or without consideration,
16 easements or other real property in which the principal has, or
17 claims to have, an interest.

18 SECTION 28. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3028 of Title 58, unless there
20 is created a duplication in numbering, reads as follows:

21 Unless the power of attorney otherwise provides, language in a
22 power of attorney granting general authority with respect to
23 tangible personal property authorizes the agent to:

24

1 1. Demand, buy, receive, accept as a gift or as security for an
2 extension of credit, or otherwise acquire or reject ownership or
3 possession of tangible personal property or an interest in tangible
4 personal property;

5 2. Sell; exchange; convey with or without covenants,
6 representations or warranties; quitclaim; release; surrender; create
7 a security interest in; grant options concerning; lease; sublease;
8 or otherwise dispose of tangible personal property or an interest in
9 tangible personal property;

10 3. Grant a security interest in tangible personal property or
11 an interest in tangible personal property as security to borrow
12 money or pay, renew or extend the time of payment of a debt of the
13 principal or a debt guaranteed by the principal;

14 4. Release, assign, satisfy or enforce by litigation or
15 otherwise, a security interest, lien or other claim on behalf of the
16 principal, with respect to tangible personal property or an interest
17 in tangible personal property;

18 5. Manage or conserve tangible personal property or an interest
19 in tangible personal property on behalf of the principal including:

- 20 a. insuring against liability or casualty or other loss,
- 21 b. obtaining or regaining possession of or protecting the
22 property or interest, by litigation or otherwise,

23

24

- c. paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments,
- d. moving the property from place to place,
- e. storing the property for hire or on a gratuitous bailment, and
- f. using and making repairs, alterations or improvements to the property; and

6. Change the form of title of an interest in tangible personal property.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3029 of Title 58, unless there is created a duplication in numbering, reads as follows:

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

1. Buy, sell and exchange stocks and bonds;
2. Establish, continue, modify or terminate an account with respect to stocks and bonds;
3. Pledge stocks and bonds as security to borrow, pay, renew or extend the time of payment of a debt of the principal;
4. Receive certificates and other evidences of ownership with respect to stocks and bonds; and

1 5. Exercise voting rights with respect to stocks and bonds in
2 person or by proxy, enter into voting trusts, and consent to
3 limitations on the right to vote.

4 SECTION 30. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3030 of Title 58, unless there
6 is created a duplication in numbering, reads as follows:

7 Unless the power of attorney otherwise provides, language in a
8 power of attorney granting general authority with respect to
9 commodities and options authorizes the agent to:

10 1. Buy, sell, exchange, assign, settle and exercise commodity
11 futures contracts and call or put options on stocks or stock indexes
12 traded on a regulated option exchange; and

13 2. Establish, continue, modify and terminate option accounts.

14 SECTION 31. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3031 of Title 58, unless there
16 is created a duplication in numbering, reads as follows:

17 Unless the power of attorney otherwise provides, language in a
18 power of attorney granting general authority with respect to banks
19 and other financial institutions authorizes the agent to:

20 1. Continue, modify and terminate an account or other banking
21 arrangement made by or on behalf of the principal;

22 2. Establish, modify and terminate an account or other banking
23 arrangement with a bank, trust company, savings and loan
24

1 association, credit union, thrift company, brokerage firm or other
2 financial institution selected by the agent;

3 3. Contract for services available from a financial institution
4 including renting a safe deposit box or space in a vault;

5 4. Withdraw, by check, order, electronic funds transfer or
6 otherwise, money or property of the principal deposited with or left
7 in the custody of a financial institution;

8 5. Receive statements of account, vouchers, notices and similar
9 documents from a financial institution and act with respect to them;

10 6. Enter a safe deposit box or vault and withdraw or add to the
11 contents;

12 7. Borrow money and pledge as security personal property of the
13 principal necessary to borrow money or pay, renew or extend the time
14 of payment of a debt of the principal or a debt guaranteed by the
15 principal;

16 8. Make, assign, draw, endorse, discount, guarantee and
17 negotiate promissory notes, checks, drafts and other negotiable or
18 nonnegotiable paper of the principal or payable to the principal or
19 the principal's order, transfer money, receive the cash or other
20 proceeds of those transactions, and accept a draft drawn by a person
21 upon the principal and pay it when due;

22 9. Receive for the principal and act upon a sight draft,
23 warehouse receipt or other document of title whether tangible or
24 electronic, or other negotiable or nonnegotiable instrument;

1 10. Apply for, receive and use letters of credit, credit and
2 debit cards, electronic transaction authorizations and traveler's
3 checks from a financial institution and give an indemnity or other
4 agreement in connection with letters of credit; and

5 11. Consent to an extension of the time of payment with respect
6 to commercial paper or a financial transaction with a financial
7 institution.

8 SECTION 32. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3032 of Title 58, unless there
10 is created a duplication in numbering, reads as follows:

11 Subject to the terms of a document or an agreement governing an
12 entity or an entity ownership interest, and unless the power of
13 attorney otherwise provides, language in a power of attorney
14 granting general authority with respect to operation of an entity or
15 business authorizes the agent to:

16 1. Operate, buy, sell, enlarge, reduce or terminate an
17 ownership interest;

18 2. Perform a duty or discharge a liability and exercise in
19 person or by proxy a right, power, privilege or option that the
20 principal has, may have or claims to have;

21 3. Enforce the terms of an ownership agreement;

22 4. Initiate, participate in or submit to alternative dispute
23 resolution, settle, oppose, or propose or accept a compromise with
24

1 respect to litigation to which the principal is a party because of
2 an ownership interest;

3 5. Exercise in person or by proxy, or enforce by litigation or
4 otherwise, a right, power, privilege or option the principal has or
5 claims to have as the holder of stocks and bonds;

6 6. Initiate, participate in or submit to alternative dispute
7 resolution, settle, oppose, or propose or accept a compromise with
8 respect to litigation to which the principal is a party concerning
9 stocks and bonds;

10 7. With respect to an entity or business owned solely by the
11 principal:

12 a. continue, modify, renegotiate, extend and terminate a
13 contract made by or on behalf of the principal with
14 respect to the entity or business before execution of
15 the power of attorney,

16 b. determine:

17 (1) the location of its operation,

18 (2) the nature and extent of its business,

19 (3) the methods of manufacturing, selling,

20 merchandising, financing, accounting and

21 advertising employed in its operation,

22 (4) the amount and types of insurance carried, and
23
24

1 (5) the mode of engaging, compensating and dealing
2 with its employees and accountants, attorneys or
3 other advisors,

4 c. change the name or form of organization under which
5 the entity or business is operated and enter into an
6 ownership agreement with other persons to take over
7 all or part of the operation of the entity or
8 business, and

9 d. demand and receive money due or claimed by the
10 principal or on the principal's behalf in the
11 operation of the entity or business and control and
12 disburse the money in the operation of the entity or
13 business;

14 8. Put additional capital into an entity or business in which
15 the principal has an interest;

16 9. Join in a plan of reorganization, consolidation, conversion,
17 domestication or merger of the entity or business;

18 10. Sell or liquidate all or part of an entity or business;

19 11. Establish the value of an entity or business under a buy-
20 out agreement to which the principal is a party;

21 12. Prepare, sign, file and deliver reports, compilations of
22 information, returns or other papers with respect to an entity or
23 business and make related payments; and
24

1 13. Pay, compromise or contest taxes, assessments, fines or
2 penalties and perform any other act to protect the principal from
3 illegal or unnecessary taxation, assessments, fines or penalties,
4 with respect to an entity or business including attempts to recover,
5 in any manner permitted by law, money paid before or after the
6 execution of the power of attorney.

7 SECTION 33. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3033 of Title 58, unless there
9 is created a duplication in numbering, reads as follows:

10 Unless the power of attorney otherwise provides, language in a
11 power of attorney granting general authority with respect to
12 insurance and annuities authorizes the agent to:

13 1. Continue, pay the premium or make a contribution on, modify,
14 exchange, rescind, release or terminate a contract procured by or on
15 behalf of the principal which insures or provides an annuity to
16 either the principal or another person, whether or not the principal
17 is a beneficiary under the contract;

18 2. Procure new, different and additional contracts of insurance
19 and annuities for the principal and the principal's spouse, children
20 and other dependents, and select the amount, type of insurance or
21 annuity, and mode of payment;

22 3. Pay the premium or make a contribution on, modify, exchange,
23 rescind, release or terminate a contract of insurance or annuity
24 procured by the agent;

- 1 4. Apply for and receive a loan secured by a contract of
2 insurance or annuity;
- 3 5. Surrender and receive the cash surrender value on a contract
4 of insurance or annuity;
- 5 6. Exercise an election;
- 6 7. Exercise investment powers available under a contract of
7 insurance or annuity;
- 8 8. Change the manner of paying premiums on a contract of
9 insurance or annuity;
- 10 9. Change or convert the type of insurance or annuity with
11 respect to which the principal has or claims to have authority
12 described in this section;
- 13 10. Apply for and procure a benefit or assistance under a
14 statute or regulation to guarantee or pay premiums of a contract of
15 insurance on the life of the principal;
- 16 11. Collect, sell, assign, hypothecate, borrow against or
17 pledge the interest of the principal in a contract of insurance or
18 annuity;
- 19 12. Select the form and timing of the payment of proceeds from
20 a contract of insurance or annuity; and
- 21 13. Pay, from proceeds or otherwise, compromise or contest, and
22 apply for refunds in connection with, a tax or assessment levied by
23 a taxing authority with respect to a contract of insurance or
24

1 annuity or its proceeds or liability accruing by reason of the tax
2 or assessment.

3 SECTION 34. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3034 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 A. In this section, "estate, trust or other beneficial
7 interest" means a trust, probate estate, guardianship,
8 conservatorship, escrow or custodianship or a fund from which the
9 principal is, may become, or claims to be, entitled to a share or
10 payment.

11 B. Unless the power of attorney otherwise provides, language in
12 a power of attorney granting general authority with respect to
13 estates, trusts and other beneficial interests authorizes the agent
14 to:

15 1. Accept, receive, receipt for, sell, assign, pledge or
16 exchange a share in or payment from an estate, trust or other
17 beneficial interest;

18 2. Demand or obtain money or another thing of value to which
19 the principal is, may become, or claims to be, entitled by reason of
20 an estate, trust or other beneficial interest, by litigation or
21 otherwise;

22 3. Exercise for the benefit of the principal a presently
23 exercisable general power of appointment held by the principal;

24

1 4. Initiate, participate in or submit to alternative dispute
2 resolution, settle, oppose, or propose or accept a compromise with
3 respect to litigation to ascertain the meaning, validity or effect
4 of a deed, will, declaration of trust or other instrument or
5 transaction affecting the interest of the principal;

6 5. Initiate, participate in or submit to alternative dispute
7 resolution, settle, oppose, or propose or accept a compromise with
8 respect to litigation to remove, substitute or surcharge a
9 fiduciary;

10 6. Conserve, invest, disburse or use anything received for an
11 authorized purpose;

12 7. Transfer an interest of the principal in real property,
13 stocks and bonds, accounts with financial institutions or securities
14 intermediaries, insurance, annuities and other property to the
15 trustee of a revocable trust created by the principal as settlor;
16 and

17 8. Reject, renounce, disclaim, release or consent to a
18 reduction in or modification of a share in or payment from an
19 estate, trust or other beneficial interest.

20 SECTION 35. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3035 of Title 58, unless there
22 is created a duplication in numbering, reads as follows:

23

24

1 Unless the power of attorney otherwise provides, language in a
2 power of attorney granting general authority with respect to claims
3 and litigation authorizes the agent to:

4 1. Assert and maintain before a court or administrative agency
5 a claim, claim for relief, cause of action, counterclaim, offset,
6 recoupment or defense including an action to recover property or
7 other thing of value, recover damages sustained by the principal,
8 eliminate or modify tax liability, or seek an injunction, specific
9 performance or other relief;

10 2. Bring an action to determine adverse claims or intervene or
11 otherwise participate in litigation;

12 3. Seek an attachment, garnishment, order of arrest or other
13 preliminary, provisional or intermediate relief and use an available
14 procedure to effect or satisfy a judgment, order or decree;

15 4. Make or accept a tender, offer of judgment or admission of
16 facts, submit a controversy on an agreed statement of facts, consent
17 to examination, and bind the principal in litigation;

18 5. Submit to alternative dispute resolution, settle and propose
19 or accept a compromise;

20 6. Waive the issuance and service of process upon the
21 principal, accept service of process, appear for the principal,
22 designate persons upon which process directed to the principal may
23 be served, execute and file or deliver stipulations on the
24 principal's behalf, verify pleadings, seek appellate review, procure

1 and give surety and indemnity bonds, contract and pay for the
2 preparation and printing of records and briefs, receive, execute and
3 file or deliver a consent, waiver, release, confession of judgment,
4 satisfaction of judgment, notice, agreement or other instrument in
5 connection with the prosecution, settlement or defense of a claim or
6 litigation;

7 7. Act for the principal with respect to bankruptcy or
8 insolvency, whether voluntary or involuntary, concerning the
9 principal or some other person, or with respect to a reorganization,
10 receivership, or application for the appointment of a receiver or
11 trustee which affects an interest of the principal in property or
12 other thing of value;

13 8. Pay a judgment, award or order against the principal or a
14 settlement made in connection with a claim or litigation; and

15 9. Receive money or other thing of value paid in settlement of
16 or as proceeds of a claim or litigation.

17 SECTION 36. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3036 of Title 58, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Unless the power of attorney otherwise provides, language in
21 a power of attorney granting general authority with respect to
22 personal and family maintenance authorizes the agent to:

23 1. Perform the acts necessary to maintain the customary
24 standard of living of the principal, the principal's spouse and the

1 following individuals, whether living when the power of attorney is
2 executed or later born:

- 3 a. the principal's children,
- 4 b. other individuals legally entitled to be supported by
5 the principal, and
- 6 c. the individuals whom the principal has customarily
7 supported or indicated the intent to support;

8 2. Make periodic payments of child support and other family
9 maintenance required by a court or governmental agency or an
10 agreement to which the principal is a party;

11 3. Provide living quarters for the individuals described in
12 paragraph 1 of this subsection by:

- 13 a. purchase, lease or other contract, or
- 14 b. paying the operating costs including interest,
15 amortization payments, repairs, improvements and
16 taxes, for premises owned by the principal or occupied
17 by those individuals;

18 4. Provide normal domestic help, usual vacations and travel
19 expenses, and funds for shelter, clothing, food, appropriate
20 education including postsecondary and vocational education, and
21 other current living costs for the individuals described in
22 paragraph 1 of this subsection;

23

24

1 5. Pay expenses for necessary health care and custodial care on
2 behalf of the individuals described in paragraph 1 of this
3 subsection;

4 6. Act as the principal's personal representative pursuant to
5 the Health Insurance Portability and Accountability Act, Sections
6 1171 through 1179 of the Social Security Act, 42 U.S.C., Section
7 1320d, as amended, and applicable regulations, in making decisions
8 related to the past, present or future payment for the provision of
9 healthcare consented to by the principal or anyone authorized under
10 the law of this state to consent to health care on behalf of the
11 principal;

12 7. Continue any provision made by the principal for automobiles
13 or other means of transportation including registering, licensing,
14 insuring and replacing them, for the individuals described in
15 paragraph 1 of this subsection;

16 8. Maintain credit and debit accounts for the convenience of
17 the individuals described in paragraph 1 of this subsection and open
18 new accounts; and

19 9. Continue payments incidental to the membership or
20 affiliation of the principal in a religious institution, club,
21 society, order or other organization or to continue contributions to
22 those organizations.

23

24

1 B. Authority with respect to personal and family maintenance is
2 neither dependent upon, nor limited by, authority that an agent may
3 or may not have with respect to gifts under this act.

4 SECTION 37. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3037 of Title 58, unless there
6 is created a duplication in numbering, reads as follows:

7 A. In this section, "benefits from governmental programs or
8 civil or military service" means any benefit, program or assistance
9 provided under a statute or regulation including Social Security,
10 Medicare and Medicaid.

11 B. Unless the power of attorney otherwise provides, language in
12 a power of attorney granting general authority with respect to
13 benefits from governmental programs or civil or military service
14 authorizes the agent to:

15 1. Execute vouchers in the name of the principal for allowances
16 and reimbursements payable by the United States or a foreign
17 government or by a state or subdivision of a state to the principal
18 including allowances and reimbursements for transportation of the
19 individuals described in paragraph 1 of subsection A of Section 36
20 of this act and for shipment of their household effects;

21 2. Take possession and order the removal and shipment of
22 property of the principal from a post, warehouse, depot, dock or
23 other place of storage or safekeeping, either governmental or
24 private, and execute and deliver a release, voucher, receipt, bill

1 of lading, shipping ticket, certificate or other instrument for that
2 purpose;

3 3. Enroll in, apply for, select, reject, change, amend or
4 discontinue, on the principal's behalf, a benefit or program;

5 4. Prepare, file and maintain a claim of the principal for a
6 benefit or assistance, financial or otherwise, to which the
7 principal may be entitled under a statute or regulation;

8 5. Initiate, participate in or submit to alternative dispute
9 resolution, settle, oppose, or propose or accept a compromise with
10 respect to litigation concerning any benefit or assistance the
11 principal may be entitled to receive under a statute or regulation;
12 and

13 6. Receive the financial proceeds of a claim described in
14 paragraph 4 of this subsection and conserve, invest, disburse or use
15 for a lawful purpose anything so received.

16 SECTION 38. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3038 of Title 58, unless there
18 is created a duplication in numbering, reads as follows:

19 A. In this section, "retirement plan" means a plan or account
20 created by an employer, the principal or another individual to
21 provide retirement benefits or deferred compensation of which the
22 principal is a participant, beneficiary or owner including a plan or
23 account under the following sections of the Internal Revenue Code:

24

- 1 1. An individual retirement account under Internal Revenue Code
2 Section 408, 26 U.S.C., Section 408, as amended;
 - 3 2. A Roth individual retirement account under Internal Revenue
4 Code Section 408A, 26 U.S.C., Section 408A, as amended;
 - 5 3. A deemed individual retirement account under Internal
6 Revenue Code Section 408(q), 26 U.S.C., Section 408(q), as amended;
 - 7 4. An annuity or mutual fund custodial account under Internal
8 Revenue Code Section 403(b), 26 U.S.C., Section 403(b), as amended;
 - 9 5. A pension, profit sharing, stock bonus or other retirement
10 plan qualified under Internal Revenue Code Section 401(a), 26
11 U.S.C., Section 401(a), as amended;
 - 12 6. A plan under Internal Revenue Code Section 457(b), 26
13 U.S.C., Section 457(b), as amended; and
 - 14 7. A nonqualified deferred compensation plan under Internal
15 Revenue Code Section 409A, 26 U.S.C., Section 409A, as amended.
- 16 B. Unless the power of attorney otherwise provides, language in
17 a power of attorney granting general authority with respect to
18 retirement plans authorizes the agent to:
- 19 1. Select the form and timing of payments under a retirement
20 plan and withdraw benefits from a plan;
 - 21 2. Make a rollover including a direct trustee-to-trustee
22 rollover, of benefits from one retirement plan to another;
 - 23 3. Establish a retirement plan in the principal's name;
 - 24 4. Make contributions to a retirement plan;

1 5. Exercise investment powers available under a retirement
2 plan; and

3 6. Borrow from, sell assets to or purchase assets from a
4 retirement plan.

5 SECTION 39. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3039 of Title 58, unless there
7 is created a duplication in numbering, reads as follows:

8 Unless the power of attorney otherwise provides, language in a
9 power of attorney granting general authority with respect to taxes
10 authorizes the agent to:

11 1. Prepare, sign and file federal, state, local and foreign
12 income, gift, payroll, property, Federal Insurance Contributions Act
13 and other tax returns, claims for refunds, requests for extension of
14 time, petitions regarding tax matters and any other tax-related
15 documents including receipts, offers, waivers, consents including
16 consents and agreements under Internal Revenue Code Section 2032A,
17 26 U.S.C., Section 2032A, as amended, closing agreements, and any
18 power of attorney required by the Internal Revenue Service or other
19 taxing authority with respect to a tax year upon which the statute
20 of limitations has not run and the following twenty-five (25) tax
21 years;

22 2. Pay taxes due, collect refunds, post bonds, receive
23 confidential information and contest deficiencies determined by the
24 Internal Revenue Service or other taxing authority;

1 3. Exercise any election available to the principal under
2 federal, state, local or foreign tax law; and

3 4. Act for the principal in all tax matters for all periods
4 before the Internal Revenue Service or other taxing authority.

5 SECTION 40. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3040 of Title 58, unless there
7 is created a duplication in numbering, reads as follows:

8 A. In this section, a gift "for the benefit of" a person
9 includes a gift to a trust, an account under the Uniform Transfers
10 to Minors Act (1983/1986), and a tuition savings account or prepaid
11 tuition plan as defined under Internal Revenue Code Section 529, 26
12 U.S.C., Section 529, as amended.

13 B. Unless the power of attorney otherwise provides, language in
14 a power of attorney granting general authority with respect to gifts
15 authorizes the agent only to:

16 1. Make outright to, or for the benefit of, a person, a gift of
17 any of the principal's property including by the exercise of a
18 presently exercisable general power of appointment held by the
19 principal, in an amount per donee not to exceed the annual dollar
20 limits of the federal gift tax exclusion under Internal Revenue Code
21 Section 2503(b), 26 U.S.C., Section 2503(b), as amended, without
22 regard to whether the federal gift tax exclusion applies to the
23 gift, or if the principal's spouse agrees to consent to a split gift
24 pursuant to Internal Revenue Code Section 2513, 26 U.S.C., Section

1 2513, as amended, in an amount per donee not to exceed twice the
2 annual federal gift tax exclusion limit; and

3 2. Consent, pursuant to Internal Revenue Code Section 2513, 26
4 U.S.C., Section 2513, as amended, to the splitting of a gift made by
5 the principal's spouse in an amount per donee not to exceed the
6 aggregate annual gift tax exclusions for both spouses.

7 C. An agent may make a gift of the principal's property only as
8 the agent determines is consistent with the principal's objectives
9 if actually known by the agent and, if unknown, as the agent
10 determines is consistent with the principal's best interest based on
11 all relevant factors including:

12 1. The value and nature of the principal's property;

13 2. The principal's foreseeable obligations and need for
14 maintenance;

15 3. Minimization of taxes including income, estate, inheritance,
16 generation-skipping transfer and gift taxes;

17 4. Eligibility for a benefit, a program or assistance under a
18 statute or regulation; and

19 5. The principal's personal history of making or joining in
20 making gifts.

21 SECTION 41. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3041 of Title 58, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A document substantially in the following form may be used to
2 create a statutory power of attorney form that has the meaning and
3 effect prescribed by this act.

4 OKLAHOMA

5 STATUTORY POWER OF ATTORNEY FORM

6 IMPORTANT INFORMATION

7 This power of attorney authorizes another person (your agent) to
8 make decisions concerning your property for you (the principal).

9 Your agent will be able to make decisions and act with respect to
10 your property (including your money) whether or not you are able to
11 act for yourself. The meaning of authority over subjects listed on
12 this form is explained in the Uniform Power of Attorney Act, Section
13 3001 et seq. of Title 58 of the Oklahoma Statutes.

14 This power of attorney does not authorize the agent to make health
15 care decisions for you.

16 You should select someone you trust to serve as your agent. Unless
17 you specify otherwise, generally the agent's authority will continue
18 until you die or revoke the power of attorney or the agent resigns
19 or is unable to act for you.

20 Your agent is entitled to reasonable compensation unless you state
21 otherwise in the Special Instructions.

22 This form provides for designation of one agent. If you wish to
23 name more than one agent you may name a coagent in the Special
24

1 Instructions. Coagents are not required to act together unless you
2 include that requirement in the Special Instructions.
3 If your agent is unable or unwilling to act for you, your power of
4 attorney will end unless you have named a successor agent. You may
5 also name a second successor agent.
6 This power of attorney becomes effective immediately unless you
7 state otherwise in the Special Instructions.
8 If you have questions about the power of attorney or the authority
9 you are granting to your agent, you should seek legal advice before
10 signing this form.

11 DESIGNATION OF AGENT

12 I, _____,

13 (Name of Principal)

14 name the following person as my agent:

15 Name of Agent: _____

16 Agent's Address: _____

17 Agent's Telephone Number: _____

18 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

19 If my agent is unable or unwilling to act for me, I name as my
20 successor agent:

21 Name of Successor Agent: _____

22 Successor Agent's Address: _____

23 Successor Agent's Telephone Number: _____

24

1 If my successor agent is unable or unwilling to act for me, I name
2 as my second successor agent:

3 Name of Second Successor Agent: _____

4 Second Successor Agent's Address: _____

5 Second Successor Agent's Telephone Number: _____

6 GRANT OF GENERAL AUTHORITY

7 I grant my agent and any successor agent general authority to act
8 for me with respect to the following subjects as defined in the
9 Uniform Power of Attorney Act, Section 3001 et seq. of Title 58 of
10 the Oklahoma Statutes:

11 (INITIAL each subject you want to include in the agent's general
12 authority. If you wish to grant general authority over all of the
13 subjects you may initial "All Preceding Subjects" instead of
14 initialing each subject.)

15 (___) Real Property

16 (___) Tangible Personal Property

17 (___) Stocks and Bonds

18 (___) Commodities and Options

19 (___) Banks and Other Financial Institutions

20 (___) Operation of Entity or Business

21 (___) Insurance and Annuities

22 (___) Estates, Trusts and Other Beneficial Interests

23 (___) Claims and Litigation

24 (___) Personal and Family Maintenance

- 1 () Benefits from Governmental Programs or Civil or Military
- 2 Service
- 3 () Retirement Plans
- 4 () Taxes
- 5 () All Preceding Subjects

6 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

7 My agent MAY NOT do any of the following specific acts for me UNLESS
8 I have INITIALED the specific authority listed below:

9 (CAUTION: Granting any of the following will give your agent the
10 authority to take actions that could significantly reduce your
11 property or change how your property is distributed at your death.
12 INITIAL ONLY the specific authority you WANT to give your agent.)

13 () Create, amend, revoke or terminate an inter vivos trust

14 () Make a gift, subject to the limitations of the Uniform Power
15 of Attorney Act, Section 3040 of Title 58 of the Oklahoma
16 Statutes and any special instructions in this power of
17 attorney

18 () Create or change rights of survivorship

19 () Create or change a beneficiary designation

20 () Authorize another person to exercise the authority granted
21 under this power of attorney

22 () Waive the principal's right to be a beneficiary of a joint and
23 survivor annuity including a survivor benefit under a
24 retirement plan

- 1 (___) Exercise fiduciary powers that the principal has authority to
- 2 delegate
- 3 (___) Access the content of electronic communications
- 4 (___) Disclaim or refuse an interest in property including a power
- 5 of appointment

6 LIMITATION ON AGENT'S AUTHORITY

7 An agent that is not my ancestor, spouse or descendant MAY NOT use
8 my property to benefit the agent or a person to whom the agent owes
9 an obligation of support unless I have included that authority in
10 the Special Instructions.

11 SPECIAL INSTRUCTIONS (OPTIONAL)

12 You may give special instructions on the following lines:
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____

21 EFFECTIVE DATE

22 This power of attorney is effective immediately unless I have stated
23 otherwise in the Special Instructions.

24 NOMINATION OF GUARDIAN (OPTIONAL)

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 Nominee's Address: _____

10 Nominee's Telephone Number: _____

11 RELIANCE ON THIS POWER OF ATTORNEY

12 Any person including my agent, may rely upon the validity of this
13 power of attorney or a copy of it unless that person knows it has
14 terminated or is invalid.

15 SIGNATURE AND ACKNOWLEDGMENT

16 _____

17 Your Signature

_____ Date

18 _____

19 Your Name Printed

20 _____

21 Your Address

22 _____

23 Your Telephone Number

24 State of _____

1 County of _____

2 This document was acknowledged before me on _____

3 (Date)

4 by _____.

5 (Name of Principal)

6 _____ (Seal, if any)

7 Signature of Notary _____

8 My commission expires: _____

9 This document prepared by:

10 _____
11 _____

12 IMPORTANT INFORMATION FOR AGENT

13 Agent's Duties

14 When you accept the authority granted under this power of attorney,
15 a special legal relationship is created between you and the
16 principal. This relationship imposes upon you legal duties that
17 continue until you resign or the power of attorney is terminated or
18 revoked. You must:

- 19 1. Do what you know the principal reasonably expects you to do
- 20 with the principal's property or, if you do not know the
- 21 principal's expectations, act in the principal's best
- 22 interest;
- 23 2. Act in good faith;

24

1 3. Do nothing beyond the authority granted in this power of
2 attorney; and

3 4. Disclose your identity as an agent whenever you act for the
4 principal by writing or printing the name of the principal
5 and signing your own name as "agent" in the following
6 manner:

7 (Principal's Name) by (Your Signature) as Agent

8 Unless the Special Instructions in this power of attorney state
9 otherwise, you must also:

10 1. Act loyally for the principal's benefit;

11 2. Avoid conflicts that would impair your ability to act in the
12 principal's best interest;

13 3. Act with care, competence and diligence;

14 4. Keep a record of all receipts, disbursements and
15 transactions made on behalf of the principal;

16 5. Cooperate with any person that has authority to make health
17 care decisions for the principal to do what you know the
18 principal reasonably expects or, if you do not know the
19 principal's expectations, to act in the principal's best
20 interest; and

21 6. Attempt to preserve the principal's estate plan if you know
22 the plan and preserving the plan is consistent with the
23 principal's best interest.

24 Termination of Agent's Authority

1 You must stop acting on behalf of the principal if you learn of any
2 event that terminates this power of attorney or your authority under
3 this power of attorney. Events that terminate a power of attorney
4 or your authority to act under a power of attorney include:

- 5 1. Death of the principal;
- 6 2. The principal's revocation of the power of attorney or your
7 authority;
- 8 3. The occurrence of a termination event stated in the power of
9 attorney;
- 10 4. The purpose of the power of attorney is fully accomplished;
11 or
- 12 5. If you are married to the principal, a legal action is filed
13 with a court to end your marriage, or for your legal
14 separation, unless the Special Instructions in this power of
15 attorney state that such an action will not terminate your
16 authority.

17 Liability of Agent

18 The meaning of the authority granted to you is defined in the
19 Uniform Power of Attorney Act, Section 3001 et seq. of Title 58 of
20 the Oklahoma Statutes. If you violate the Uniform Power of Attorney
21 Act, Section 3001 et seq. of Title 58 of the Oklahoma Statutes, or
22 act outside the authority granted, you may be liable for any damages
23 caused by your violation.

24

1 If there is anything about this document or your duties that you do
2 not understand, you should seek legal advice.

3 SECTION 42. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3042 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 The following optional form may be used by an agent to certify
7 facts concerning a Power of Attorney.

8 AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY
9 AND AGENT'S AUTHORITY

10 State of _____

11 County of _____

12 I, _____ (Name of Agent),

13 certify under penalty of perjury that

14 _____ (Name of Principal)

15 granted me authority as an agent or successor agent in a Power of
16 Attorney dated _____.

17 I further certify that to my knowledge:

- 18 1. The Principal is alive and has not revoked the Power of
19 Attorney or my authority to act under the Power of Attorney
20 and the Power of Attorney and my authority to act under the
21 Power of Attorney have not terminated;
- 22 2. If the Power of Attorney was drafted to become effective
23 upon the happening of an event or contingency, the event or
24 contingency has occurred;

1 3. If I was named as a successor agent, the prior agent is no
2 longer able or willing to serve; and

3 4. _____
4 _____
5 _____
6 _____
7 _____
8 _____

9 (Insert other relevant statements)

10 SIGNATURE AND ACKNOWLEDGMENT

11 _____
12 Agent's Signature Date

13 _____
14 Agent's Name Printed

15 _____
16 Agent's Address

17 _____
18 Agent's Telephone Number

19 This document was acknowledged before me on _____,

20 (Date)

21 by _____

22 (Name of Agent)

23 _____ (Seal, if any)

24 Signature of Notary: _____

1 My commission expires: _____

2 This document prepared by: _____

3 SECTION 43. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3043 of Title 58, unless there
5 is created a duplication in numbering, reads as follows:

6 In applying and construing this uniform act, consideration must
7 be given to the need to promote uniformity of the law with respect
8 to its subject matter among the states that enact it.

9 SECTION 44. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3044 of Title 58, unless there
11 is created a duplication in numbering, reads as follows:

12 This act modifies, limits and supersedes the federal Electronic
13 Signatures in Global and National Commerce Act, 15 U.S.C., Section
14 7001 et seq., but does not modify, limit or supersede Section 101(c)
15 of that act, 15 U.S.C., Section 7001(c), or authorize electronic
16 delivery of any of the notices described in Section 103(b) of that
17 act, 15 U.S.C., Section 7003(b).

18 SECTION 45. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3045 of Title 58, unless there
20 is created a duplication in numbering, reads as follows:

21 Except as otherwise provided in this act, on the effective date
22 of this act:

23 1. This act applies to a power of attorney created before, on
24 or after the effective date of this act;

1 2. This act applies to a judicial proceeding concerning a power
2 of attorney commenced on or after the effective date of this act;

3 3. This act applies to a judicial proceeding concerning a power
4 of attorney commenced before the effective date of this act unless
5 the court finds that application of a provision of this act would
6 substantially interfere with the effective conduct of the judicial
7 proceeding or prejudice the rights of a party, in which case that
8 provision does not apply and the superseded law applies; and

9 4. A power of attorney created before the effective date of
10 this act is not affected by this act.

11 SECTION 46. REPEALER 58 O.S. 2011, Sections 1071, 1072,
12 1072.1, as amended by Section 6, Chapter 355, O.S.L. 2016, 1072.2,
13 1072.3, 1074, as amended by Section 1, Chapter 7, O.S.L. 2015, 1075,
14 as amended by Section 2, Chapter 7, O.S.L. 2015, 1076 and 1077 (58
15 O.S. Supp. 2020, Sections 1072.1, 1074 and 1075), are hereby
16 repealed.

17 SECTION 47. This act shall become effective November 1, 2021.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 April 6, 2021 - DO PASS
20
21
22
23
24