

CHAPTER 243

GENERAL PROVISIONS RELATING TO FRAUDULENT CONVEYANCES AND CONTRACTS

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243.01 Grants, etc., of trust to be in writing. Every grant or assignment of any existing trust in lands, goods or things in action, unless the same shall be in writing subscribed by the party making the same or by the party's agent lawfully authorized, shall be void.

History: 1991 a 316

Unenforceability of a contract under this section does not prevent the imposition of a constructive trust in a proper case. *Gorski v. Gorski*, 82 W (2d) 248, 262 NW (2d) 120

243.02 Conveyances void as to creditors void as to their heirs, etc. Every conveyance, charge, instrument or proceeding declared to be void by chs. 240 to 243 as against creditors or purchasers shall be equally void against the heirs, successors, personal representatives or assignees of such creditors or purchasers.

History: 1979 c. 89

243.03 "Lands" defined. The term "lands", as used in chs. 240 to 243, shall be construed as coextensive in meaning with "lands, tenements and hereditaments"; and the term "estate and interest in lands" shall be construed to embrace every estate and interest, freehold and chattel, legal and equitable, present and future, vested and contingent, in lands as above defined.

History: 1979 c. 89

243.04 "Conveyance" defined. The term "conveyance," as used in chs. 240, 241 and 243, shall be construed to embrace every instrument in writing except a last will and testament, whatever may be its form, and by whatever name it may be known in law, by which any estate or interest in lands is created, aliened, assigned or surrendered.

243.05 Instruments signed by agents. Every instrument required under chs. 240 to 243 to be subscribed by any party may be subscribed by the agent of such party lawfully authorized thereto.

History: 1979 c. 89

243.06 Death of principal, effect on agency. The death of the principal shall not operate as a revocation of an agency as to the attorney or agent until the attorney or agent shall have notice of the death, or as to one who, without notice of such death, in good faith deals with the attorney or agent; and this shall apply whether the agency was created by writing or not. This section does not apply to powers of attorney created on or after May 1, 1982.

History: 1981 c. 313; 1991 a 316

243.07 Uniform durable power of attorney act.
(1) DEFINITIONS In this chapter:

(a) "Durable power of attorney" means a power of attorney by which a principal designates another as his or her agent in writing and the writing contains the words "this power of attorney shall not be affected by subsequent disability, incapacity or incompetency of the principal", or "this power of attorney shall become effective upon the disability, incapacity or incompetency of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability, incapacity or incompetency.

(b) "Incapacity" means the inability to receive and evaluate information effectively or to communicate decisions to such an extent that the individual lacks the capacity to manage his or her decisions.

(2) DURABLE POWER OF ATTORNEY NOT AFFECTED BY DISABILITY. All acts done by agent pursuant to a durable power of attorney during any period of disability, incapacity or incompetency of the principal have the same effect and inure to the benefit of and bind the principal and his or her successors in interest as if the principal were competent and not disabled.

(2m) DURABLE POWER OF ATTORNEY NOT AFFECTED BY PASSAGE OF TIME. The passage of time does not revoke a durable power of attorney unless the durable power of attorney states a time of revocation.

(3) RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY. (a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of his or her property except specified exclusions, the agent is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if the principal were not disabled, incapacitated or incompetent.

(b) A principal may nominate, by a durable power of attorney, the conservator, guardian of his or her estate, or guardian of his or her person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(4) POWER OF ATTORNEY NOT REVOKED UNTIL NOTICE. (a) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the agent or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(b) The disability, incapacity or incompetency of a principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the agent or other person, who, without actual knowledge of the disability, incapacity or incompetency of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his or her successors in interest.

(5) PROOF OF CONTINUANCE OF DURABLE AND OTHER POWERS OF ATTORNEY BY AFFIDAVIT. As to acts undertaken in good faith reliance thereon, an affidavit executed by the agent under a power of attorney, durable or otherwise, stating that he or she did not have at the time of exercise of the power actual knowledge of the termination of the power by revocation or of the principal's death, disability, incapacity or incompetency is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power of attorney requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is likewise recordable. This subsection does not affect any provision in a power of attorney for its termination by

expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity.

(6) UNIFORMITY OF APPLICATION AND CONSTRUCTION. This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting it.

(6m) RELATIONSHIP TO POWER OF ATTORNEY FOR HEALTH CARE. If a portion of a durable power of attorney that is executed under this section after April 28, 1990, specifically authorizes the agent to make health care decisions on behalf of the principal, that portion of the durable power of attorney has no force or effect and that portion of the durable power of attorney instrument that is so executed and makes these authorizations is invalid, unless that portion of the durable power of attorney instrument conforms to the requirements of ch. 155.

(7) APPLICATION. This section applies to powers of attorney created on or after May 1, 1982.

History: 1981 c 313; 1989 a 200; 1991 a 297; 1993 a 213, 490

This section permits attorney-in-fact to make medical decisions but cannot be used to place someone in nursing home or to avoid other requirements of chs. 55 and 880. 77 Atty. Gen 156.

243.10 Uniform statutory form power of attorney act. (1) STATUTORY FORM OF POWER OF ATTORNEY (a) Form. The following statutory form of power of attorney is legally sufficient:

STATUTORY POWER OF ATTORNEY

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THE POWERS WILL EXIST AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT IF YOU CIRCLE THAT PROVISION. THE POWERS THAT YOU GIVE YOUR AGENT ARE EXPLAINED MORE FULLY IN SECTION 243.10 OF THE WISCONSIN STATUTES. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH-CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

I... (insert your name and address) appoint... (insert the name and address of the person appointed, or of each person appointed, if you want to designate more than one) as my agent to act for me in any lawful way with respect to the powers initialed below. If the person or persons appointed are unable or unwilling to act as my agent, I appoint... (insert name and address of alternate person appointed) to act for me in any lawful way with respect to the powers initialed below.

TO GRANT ONE OR MORE OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

Initials

- 1. Real property transactions.
2. Tangible personal property transactions.
3. Stock and bond transactions.
4. Commodity and option transactions.
5. Banking and other financial institution transactions.
6. Business operating transactions.
7. Insurance and annuity transactions.

- 8. Estate, trust, and other beneficiary transactions.
9. Claims and litigation.
10. Personal and family maintenance.
11. Benefits from social security, medicare, medicaid or other governmental programs, or military service.
12. Retirement plan transactions.
13. Tax matters.

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

Dotted lines for special instructions.

This power of attorney will become effective (immediately) (immediately, and is not affected by my subsequent disability, incapacity or incompetency) (when I become disabled, incapacitated or incompetent) CIRCLE ONE.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to reimburse the third party for any loss resulting from claims that arise against the third party because of reliance on this power of attorney.

Signed this ... day of ..., 19...

(Your Signature)

(Your Social Security Number)

State of ...

County of ...

This document was acknowledged before me on ... (date) by ... (name of principal).

(Signature of Notarial Officer)

(Seal, if any)

(Title)

[My commission expires: ...]

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

(b) Requirements. A statutory power of attorney is legally sufficient under this section if the wording of the form complies substantially with par. (a), the form is properly completed and the signature of the principal is acknowledged. A copy of a completed statutory power of attorney form has the same force and effect as the original.

(cm) Recording. A completed statutory form of power of attorney may be recorded in the office of the register of deeds in the county where the principal resides and in the county where the agent resides.

(2) DURABLE POWER OF ATTORNEY. A power of attorney legally sufficient under this section is durable to the extent that durable powers are permitted under s. 243.07 and the power of attorney contains language provided under s. 243.07 (1) showing the intent of the principal that the power granted may be exercised notwithstanding later disability, incapacity or incompetency.

(2m) The department of health and social services shall prepare and provide copies of the statutory power of attorney form under sub. (1) (a) for distribution in quantities to health care professionals, hospitals, nursing homes, multipurpose senior centers, county clerks and local bar associations and individually to private persons. The department of health and social services may charge a reasonable fee for the cost of preparation and distribution of the forms.

(3) CONSTRUCTION OF POWERS GENERALLY (a) By executing a statutory power of attorney with respect to a power listed in sub. (1) (a), the principal, except as provided under pars. (b) and (c) or as limited or extended by the principal in the power of attorney, empowers the agent to do all of the following for that power:

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

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

3. Execute, acknowledge, seal and deliver a deed, revocation, mortgage, lease, notice, check, release or other instrument the agent considers desirable to accomplish a purpose of a transaction.

4. Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal, or intervene in litigation relating to the claim.

5. Seek on the principal's behalf the assistance of a court to carry out an act authorized by the power of attorney.

6. Engage, compensate and discharge an attorney, accountant, expert witness or other assistant.

7. Keep appropriate records of each transaction, including an accounting of receipts and disbursements.

8. Prepare, execute and file a record, report or other document the agent considers desirable to safeguard or promote the principal's interest under a statute or governmental regulation.

9. Reimburse the agent for expenditures properly made by the agent in exercising the powers granted by the power of attorney.

10. In general, do any other lawful act with respect to that subject.

(b) The execution of a statutory power of attorney under this section does not confer on the agent any of the powers or duties conferred on a health care agent by the power of attorney for health care under ch. 155.

(c) The execution of a statutory power of attorney under this section does not confer upon the agent any of the following:

1. The power to make a will for or modify, amend or revoke the will of the principal.

2. The power to enter into a trust agreement on behalf of, or to modify, amend or revoke a trust agreement entered into by, the principal.

3. The power to exercise any power, right or authority retained by the principal under a trust agreement.

4. The power to exercise any power, as defined in s. 702.01 (4), with respect to which the principal is the donee, as defined in s. 702.01 (2).

(4) CONSTRUCTION OF POWER RELATING TO REAL PROPERTY TRANSACTIONS. In a statutory power of attorney, the language granting power with respect to real property transactions empowers the agent to do all of the following:

(a) Accept as a gift or as security for a loan, reject, demand, buy, lease, receive, or otherwise acquire, an interest in real property or a right incident to real property.

(b) Sell, exchange, convey with or without covenants, quitclaim, release, surrender, mortgage, encumber, partition, consent to partitioning, subdivide, apply for zoning, rezoning or other

governmental permits, plat or consent to platting, develop, grant options concerning, lease, sublease, or otherwise dispose of, an interest in real property or a right incident to real property.

(c) Release, assign, satisfy and enforce by litigation or otherwise, a mortgage, deed of trust, encumbrance, lien or other claim to real property that exists or is asserted.

(d) Do any act of management or of conservation with respect to an interest in real property, or to a right incident to real property, owned or claimed to be owned by the principal, including all of the following:

1. Insuring against a casualty, liability or loss.

2. Obtaining or regaining possession, or protecting the interest or right, by litigation or otherwise.

3. Paying, compromising or contesting taxes or assessments, or applying for and receiving refunds in connection with them.

4. Purchasing supplies, hiring assistance or labor and making repairs or alterations in the real property.

(e) Use, develop, alter, replace, remove, erect or install structures or other improvements upon real property in which, or incident to which, the principal has, or claims to have, an interest or right.

(f) Participate in a reorganization with respect to real property or a legal entity that owns an interest in or right incident to real property, receive and hold shares of stock or obligations received in a plan of reorganization, and act with respect to the interest or shares, including all of the following:

1. Selling or otherwise disposing of the interest or shares.

2. Exercising or selling an option, conversion or similar right with respect to the interest or shares.

3. Voting the interest or shares in person or by proxy.

(g) Change the form of title of an interest in or right incident to real property.

(h) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

(5) CONSTRUCTION OF POWER RELATING TO TANGIBLE PERSONAL PROPERTY TRANSACTIONS. In a statutory power of attorney, the language granting power with respect to tangible personal transactions empowers the agent to do all of the following:

(a) Accept as a gift or as security for a loan, reject, demand, buy, receive or otherwise acquire ownership or possession of tangible personal property or an interest in tangible personal property.

(b) Sell, exchange, convey with or without covenants, release, surrender, mortgage, encumber, pledge, hypothecate, create a security interest in, pawn, grant options concerning, lease, sublease to others or otherwise dispose of tangible personal property or an interest in tangible personal property.

(c) Release, assign, satisfy, or enforce by litigation or otherwise, a mortgage, security interest, encumbrance, lien or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property.

(d) Do an act of management or conservation with respect to tangible personal property or an interest in tangible personal property on behalf of the principal, including all of the following:

1. Insuring against casualty, liability or loss.

2. Obtaining or regaining possession, or protecting the property or interest, by litigation or otherwise.

3. Paying, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments.

4. Moving from place to place.

5. Storing for hire or on a gratuitous bailment.

6. Using, altering and making repairs or alterations.

(6) CONSTRUCTION OF POWER RELATING TO STOCK AND BOND TRANSACTIONS. In a statutory power of attorney, the language granting power with respect to stock and bond transactions

empowers the agent to buy, sell and exchange stocks, bonds, mutual funds and all other types of securities and financial instruments except commodity futures contracts, to call and put options on stocks and stock indexes, to receive certificates and other evidences of ownership with respect to securities, to exercise voting rights with respect to securities in person or by proxy, to enter into voting trusts and to consent to limitations on the right to vote.

(7) CONSTRUCTION OF POWER RELATING TO COMMODITY AND OPTION TRANSACTIONS In a statutory power of attorney, the language granting power with respect to commodity and option transactions empowers the agent to buy, sell, exchange, assign, settle and exercise commodity futures contracts, to call and put options on stocks and stock indexes traded on a regulated option exchange and to establish, continue, modify and terminate option accounts with a broker.

(8) CONSTRUCTION OF POWER RELATING TO BANKING AND OTHER FINANCIAL INSTITUTION TRANSACTIONS In a statutory power of attorney, the language granting power with respect to banking and other financial institution transactions empowers the agent to do all of the following:

- (a) Continue, modify and terminate an account or other banking arrangement made by or on behalf of the principal.
- (b) Establish, modify and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm or other financial institution selected by the agent.
- (c) Hire a safe deposit box or space in a vault.
- (d) Contract to procure other services available from a financial institution as the agent considers desirable.
- (e) Withdraw by check, order or otherwise money or property of the principal deposited with or left in the custody of a financial institution.
- (f) Receive bank statements, vouchers, notices and similar documents from a financial institution and act with respect to them.
- (g) Enter a safe deposit box or vault and withdraw or add to the contents.
- (h) Borrow money at an interest rate agreeable to the agent and pledge as security personal property of the principal necessary in order to borrow, pay, renew or extend the time of payment of a debt of the principal.
- (i) Make, assign, draw, endorse, discount, guarantee and negotiate promissory notes, checks, drafts and other negotiable or non-negotiable paper of the principal, or payable to the principal or to the principal's order, receive the cash or other proceeds of those transactions, accept a draft drawn by a person upon the principal and pay it when due.
- (j) Receive for the principal and act upon a sight draft, warehouse receipt or other negotiable or nonnegotiable instrument.
- (k) Apply for and receive letters of credit, credit cards and traveler's checks from a financial institution, and give an indemnity or other agreement in connection with letters of credit.
- (L) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

(9) CONSTRUCTION OF POWER RELATING TO BUSINESS OPERATING TRANSACTIONS In a statutory power of attorney, the language granting power with respect to business operating transactions empowers the agent to do all of the following:

- (a) Operate, buy, sell, enlarge, reduce and terminate a business interest.
- (b) To the extent that an agent is permitted by law to act for a principal and subject to the terms of the partnership agreement to do all of the following:
 1. Perform a duty or discharge a liability and exercise a right, power, privilege or option that the principal has, may have or

claims to have under a partnership agreement, whether or not the principal is a partner.

2. Enforce the terms of a partnership agreement by litigation or otherwise.

3. Defend, submit to arbitration, settle or compromise litigation to which the principal is a party because of membership in the partnership.

- (c) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege or option the principal has or claims to have as the holder of a bond, share or other instrument of similar character, and defend, submit to arbitration, settle or compromise litigation to which the principal is a party because of a bond, share or similar instrument.

- (d) With respect to a business owned solely by the principal, do all of the following:

1. Continue, modify, renegotiate, extend and terminate a contract made with an individual or a legal entity, firm, association or corporation by or on behalf of the principal with respect to the business before execution of the power of attorney.

2. Determine all of the following:

- a. The location of its operation.
- b. The nature and extent of its business.
- c. The methods of manufacturing, selling, merchandising, financing, accounting and advertising employed in its operation.
- d. The amount and types of insurance carried.
- e. The mode of engaging, compensating and dealing with its accountants, attorneys and other agents and employees.

3. Change the name or form of organization under which the business is operated and enter into a partnership agreement with other persons or organize a corporation to take over all or part of the operation of the business.

4. Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the business, and control and disburse the money in the operation of the business.

- (e) Put additional capital into a business in which the principal has an interest.

- (f) Join in a plan of reorganization, consolidation or merger of the business.

- (g) Sell or liquidate a business or part of it at the time and upon the terms the agent considers desirable.

- (h) Establish the value of a business under a buy-out agreement to which the principal is a party.

- (i) Prepare, sign, file and deliver reports, compilations of information, returns or other papers with respect to a business which are required by a governmental agency or instrumentality or which the agent considers desirable, and make related payments.

- (j) Pay, compromise or contest taxes or assessments and do any other act which the agent considers desirable to protect the principal from illegal or unnecessary taxation, fines, penalties or assessments with respect to a business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

(10) CONSTRUCTION OF POWER RELATING TO INSURANCE TRANSACTIONS In a statutory power of attorney, the language granting power with respect to insurance and annuity transactions empowers the agent to do all of the following:

- (a) Continue, pay the premium or assessment on, modify, rescind, release or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract.

- (b) Procure new, different and additional contracts of insurance and annuities for the principal and the principal's spouse, children and other dependents; and select the amount, type of insurance or annuity and mode of payment.

(c) Pay the premium or assessment on, modify, rescind, release or terminate a contract of insurance or annuity procured by the agent.

(d) Designate the beneficiary of the contract, or an extension, renewal or substitute of a contract, unless an agent was named a beneficiary of a contract, extension, renewal or substitute of a contract by the principal before executing the power of attorney.

(e) Apply for and receive a loan on the security of the contract of insurance or annuity.

(f) Surrender and receive the cash surrender value.

(g) Exercise an election.

(h) Change the manner of paying premiums.

(i) Change or convert the type of insurance contract or annuity, with respect to which the principal has or claims to have a power described in this subsection.

(j) Change the beneficiary of a contract of insurance or annuity, but the agent may not be designated a beneficiary except to the extent permitted by par. (d).

(k) Apply for and procure government aid to guarantee or pay premiums of a contract of insurance on the life of the principal.

(L) Collect, sell, assign, hypothecate, borrow upon or pledge the interest of the principal in a contract of insurance or annuity.

(m) Pay from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

(n) Claim and be paid the proceeds or benefits of a contract of insurance or annuity under which the principal has an interest as beneficiary or otherwise.

(11) CONSTRUCTION OF POWER RELATING TO ESTATE, TRUST AND OTHER BENEFICIARY TRANSACTIONS. In a statutory power of attorney, the language granting power with respect to estate, trust and other beneficiary transactions empowers the agent to act for the principal in all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship or other fund from which the principal is, may become or claims to be entitled, as a beneficiary, to a share or payment, including to do all of the following:

(a) Accept, reject, disclaim, receive, receipt for, sell, assign, release, pledge, exchange or consent to a reduction in or modification of a share in or payment from the fund.

(b) Demand or obtain by litigation or otherwise money or other thing of value to which the principal is, may become or claims to be entitled by reason of the fund.

(c) Initiate, participate in and oppose litigation to ascertain the meaning, validity or effect of a deed, will, declaration of trust or other instrument or transaction affecting the interest of the principal.

(d) Initiate, participate in and oppose litigation to remove, substitute or surcharge a fiduciary.

(e) Conserve, invest, disburse and use anything received for an authorized purpose.

(f) Transfer an interest of the principal in real property, stocks, bonds, accounts with financial institutions, insurance and other property to the trustee of a revocable trust created by the principal as settlor.

(12) CONSTRUCTION OF POWER RELATING TO CLAIMS AND LITIGATION. In a statutory power of attorney, the language with respect to claims and litigation empowers the agent to do all of the following:

(a) Assert and prosecute before a court or administrative agency a claim, claim for relief, cause of action, counterclaim or offset, and defend against an individual, legal entity or government, including suits to recover property or other thing of value,

to recover damages sustained by the principal, to eliminate or modify tax liability or to seek an injunction, specific performance or other relief.

(b) Bring an action to determine adverse claims, intervene in litigation and participate in an appellate action as a person other than a party.

(c) In connection with litigation, procure an attachment, garnishment, libel, order of arrest or other preliminary, provisional or intermediate relief and use an available procedure to effect or satisfy a judgment, order or decree.

(d) In connection with litigation, perform any lawful act, including acceptance of tender, offer of judgment, admission of facts, submission of a controversy on an agreed statement of facts, consent to examination before trial and binding the principal in litigation.

(e) Submit to arbitration, settle and propose or accept a compromise with respect to a claim or litigation.

(f) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon whom process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, and receive and execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement or other instrument in connection with the prosecution, settlement or defense of a claim or litigation.

(g) Act for the principal with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, concerning the principal or another person, with respect to a reorganization proceeding, or to a receivership or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value.

(h) Pay a judgment against the principal or a settlement made in connection with litigation and receive and conserve money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

(13) CONSTRUCTION OF POWER RELATING TO PERSONAL AND FAMILY MAINTENANCE. In a statutory power of attorney, the language granting power with respect to personal and family maintenance empowers the agent to do all of the following:

(a) Do the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, children and other individuals customarily or legally entitled to be supported by the principal, including providing living quarters by purchase, lease or other contract, or paying the operating costs, including interest, amortization payments, repairs and taxes on premises owned by the principal and occupied by those individuals.

(b) Provide for the individuals described in par. (a) normal domestic help; usual vacations and travel expenses; and funds for shelter, clothing, food, appropriate education and other current living costs.

(c) Pay for the individuals described in par. (a) necessary medical, dental, surgical care, hospitalization and custodial care.

(d) Continue any provision made by the principal, for the individuals described in par. (a), for automobiles or other means of transportation, including registering, licensing, insuring and replacing them.

(e) Maintain or open charge accounts for the convenience of the individuals described in par. (a) and open new accounts the agent considers desirable to accomplish a lawful purpose.

(f) Continue payments incidental to the membership or affiliation of the principal in a church, club, society, order or other organization, or continue contributions to those organizations.

(14) CONSTRUCTION OF POWER RELATING TO BENEFITS FROM SOCIAL SECURITY, MEDICARE, MEDICAID OR OTHER GOVERNMENTAL PROGRAMS OR MILITARY SERVICE. In a statutory power of attorney, the language granting power with respect to benefits from social security, medicare, medicaid or other governmental programs or civil or military service empowers the agent to do all of the following:

(a) Execute vouchers in the name of the principal for allowances and reimbursements payable to the principal by the United States or a foreign government or by a state or subdivision of a state, including allowances and reimbursements for transportation of the individuals described in sub. (13) (a), and for shipment of their household effects.

(b) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for that purpose.

(c) Prepare, file and prosecute a claim of the principal to a benefit or assistance, financial or otherwise, to which the principal claims to be entitled, under a statute or governmental rule or regulation.

(d) Prosecute, defend, submit to arbitration, settle and propose or accept a compromise with respect to any benefits the principal may be entitled to receive.

(e) Receive the financial proceeds of a claim of the type described in this subsection, and conserve, invest, disburse or use anything received for a lawful purpose.

(15) CONSTRUCTION OF POWER RELATING TO RETIREMENT PLAN TRANSACTIONS. In a statutory power of attorney, the language granting power with respect to retirement plan transactions empowers the agent to do all of the following:

(a) Select payment options under any retirement plan in which the principal participates, including plans for self-employed individuals.

(b) Designate beneficiaries under those plans and change existing designations.

(c) Make voluntary contributions to those plans.

(d) Exercise the investment powers available under any self-directed retirement plan.

(e) Make rollovers of plan benefits into other retirement plans.

(f) If authorized by the plan, borrow from, sell assets to and purchase assets from the plan.

(16) CONSTRUCTION OF POWER RELATING TO TAX MATTERS. In a statutory power of attorney, the language granting power with respect to tax matters empowers the agent to do all of the following:

(a) Prepare, sign and file federal, state, local and foreign income, gift, payroll, federal insurance contributions act returns and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under section 2032A of the internal revenue code, closing agreements and any power of attorney required by the internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years.

(b) Pay taxes due, collect refunds, post bonds, receive confidential information and contest deficiencies determined by the internal revenue service or other taxing authority.

(c) Exercise any election available to the principal under federal, state, local or foreign tax law.

(d) Act for the principal in all tax matters for all periods before the internal revenue service and any other taxing authority.

(17) EXISTING INTERESTS; FOREIGN INTERESTS. The powers described in subs. (3) to (16) may be exercised equally with respect to an interest the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state, and whether or not the powers are exercised or the power of attorney is executed in this state.

(18) REVOCATION OF POWER OF ATTORNEY. A principal may revoke his or her power of attorney and invalidate the power of attorney at any time by executing a statement, in writing, that is signed and dated by the principal, expressing the principal's intent to revoke the power of attorney. The statement may be recorded in the office of the register of deeds in the same counties where the statutory form of power of attorney was recorded under sub. (1) (cm).

(19) UNIFORMITY OF APPLICATION AND CONSTRUCTION. This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting it.

History: 1991 a. 297; 1993 a. 148, 213, 299, 484

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