

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Power of Attorney Act is amended by  
5 changing Sections 2-9 and 3-4 as follows:

6 (755 ILCS 45/2-9) (from Ch. 110 1/2, par. 802-9)

7 Sec. 2-9. Preservation of estate plan and trusts. In  
8 exercising powers granted under the agency, including powers of  
9 amendment or revocation and powers to expend or withdraw  
10 property passing by trust, contract or beneficiary designation  
11 at the principal's death (such as, without limitation,  
12 specifically bequeathed property, joint accounts, life  
13 insurance, trusts and retirement plans), the agent shall take  
14 the principal's estate plan into account insofar as it is known  
15 to the agent and shall attempt to preserve the plan, but the  
16 agent shall not be liable to any plan beneficiary under this  
17 Section unless the agent acts in bad faith. An agent may not  
18 revoke or amend a trust revocable or amendable by the principal  
19 or require the trustee of any trust for the benefit of the  
20 principal to pay income or principal to the agent without  
21 specific authority and specific reference to the trust in the  
22 agency. The agent shall have access to and the right to copy  
23 (but not to hold) the principal's will, trusts and other  
24 personal papers and records to the extent the agent deems  
25 relevant for purposes of this Section. This Section shall not  
26 apply to any Totten Trust, Payable on Death Account, or  
27 comparable trust account arrangement where the terms of such  
28 trust are contained entirely on the financial institution's  
29 signature card insofar as an agent acting under a power of  
30 attorney executed in accordance with this Act shall be  
31 permitted to withdraw income or principal from such account if  
32 the power of attorney grants the agent authority to conduct

1 financial institution transactions on the principal's behalf  
2 and the agent's authority to access such account is not  
3 expressly limited or withheld in the agency.

4 (Source: P.A. 85-701.)

5 (755 ILCS 45/3-4) (from Ch. 110 1/2, par. 803-4)

6 Sec. 3-4. Explanation of powers granted in the statutory  
7 short form power of attorney for property. This Section defines  
8 each category of powers listed in the statutory short form  
9 power of attorney for property and the effect of granting  
10 powers to an agent. When the title of any of the following  
11 categories is retained (not struck out) in a statutory property  
12 power form, the effect will be to grant the agent all of the  
13 principal's rights, powers and discretions with respect to the  
14 types of property and transactions covered by the retained  
15 category, subject to any limitations on the granted powers that  
16 appear on the face of the form. The agent will have authority  
17 to exercise each granted power for and in the name of the  
18 principal with respect to all of the principal's interests in  
19 every type of property or transaction covered by the granted  
20 power at the time of exercise, whether the principal's  
21 interests are direct or indirect, whole or fractional, legal,  
22 equitable or contractual, as a joint tenant or tenant in common  
23 or held in any other form; but the agent will not have power  
24 under any of the statutory categories (a) through (o) to make  
25 gifts of the principal's property, to exercise powers to  
26 appoint to others or to change any beneficiary whom the  
27 principal has designated to take the principal's interests at  
28 death under any will, trust, joint tenancy, beneficiary form or  
29 contractual arrangement. The agent will be under no duty to  
30 exercise granted powers or to assume control of or  
31 responsibility for the principal's property or affairs; but  
32 when granted powers are exercised, the agent will be required  
33 to use due care to act for the benefit of the principal in  
34 accordance with the terms of the statutory property power and  
35 will be liable for negligent exercise. The agent may act in

1 person or through others reasonably employed by the agent for  
2 that purpose and will have authority to sign and deliver all  
3 instruments, negotiate and enter into all agreements and do all  
4 other acts reasonably necessary to implement the exercise of  
5 the powers granted to the agent.

6 (a) Real estate transactions. The agent is authorized to:  
7 buy, sell, exchange, rent and lease real estate (which term  
8 includes, without limitation, real estate subject to a land  
9 trust and all beneficial interests in and powers of direction  
10 under any land trust); collect all rent, sale proceeds and  
11 earnings from real estate; convey, assign and accept title to  
12 real estate; grant easements, create conditions and release  
13 rights of homestead with respect to real estate; create land  
14 trusts and exercise all powers under land trusts; hold,  
15 possess, maintain, repair, improve, subdivide, manage, operate  
16 and insure real estate; pay, contest, protest and compromise  
17 real estate taxes and assessments; and, in general, exercise  
18 all powers with respect to real estate which the principal  
19 could if present and under no disability.

20 (b) Financial institution transactions. The agent is  
21 authorized to: open, close, continue and control all accounts  
22 and deposits in any type of financial institution (which term  
23 includes, without limitation, banks, trust companies, savings  
24 and building and loan associations, credit unions and brokerage  
25 firms); deposit in and withdraw from and write checks on any  
26 financial institution account or deposit; and, in general,  
27 exercise all powers with respect to financial institution  
28 transactions which the principal could if present and under no  
29 disability. This authorization shall also apply to any Totten  
30 Trust, Payable on Death Account, or comparable trust account  
31 arrangement where the terms of such trust are contained  
32 entirely on the financial institution's signature card,  
33 insofar as an agent shall be permitted to withdraw income or  
34 principal from such account, unless this authorization is  
35 expressly limited or withheld under paragraph 2 of the form  
36 prescribed under Section 3-3. This authorization shall not

1 apply to accounts titled in the name of any trust subject to  
2 the provisions of the Trusts and Trustees Act, for which  
3 specific reference to the trust and a specific grant of  
4 authority to the agent to withdraw income or principal from  
5 such trust is required pursuant to Section 2-9 of the Illinois  
6 Power of Attorney Act and subsection (n) of this Section.

7 (c) Stock and bond transactions. The agent is authorized  
8 to: buy and sell all types of securities (which term includes,  
9 without limitation, stocks, bonds, mutual funds and all other  
10 types of investment securities and financial instruments);  
11 collect, hold and safekeep all dividends, interest, earnings,  
12 proceeds of sale, distributions, shares, certificates and  
13 other evidences of ownership paid or distributed with respect  
14 to securities; exercise all voting rights with respect to  
15 securities in person or by proxy, enter into voting trusts and  
16 consent to limitations on the right to vote; and, in general,  
17 exercise all powers with respect to securities which the  
18 principal could if present and under no disability.

19 (d) Tangible personal property transactions. The agent is  
20 authorized to: buy and sell, lease, exchange, collect, possess  
21 and take title to all tangible personal property; move, store,  
22 ship, restore, maintain, repair, improve, manage, preserve,  
23 insure and safekeep tangible personal property; and, in  
24 general, exercise all powers with respect to tangible personal  
25 property which the principal could if present and under no  
26 disability.

27 (e) Safe deposit box transactions. The agent is authorized  
28 to: open, continue and have access to all safe deposit boxes;  
29 sign, renew, release or terminate any safe deposit contract;  
30 drill or surrender any safe deposit box; and, in general,  
31 exercise all powers with respect to safe deposit matters which  
32 the principal could if present and under no disability.

33 (f) Insurance and annuity transactions. The agent is  
34 authorized to: procure, acquire, continue, renew, terminate or  
35 otherwise deal with any type of insurance or annuity contract  
36 (which terms include, without limitation, life, accident,

1 health, disability, automobile casualty, property or liability  
2 insurance); pay premiums or assessments on or surrender and  
3 collect all distributions, proceeds or benefits payable under  
4 any insurance or annuity contract; and, in general, exercise  
5 all powers with respect to insurance and annuity contracts  
6 which the principal could if present and under no disability.

7 (g) Retirement plan transactions. The agent is authorized  
8 to: contribute to, withdraw from and deposit funds in any type  
9 of retirement plan (which term includes, without limitation,  
10 any tax qualified or nonqualified pension, profit sharing,  
11 stock bonus, employee savings and other retirement plan,  
12 individual retirement account, deferred compensation plan and  
13 any other type of employee benefit plan); select and change  
14 payment options for the principal under any retirement plan;  
15 make rollover contributions from any retirement plan to other  
16 retirement plans or individual retirement accounts; exercise  
17 all investment powers available under any type of self-directed  
18 retirement plan; and, in general, exercise all powers with  
19 respect to retirement plans and retirement plan account  
20 balances which the principal could if present and under no  
21 disability.

22 (h) Social Security, unemployment and military service  
23 benefits. The agent is authorized to: prepare, sign and file  
24 any claim or application for Social Security, unemployment or  
25 military service benefits; sue for, settle or abandon any  
26 claims to any benefit or assistance under any federal, state,  
27 local or foreign statute or regulation; control, deposit to any  
28 account, collect, receipt for, and take title to and hold all  
29 benefits under any Social Security, unemployment, military  
30 service or other state, federal, local or foreign statute or  
31 regulation; and, in general, exercise all powers with respect  
32 to Social Security, unemployment, military service and  
33 governmental benefits which the principal could if present and  
34 under no disability.

35 (i) Tax matters. The agent is authorized to: sign, verify  
36 and file all the principal's federal, state and local income,

1 gift, estate, property and other tax returns, including joint  
2 returns and declarations of estimated tax; pay all taxes;  
3 claim, sue for and receive all tax refunds; examine and copy  
4 all the principal's tax returns and records; represent the  
5 principal before any federal, state or local revenue agency or  
6 taxing body and sign and deliver all tax powers of attorney on  
7 behalf of the principal that may be necessary for such  
8 purposes; waive rights and sign all documents on behalf of the  
9 principal as required to settle, pay and determine all tax  
10 liabilities; and, in general, exercise all powers with respect  
11 to tax matters which the principal could if present and under  
12 no disability.

13 (j) Claims and litigation. The agent is authorized to:  
14 institute, prosecute, defend, abandon, compromise, arbitrate,  
15 settle and dispose of any claim in favor of or against the  
16 principal or any property interests of the principal; collect  
17 and receipt for any claim or settlement proceeds and waive or  
18 release all rights of the principal; employ attorneys and  
19 others and enter into contingency agreements and other  
20 contracts as necessary in connection with litigation; and, in  
21 general, exercise all powers with respect to claims and  
22 litigation which the principal could if present and under no  
23 disability.

24 (k) Commodity and option transactions. The agent is  
25 authorized to: buy, sell, exchange, assign, convey, settle and  
26 exercise commodities futures contracts and call and put options  
27 on stocks and stock indices traded on a regulated options  
28 exchange and collect and receipt for all proceeds of any such  
29 transactions; establish or continue option accounts for the  
30 principal with any securities or futures broker; and, in  
31 general, exercise all powers with respect to commodities and  
32 options which the principal could if present and under no  
33 disability.

34 (l) Business operations. The agent is authorized to:  
35 organize or continue and conduct any business (which term  
36 includes, without limitation, any farming, manufacturing,

1 service, mining, retailing or other type of business operation)  
2 in any form, whether as a proprietorship, joint venture,  
3 partnership, corporation, trust or other legal entity;  
4 operate, buy, sell, expand, contract, terminate or liquidate  
5 any business; direct, control, supervise, manage or  
6 participate in the operation of any business and engage,  
7 compensate and discharge business managers, employees, agents,  
8 attorneys, accountants and consultants; and, in general,  
9 exercise all powers with respect to business interests and  
10 operations which the principal could if present and under no  
11 disability.

12 (m) Borrowing transactions. The agent is authorized to:  
13 borrow money; mortgage or pledge any real estate or tangible or  
14 intangible personal property as security for such purposes;  
15 sign, renew, extend, pay and satisfy any notes or other forms  
16 of obligation; and, in general, exercise all powers with  
17 respect to secured and unsecured borrowing which the principal  
18 could if present and under no disability.

19 (n) Estate transactions. The agent is authorized to:  
20 accept, receipt for, exercise, release, reject, renounce,  
21 assign, disclaim, demand, sue for, claim and recover any  
22 legacy, bequest, devise, gift or other property interest or  
23 payment due or payable to or for the principal; assert any  
24 interest in and exercise any power over any trust, estate or  
25 property subject to fiduciary control; establish a revocable  
26 trust solely for the benefit of the principal that terminates  
27 at the death of the principal and is then distributable to the  
28 legal representative of the estate of the principal; and, in  
29 general, exercise all powers with respect to estates and trusts  
30 which the principal could if present and under no disability;  
31 provided, however, that the agent may not make or change a will  
32 and may not revoke or amend a trust revocable or amendable by  
33 the principal or require the trustee of any trust for the  
34 benefit of the principal to pay income or principal to the  
35 agent unless specific authority to that end is given, and  
36 specific reference to the trust is made, in the statutory

1 property power form.

2 (o) All other property powers and transactions. The agent  
3 is authorized to: exercise all possible powers of the principal  
4 with respect to all possible types of property and interests in  
5 property, except to the extent the principal limits the  
6 generality of this category (o) by striking out one or more of  
7 categories (a) through (n) or by specifying other limitations  
8 in the statutory property power form.

9 (Source: P.A. 85-701.)