

Chapter 556
POWERS OF APPOINTMENT
Revised Statutes of 1846
R.S. of 1846

556.1-556.62 Repealed. 1967, Act 224, Eff. Nov. 2, 1967.

RELEASE BY DONEE OF POWER OF APPOINTMENT

Act 296 of 1945

556.101-556.106 Repealed. 1967, Act 224, Eff. Nov. 2, 1967.

POWERS OF APPOINTMENT ACT OF 1967

Act 224 of 1967

AN ACT relating to powers, the creation and exercise of powers, release of powers, contracts to appoint, dispositions when powers are unexercised, rights of creditors of donees of powers, computations under the rule against perpetuities, reservation of powers of revocation, and recording of instruments; and to repeal certain acts and parts of acts.

History: 1967, Act 224, Eff. Nov. 2, 1967

The People of the State of Michigan enact:

556.111 Powers of appointment act; short title.

Sec. 1.

This act shall be known and may be cited as the "powers of appointment act of 1967".

History: 1967, Act 224, Eff. Nov. 2, 1967

556.112 Powers of appointment act; definitions.

Sec. 2.

As used in this act:

- (a) "Property" means any legal or equitable interest in real or personal property, including choses in action.
- (b) "Power" means a power of appointment over property.
- (c) "Power of appointment" means a power created or reserved by a person having property subject to his or her disposition that enables the donee of the power to designate, within any limits that may be prescribed, the transferees of the property or the shares or the interests in which it shall be received. The term power of appointment may include a power of amendment or revocation, but does not include a power of sale or a power of attorney.
- (d) "Donor" means a person who creates or reserves a power.
- (e) "Donee" means a person to whom a power is granted or reserved.
- (f) "Appointee" means a person to whom a beneficial interest in property is designated or transferred by exercise of a power or, if a power is exercised in favor of a trustee, a person for whose benefit property has been designated or transferred in trust.
- (g) "Creating instrument" means a deed, will, trust agreement, or other writing or document that creates or reserves a power.
- (h) "General power" means a power, the permissible appointees of which include the donee, his or her estate, his or her creditors, or the creditors of his or her estate. The term general power includes a power that is not expressly restricted as to appointees. A power may be general as to some property and special as to other property.
- (i) "Special power" means a power, the permissible appointees of which do not include the donee, his or her estate, his or her creditors, or the creditors of his or her estate.
- (j) "Gift in default" means a transfer to a person designated in the creating instrument as the transferee of property if a power is not exercised or is released.
- (k) "Release" means renunciation, relinquishment, surrender, refusal to accept, and any other form of release.
- (l) A power of appointment is "presently" exercisable whenever the creating instrument does not manifest an intent that its exercise shall be solely by will or otherwise postponed.
- (m) "EPIC" means the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.
- (n) "MTC" means article VII of EPIC, MCL 700.7101 to 700.7913.
- (o) "Trust" means that term as defined in section 2901 of EPIC, MCL 700.2901.
- (p) "Irrevocable trust" means a trust over which no person holds a power of revocation. A power holder's lack of capacity to exercise a power of revocation negates the power of revocation unless an agent of the power holder under a durable power of attorney, a conservator of the power holder, or a plenary guardian of the power holder is serving and the agent, conservator, or guardian is authorized to exercise the power of revocation.
- (q) "Trustee" means a fiduciary or set of co-fiduciaries as described in section 2901(2)(j) of EPIC, MCL 700.2901.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.113 Powers of appointment; creation; donors, qualifications.

Sec. 3.

- (1) A power may be created by any creating instrument which is executed in the manner required by law for that instrument.
- (2) The donor of a power must be a person capable of transferring the interest in property to which the power relates and having a transferable interest in such property.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.114 Manifestation of intent to exercise.

Sec. 4.

Unless otherwise provided in the creating instrument, an instrument manifests an intent to exercise the power if the instrument purports to transfer an interest in the appointive property that the donee would have no power to transfer except by virtue of the power, even though the power is not recited or referred to in the instrument, or if the instrument either expressly or by necessary implication from its wording, interpreted in the light of the circumstances surrounding its drafting and execution, manifests an intent to exercise the power. Subject to the other provisions of this section, if there is a general power exercisable by will with no express gift in default in the creating instrument, a residuary clause or other general language in the donee's will purporting to dispose of all of the donee's estate or property operates to exercise the power, but in all other cases such a clause or language does not in itself manifest an intent to exercise a power exercisable by will.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970 ;-- Am. 2000, Act 68, Eff. Apr. 1, 2000

556.115 Methods by which powers may be exercised by donees.

Sec. 5.

- (1) A power may be exercised by any donee capable of transferring the interest in property to which the power relates.
- (2) A power may be exercised only by a written instrument that would be sufficient to pass the interest intended to be appointed if the donee were the owner of the interest. Unless otherwise contemplated in the creating instrument, a power may be exercised only by a written instrument that complies with the requirements, if any, of the creating instrument as to the manner, time, and conditions of the exercise of the power, except that a power exercisable only by deed is also exercisable by a written will executed as required by law.
- (3) If the donor has authorized the power to be exercised by an instrument not sufficient in law to pass the appointive interest, the power is not void, but may be exercised by an instrument conforming to subsection (2).
- (4) If consent of the donor or of any other person is required for the exercise of a power, the consent must be expressed in the instrument exercising the power or in a separate written instrument, signed in either case by the person whose consent is required. If any person whose consent is required dies or becomes legally incapable of consenting, the power may be exercised by the donee without the consent of that person unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.
- (5) When a power is vested in 2 or more persons, all must unite in its exercise; but if 1 or more of the donees dies, becomes incapable of exercising the power, or releases the power, the power may be exercised by the others, unless the creating instrument, construed with regard to surrounding circumstances, manifests a contrary intent.
- (6) When a power is vested in 2 or more trustees, the trustees' coordination in the exercise of the power is governed by sections 7703 and 7815(3) of the MTC, MCL 700.7703 and 700.7815, unless the trust instrument manifests a contrary intent.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970 ;-- Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.115a Second trust.

Sec. 5a.

- (1) A trustee with a presently exercisable discretionary power to make distributions of income or principal of an irrevocable trust to or for the benefit of 1 or more beneficiaries of the trust may, unless the terms of the first trust expressly provide otherwise, exercise the power by appointing all or part of the property subject to the power in favor of the trustee of a second trust, provided that all of the following conditions are satisfied:
 - (a) Except as provided in subsection (2), the beneficiaries of the second trust include only permissible appointees, even if fewer than all permissible appointees, of the trustee's discretionary distribution power as of the time the power is exercised.
 - (b) For a trust, contributions to which have been excluded from gift tax under section 2503(c) of the internal revenue code, 26 USC 2503(c), the trust instrument of the second trust provides that the beneficiary's remainder interest will pass or be payable no later than the date on which the interest would have passed or been payable under the terms of the first trust instrument.
 - (c) The exercise of the discretionary power does not reduce the income, annuity, or unitrust interest or general power of appointment of a beneficiary of a trust that was intended to qualify for a marital or charitable deduction under federal or state law by virtue of that beneficiary's interest in the trust, whether or not that deduction is actually taken.
 - (d) The exercise of the discretionary power does not reduce a presently exercisable general power to withdraw a specified percentage or amount of trust property in a trust beneficiary who is the only trust beneficiary to or for the benefit of whom the trustee has the power to make discretionary distributions.
- (2) The second trust instrument may provide 1 or more of the following:
 - (a) A special or general power of appointment, including a power to appoint trust property to persons who are not beneficiaries of the first trust, to 1 or more of the beneficiaries of the second trust.

(b) That at a time or upon the occurrence of an event specified in the second trust instrument, the remaining trust assets shall thereafter be held for the benefit of beneficiaries who are or who would have been beneficiaries of the first trust on terms and conditions substantially identical, with respect to the interests of those beneficiaries, to the terms and conditions of the first trust.

(c) That assets of the first trust discovered after exercise of the power described in subsection (1) shall be property of the first trust if that trust continues in existence after exercise of the power, or that assets of the first trust discovered after exercise of the power shall be property of the second trust if the first trust terminates upon exercise of the power.

(d) For indemnification of the trustee of the first trust, except as limited by section 7908 of the MTC, MCL 700.7908.

(3) For purposes of this section, all of the following apply:

(a) A discretionary power to make distributions to a given trust beneficiary is presently exercisable when the timeliness of a present distribution to or for the benefit of that beneficiary depends, under the terms of the trust instrument, only on the trustee's judgment as to what is in the beneficiary's best interests.

(b) A power to make distributions is not discretionary if it is limited by a definite and ascertainable standard, but instructions for the trustee to consider such things as a beneficiary's best interests, welfare, comfort, happiness, or general development do not in themselves constitute definite and ascertainable standards, regardless of whether the trustee is also instructed or permitted to consider resources outside the trust that may be available to the beneficiary.

(c) A general power annually to withdraw a specified percentage or amount of trust property is presently exercisable with respect to any year for which the beneficiary who holds the power is entitled, under the terms of the governing instrument, to exercise the power, and each subsequent year for which the beneficiary will be entitled to exercise the power assuming only the beneficiary's survival and the continuation of the trust. For example, if a trust provides that, beginning in the fifth year after the trust becomes irrevocable, the beneficiary shall have the power for the remainder of his or her life annually to withdraw \$5,000.00 or 5% of the value of the trust principal, whichever is greater, then, in the fourth year after the trust becomes irrevocable, the beneficiary's power to make annual withdrawals is not presently exercisable; however, in the fifth year after the trust becomes irrevocable, the beneficiary's power is presently exercisable, for purposes of this section, with respect to the fifth year and each subsequent year during the beneficiary's life.

(4) The trustee of the second trust may be the trustee of the first trust, the second trust may be a trust under the governing instrument of the first trust or another governing instrument, the governing instrument may be one created by the trustee of the first trust, and the governing instrument may be the instrument that exercises the power described in subsection (1).

(5) A second trust shall be treated as both of the following:

(a) A new irrevocable trust for purposes of the notice requirements of section 7814(2)(c) of the MTC, MCL 700.7814.

(b) A continuation of the first trust for purposes of the notice requirements of section 7814(2)(d) of the MTC, MCL 700.7814, and the charge of any fee or commission on the transfer of assets from the first trust to the second trust shall be treated as a change in the rate of the trustee's compensation.

(6) A discretionary power under subsection (1) is a power of appointment and a discretionary power for purposes of section 7815 of the MTC, MCL 700.7815.

(7) This section shall not abridge the right of a trustee who has a power to distribute trust property in further trust under this act, any other statute, or the common law. This section shall not abridge the right of a trustee who has a power to amend or revoke a trust.

(8) It is the intent of the legislature that this section be a codification of the common law of this state in effect before the effective date of the amendatory act that added this section.

(9) As used in this section, "first trust" means an irrevocable trust over which a trustee has a presently exercisable discretionary power to make distributions that is exercised as described in subsection (1).

History: Add. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.116 Interests appointable by general powers; part of donee's estate.

Sec. 6.

(1) If the will of a donee of a general power exercisable by will either effectively exercises the power or manifests an intent to exercise the power and satisfies the requirements of sections 4 and 5, all interests which the donee could by will appoint and which the donee's will appoints or purports to appoint shall be regarded as part of the donee's estate for the following purposes only:

(a) The payment of the expenses of administration of the donee's estate, to the extent that the donee's individual assets are insufficient for that purpose.

(b) The satisfaction of the claims of the donee's creditors, to the extent provided in section 13.

(c) Inclusion of such interests in determining the right of election of the donee's widow and the satisfaction of such right.

(d) The distribution of any of such interests as the intestate property of the donee, to the extent that the donee's will does not effectively dispose of such interests and the creating instrument does not otherwise provide.

(2) This section does not affect the period during which the vesting of a future interest may be suspended or postponed by an instrument exercising a power as provided in section 14.

History: 1967, Act 224, Eff. Nov. 2, 1967;— Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970

556.117 Naming appointees by donees of powers.

Sec. 7.

The donee of any power may appoint the whole or any part of the appointive assets to any 1 or more of the permissible appointees and exclude others, except as otherwise provided in the creating instrument.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.118 Release of powers; method; delivery.

Sec. 8.

(1) Unless the creating instrument expressly provides that a power cannot be released or expressly restricts the time, manner or scope of release, all powers may be released except as provided in subsection (2).

(2) Unless the creating instrument expressly provides otherwise, a special power may not be released if either the power is not presently exercisable, or the power is exercisable by a trustee or other fiduciary in a fiduciary capacity which requires the exercise of the power.

(3) The release of a power may include all or any part of the property subject to the power; reduce or limit the persons or objects, or classes of persons or objects in whose favor the power is exercisable; or limit in any other respect the extent to or the manner in which the power may be exercised.

(4) A release may be effected, either with or without consideration, by written instrument signed by the donee and delivered.

(5) Delivery of a release may be accomplished in any of the following ways, but this subsection does not preclude a determination that a release has been delivered in some other manner:

(a) Delivery to any person specified in the creating instrument.

(b) Delivery to a trustee or other fiduciary or to 1 of several trustees or other fiduciaries, other than the donee, of the property to which the power relates, or by filing with the court having jurisdiction over the trust.

(c) Delivery to any person, other than the donee, who could be adversely affected by an exercise of the power.

(d) By recording or filing in the office of the register of deeds in the county where the property is located or where the donee resides, which release shall be recorded by the register.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970

556.119 Creation, exercise and release of powers; irrevocability.

Sec. 9.

The creation, exercise or release of a power is irrevocable unless the power to revoke is reserved in the instrument creating, exercising or releasing the power.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.120 Contracts of donees of powers to make appointments; remedies.

Sec. 10.

(1) Unless the creating instrument provides otherwise, the donee of a power, presently exercisable, can contract to make an appointment, if neither the contract nor the promised appointment confers a benefit upon a person who is not a permissible appointee under the power.

(2) Unless the creating instrument provides otherwise, the donee of a power not presently exercisable cannot contract to make an appointment. If the donee cannot contract to make an appointment, but nevertheless does so contract, the promisee cannot obtain either specific performance or damages, except that he can obtain damages equal to the value given by him for the promise.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.121 Instruments relating to powers to appoint interests in land; recording as conveyances.

Sec. 11.

(1) Any of the following instruments relating to powers to appoint interests in land is entitled to be recorded as a conveyance upon compliance with section 23 of chapter 65 of the Revised Statutes of 1846, being section 565.23 of the Compiled Laws of 1948:

(a) An instrument, other than a will, exercising a power.

(b) An instrument expressing consent to exercise.

(c) A release.

(2) If a power is exercised by a will, a certified copy of the will and of the certificate of probate thereof may be recorded.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.122 Special power; passing on donee's default.

Sec. 12.

If the donee of a special power fails to exercise the power effectively or totally releases a releasable special power, the interests that might have been appointed under the power pass as follows:

(a) If the creating instrument contains an express gift in default, then in accordance with the terms of the gift.

(b) Except as provided in subdivision (d), if the creating instrument contains no express gift in default and does not clearly indicate that the permissible appointees are to take only if the donee exercises the power, then equally to the permissible appointees living at the time of the termination or release of the power, but if the power is to appoint among a class, such as "relatives", "issue" or "heirs", then to those persons in the closest degree of kinship or representing others in the same degree of kinship who would have taken had there been an express appointment per stirpes to the described class effective as of the termination or release of the power.

(c) Except as provided in subdivision (d), if the creating instrument contains no express gift in default and clearly indicates that the permissible appointees are to take only if the donee exercises the power, then by reversion to the donor or his or her estate. If the creating instrument expressly states that there is no reversion in the donor, then any language in the creating instrument indicating or stating that the permissible appointees are to take only if the donee exercises the power is to be disregarded and the interests shall pass under subdivision (b).

(d) If the power was created by the exercise of a discretionary power described in section 5a, then according to the provisions that governed the assets subject to the power under the first trust described in section 5a(1).

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970 ;-- Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.123 General powers; creditors' rights in appointable interests.

Sec. 13.

(1) If a donee has a general power of appointment, any interest that the donee has power to appoint or has appointed is to be treated as property of the donee for the purposes of satisfying claims of the donee's creditors, as provided in this section.

(2) If a donee has an unexercised general power of appointment and the donee can presently exercise such a power, any creditor of the donee may by appropriate proceedings reach any interest that the donee could appoint, to the extent that the donee's individual assets are insufficient to satisfy the creditor's claim. If the donee has exercised the power, the creditor can reach the appointed interests to the same extent that under the law relating to fraudulent conveyances the creditor could reach property that the donee has owned and transferred.

(3) If a donee has at the time of his or her death a general power of appointment, whether or not he or she exercises the power, the personal representative or other legal representative of the donee may reach on behalf of creditors any interest that the donee could have appointed to the extent that the claim of a creditor has been filed and allowed in the donee's estate but not paid because the assets of the estate are insufficient.

(4) Under a general assignment by a donee for the benefit of the donee's creditors, the assignee may exercise any right that a creditor of the donee would have under subsection (2).

(5) A purchaser without actual notice and for a valuable consideration of any interest in property, legal or equitable, takes the interest free of any rights that the donee's estate or a creditor of the donee has under this section.

(6) If more than 1 person is the donee of a general power of appointment, it shall be presumed that the interests of the donees in the property subject to the power are equally owned among them unless the creating instrument indicates otherwise.

(7) The lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a donor is not a gift, conveyance, transfer, or assignment of property by the donee.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;— Am. 2009, Act 45, Eff. Apr. 1, 2010

556.124 Suspension or postponement of vesting of future interests; time period; definitions.

Sec. 14.

(1) The period during which the vesting of a future interest may be suspended or postponed by an instrument exercising a power of appointment begins on the effective date of the instrument of exercise in the case of a general power presently exercisable, and in all other situations, at the time of the creation of the power.

(2) In determining the period during which the vesting of a future interest may be suspended or postponed by the exercise of a power of appointment, if a second power is created by the exercise of a first power, and the first power is a presently exercisable general power, the second power is considered to have been created on the effective date of the instrument of exercise. In all other situations, the second power is considered to have been created at the time of the creation of the first power.

(3) The length of the period, whether finite or infinite, during which the vesting of a future interest may be suspended or postponed by exercise of a power is determined, from the beginning date specified in subsection (1), under the personal property trust perpetuities act, 2008 PA 148, MCL 554.91 to 554.94, or section 5(2) of the uniform statutory rule against perpetuities, 1988 PA 418, MCL 554.75, to the extent that all of the following conditions are satisfied:

(a) An instrument exercises a power of appointment so as to subject property to or to create a trust that is either revocable on or created after May 28, 2008.

(b) The appointive property is personal property.

(c) The trust is not a special appointee trust.

(4) As used in this section:

(a) "First power" means a power of appointment, an exercise of which has created another power of appointment.

(b) "Second power" means a power of appointment created by the exercise of a first power.

(c) "Special appointee trust" means that term as defined in section 4 of the personal property trust perpetuities act, 2008 PA 148, MCL 554.94.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;— Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.125 Suspension or postponement of vesting of future interests; time period when trust creator reserves power to amend or revoke.

Sec. 15.

When the creator of a trust reserves to himself an unqualified power to amend or revoke, the period during which the vesting of a future interest may be suspended or postponed begins when the unqualified power to amend or revoke terminates, whether by reason of the death of the trust creator, by release or otherwise; or on the effective date of the instrument exercising the power to revoke.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.126 Postponement of vesting of future interests; law determining period.

Sec. 16.

When the provisions of sections 14 or 15 apply, the permissible period for the postponement of a vesting of a future interest shall be fixed in accordance with either the law in effect at the time of the exercise of the power or of the termination of the unqualified power of amendment or revocation, or in accordance with the law in effect at the time of the creation of the power, whichever will support the validity of the exercise of the power.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.127 Postponement of vesting of future interests; facts and circumstances to be considered.

Sec. 17.

When the period during which the vesting of a future interest may be postponed must be computed from the time of the creation of a power, with respect to interests sought to be created by an instrument exercising the power, facts and circumstances existing at the effective date of the instrument exercising the power shall be taken into account.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.128 Reserved power of revocation; effect on creditors and purchasers.

Sec. 18.

When the grantor in a conveyance reserves to himself an unqualified power of revocation, he is thereafter deemed still to be the absolute owner of the estate conveyed, so far as the rights of his creditors and purchasers are concerned. If the grantor dies without exercising such power, the executor or other legal representative of the grantor may reach the estate conveyed on behalf of any creditor whose claim has been filed and allowed in the grantor's probate estate but not paid because the assets of the probate estate are insufficient to satisfy his claim. This section shall not confer upon the executor or other legal representative of the grantor the right to obtain on behalf of creditors any of the proceeds of life insurance policies or other distributions from qualified pension, profit sharing and stock bonus plans that might be payable as a result of the death of the grantor.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970

556.129 Law applicability; construction of act.

Sec. 19.

As to all matters not within this act or any other applicable statute, the common law is to govern. This section is not intended to restrict in any manner the meaning of any provision of this act or any other applicable statute.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.130 Death of appointee prior to exercise of power.

Sec. 20.

If an attempted testamentary exercise of a power is ineffective because of an appointee's death before the effective date of the exercise, section 2603 of EPIC, MCL 700.2603, applies.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 2000, Act 68, Eff. Apr. 1, 2000 ;-- Am. 2012, Act 485, Imd. Eff. Dec. 28, 2012

556.131 Membership of class; determination; after born members.

Sec. 21.

Except as provided in section 20, when the donee of a power executes an instrument exercising the power in favor of a class, the membership of the class shall be determined as of the effective date of the exercise and include any person otherwise qualified as a member of the class who was born after the execution of the instrument exercising the power and before the effective date of the exercise unless a different intention is apparent from the instrument exercising the power.

History: 1967, Act 224, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 195, Imd. Eff. Aug. 6, 1970

556.132 Applicability of act.

Sec. 22.

The provisions of this act are applicable to any power existing on the effective date of this act, as well as a power created after that date.

History: 1967, Act 224, Eff. Nov. 2, 1967

556.133 Repeal.

Sec. 23.

Chapter 64 of the Revised Statutes of 1846, being sections 556.1 to 556.62 of the Compiled Laws of 1948, and Act No. 296 of the Public Acts of 1945, being sections 556.101 to 556.106 of the Compiled Laws of 1948, are repealed.

History: 1967, Act 224, Eff. Nov. 2, 1967

DURABLE POWER OF ATTORNEY

Act 376 of 1976

556.151-556.153 Repealed. 1978, Act 642, Eff. July 1, 1979.

UNIFORM POWER OF ATTORNEY ACT

Act 187 of 2023

AN ACT to adopt the uniform power of attorney act; and to repeal acts and parts of acts.

History: 2023, Act 187, Eff. July 1, 2024

The People of the State of Michigan enact:

ARTICLE 1

GENERAL PROVISIONS

556.201 Short title.

Sec. 101.

This act may be cited as the "uniform power of attorney act".

History: 2023, Act 187, Eff. July 1, 2024

556.202 Definitions.

Sec. 102.

As used in this act:

- (a) "Actual knowledge" means knowledge in fact.
- (b) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. Agent includes an original agent, a coagent, a successor agent, and a person to whom an agent's authority is delegated.
- (c) "Court" includes that term as defined in section 1103 of the estates and protected individuals code, 1998 PA 386, MCL 700.1103.
- (d) "Durable", with respect to a power of attorney, means not terminated by the principal's incapacity.
- (e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (f) "Entity" means a person other than an individual.
- (g) "General power of appointment" means general power as that term is defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.
- (h) "Good faith" means honesty in fact.
- (i) "Incapacity" means inability of an individual to manage property or business affairs for either of the following reasons:
 - (i) The individual has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.
 - (ii) The individual is any of the following:
 - (A) Missing.
 - (B) Detained, including incarcerated in a penal system.
 - (C) Outside the United States and unable to return.
- (j) "Person" means an individual or corporation, including a fiduciary of an estate or trust, a business trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (k) Unless the context requires otherwise, "power" means a power of attorney.
- (l) "Power of attorney" means a written record that grants authority to an agent to act in 1 or more matters on behalf of the principal, whether or not the term power of attorney is used.
- (m) "Presented for acceptance", with respect to a power of attorney, means that both of the following events have occurred:
 - (i) A person other than the principal or an agent under the power in question has been asked by the principal or an agent under the power to take a specified

action or actions in reliance on the power.

(ii) The power of attorney itself or a copy of it has been presented to and received by the person that is asked to take action in reliance on the power as described in subparagraph (i).

(n) "Presently exercisable", with respect to a power of appointment, means that the power of appointment is exercisable by the appointee at the relevant time. A power of appointment that is not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period is presently exercisable only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. A power that is exercisable only by will is not presently exercisable.

(o) "Principal" means an individual who grants authority to an agent in a power of attorney.

(p) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right in such a thing.

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

(r) "Sign" means to do either of the following with the intent to authenticate or adopt a record:

(i) Execute or adopt a tangible symbol.

(ii) Attach to or logically associate with the record an electronic sound, symbol, or process.

(s) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(t) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. Stocks and bonds does not include commodity futures contracts or call or put options on stocks or stock indexes.

History: 2023, Act 187, Eff. July 1, 2024

556.202a Notice or knowledge of a fact involving a power of attorney.

Sec. 102a.

(1) Except as otherwise provided in this section, a person has knowledge of a fact involving a power of attorney if 1 or more of the following are true:

(a) The person has actual knowledge of the fact.

(b) The person has received a notice or notification of the fact.

(c) From all the facts and circumstances known to the person at the time in question, the person has reason to know the fact.

(2) An entity that conducts activities through 1 or more employees has notice or knowledge of a fact involving a power of attorney, a principal, or an agent only from the time the information is received by an employee conducting a transaction or from the time the information would have been brought to the employee's attention if the entity had exercised reasonable diligence.

(3) An entity that conducts activities through 1 or more employees has actual knowledge of a fact relating to a power of attorney, a principal, or an agent only if the employee conducting the transaction has actual knowledge of the fact.

(4) As used in this section:

(a) "Reasonable diligence" means the maintenance of and reasonable compliance with reasonable routines for communicating significant information to the employee conducting the transaction. Reasonable diligence does not require an employee of the entity to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter concerning the transaction would be materially affected by the information.

(b) "Transaction" means a transaction that is conducted for the entity and that involves the power of attorney.

History: 2023, Act 187, Eff. July 1, 2024

556.203 Applicability of act.

Sec. 103.

This act applies to all powers of attorney except the following:

(a) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction.

(b) A patient advocate designation under section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506.

(c) A delegation of a parent's or guardian's power regarding care, custody, or property of a minor child or ward under section 5103 of the estates and protected individuals code, 1998 PA 386, MCL 700.5103.

(d) A proxy or other delegation to exercise voting rights or management rights with respect to an entity.

(e) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

History: 2023, Act 187, Eff. July 1, 2024

556.204 Limited presumption of durability.

Sec. 104.

A power of attorney created on or after the effective date of this act that is executed in accordance with section 105(2) or (3) is durable unless it expressly provides that it is terminated by the incapacity of the principal. A power of attorney created on or after the effective date of this act that is not executed in accordance with section 105(2) or (3) is not durable.

History: 2023, Act 187, Eff. July 1, 2024

556.205 Execution of power of attorney; requirements.

Sec. 105.

- (1) To be effective, a power of attorney created on or after the effective date of this act must be signed by 1 of the following individuals:
 - (a) The principal.
 - (b) If signed in the principal's conscious presence, another individual directed by the principal to sign the principal's name.
- (2) To be durable, a power of attorney signed under subsection (1)(a) must meet 1 of the following requirements:
 - (a) Be acknowledged by the principal before a notary public or other individual authorized to take acknowledgments.
 - (b) Be signed in the presence of 2 witnesses, both of whom also sign the power, subject to both of the following:
 - (i) A witness may not be an agent nominated in the power.
 - (ii) One of the witnesses may be an individual who also acts, in the principal's execution of the power, as a notary public or other individual authorized to take acknowledgments.
- (3) To be durable, a power of attorney signed under subsection (1)(b) must be signed in the presence of 2 witnesses as described in subsection (2)(b), regardless of whether the power is acknowledged.
- (4) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.
- (5) A signature on a power of attorney that is witnessed as described in subsection (2)(b) but is not acknowledged by the principal before a notary public or other individual authorized by law to take acknowledgments is not entitled to the presumption of genuineness under subsection (4), and the power is not acknowledged within the meaning of sections 119 and 120.

History: 2023, Act 187, Eff. July 1, 2024

556.206 Validity of power of attorney.

Sec. 106.

- (1) A power of attorney executed in this state is valid in this state if, when the power was executed, the execution complied with the requirements for the execution of a power of attorney under the law of this state as it existed at that time.
- (2) A power of attorney that is not executed in this state is valid in this state if, when the power was executed, the execution complied with either of the following:
 - (a) The requirements for the execution of a power of attorney under the law of the jurisdiction that determines the meaning and effect of the power under section 107 or under the law of the jurisdiction in which the principal was domiciled at the time of execution.
 - (b) The requirements for a military power of attorney under 10 USC 1044b.
- (3) Except as otherwise provided in the power of attorney or by statute other than this act, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

History: 2023, Act 187, Eff. July 1, 2024

556.207 Meaning and effect of power of attorney.

Sec. 107.

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

History: 2023, Act 187, Eff. July 1, 2024

556.208 Nomination of conservator or guardian; relation of agent to court-appointed fiduciary.

Sec. 108.

- (1) In a power of attorney, a principal may nominate a conservator or guardian of the principal's estate or guardian of the principal's person for a protective proceeding if a protective proceeding for the principal's estate or person commences after the principal executes the power. If consistent with applicable law on priority and suitability, the court shall make its appointment in accordance with the principal's most recent nomination in a power of attorney.
- (2) If, after a principal executes a power of attorney, a court appoints a conservator or guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, both of the following apply:
 - (a) The agent is accountable to the fiduciary as well as to the principal.
 - (b) The power of attorney is not terminated, and the agent's authority continues unless limited, suspended, or terminated by the court.

History: 2023, Act 187, Eff. July 1, 2024

556.209 Effective date of power of attorney.

Sec. 109.

(1) A power of attorney is effective when executed unless the principal provides in the power that it becomes effective at a specified future date or on the occurrence of a specified future event or contingency.

(2) If a power of attorney is intended to become effective on the occurrence of a specified future event or contingency, the principal may, in the power, authorize 1 or more persons to determine in a record that the event or contingency has occurred.

(3) If a power of attorney is intended to become effective on the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power becomes effective on a determination in a record by either of the following:

(a) A physician or licensed psychologist that the principal is incapacitated within the meaning of section 102(i)(i).

(b) An attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of section 102(i)(ii).

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may, to the extent necessary or convenient in making that determination, act as the principal's personal representative under the health insurance portability and accountability act of 1996, Public Law 104-191, sections 1171 to 1179 of the social security act, 42 USC 1320d to 1320d-8, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

History: 2023, Act 187, Eff. July 1, 2024

556.210 Termination of power of attorney or agents authority.

Sec. 110.

(1) A power of attorney terminates if any of the following occur:

(a) The principal dies.

(b) For a power of attorney that is not durable, the principal becomes incapacitated.

(c) The principal revokes the power of attorney.

(d) An event occurs that, according to the terms of the power of attorney, terminates the power.

(e) For a power of attorney that is intended only for a specified, limited purpose, the specified purpose of the power is accomplished.

(f) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power.

(2) An agent's authority terminates if any of the following occur:

(a) The principal revokes the authority.

(b) The agent dies, becomes incapacitated, or resigns.

(c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or for the legal separation of the agent and the principal, unless the power of attorney provides otherwise.

(d) The power of attorney terminates.

(3) Unless the power of attorney provides otherwise, an agent's authority is exercisable until the authority terminates under subsection (2), notwithstanding any lapse of time since the execution of the power.

(4) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under or in reliance upon the power. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under or in reliance on the power. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power provides that the previous power is revoked or that all other powers of attorney are revoked.

History: 2023, Act 187, Eff. July 1, 2024

556.211 Designation of agents and successor agents.

Sec. 111.

(1) A principal may designate 2 or more persons to act as coagents. Unless the power of attorney otherwise provides, each coagent may exercise the authority granted in the power independently.

(2) A principal may designate 1 or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate 1 or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent has the same authority as that granted to the original agent and shall not act until all of the successor agent's predecessors under the terms of the power of attorney have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except to the extent the power provides that coagents and successor agents are liable for one another's misconduct, an agent under a given power of attorney who does not participate in or conceal a breach of fiduciary duty committed by another agent who is or was serving under that power, including a

predecessor agent under the power, is liable for the actions of the other agent only as provided in subsection (4).

(4) An agent serving under a given power of attorney that has knowledge of a breach or imminent breach of fiduciary duty by another agent who is or was serving under that power, including a predecessor agent under the power, shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

History: 2023, Act 187, Eff. July 1, 2024

556.212 Reimbursement and compensation of agent.

Sec. 112.

Unless the power of attorney provides otherwise, an agent is entitled to both of the following:

- (a) Reimbursement of expenses reasonably incurred on behalf of the principal.
- (b) Reasonable compensation for services rendered on behalf of the principal.

History: 2023, Act 187, Eff. July 1, 2024

556.213 Agent's acceptance; acknowledgment of duties.

Sec. 113.

(1) Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority as an agent or by any other assertion or conduct indicating acceptance.

(2) Before exercising authority under a durable power of attorney, an agent shall execute an acknowledgment of the agent's duties that contains all the substantive statements contained in the optional template "Agent's Acknowledgment" provided in section 302 in substantially the form of that optional template.

(3) An agent's failure to comply with subsection (2) does not affect the agent's authority to act for the principal as provided in the durable power of attorney or this act, does not alter the agent's duties under the power and this act, and does not mitigate the agent's potential liability for breach of those duties.

History: 2023, Act 187, Eff. July 1, 2024

556.214 Agent's duties; liability; breach of fiduciary duty.

Sec. 114.

(1) Notwithstanding provisions to the contrary in the power of attorney, an agent that has accepted appointment shall do all of the following:

(a) Act in accordance with reasonable expectations of the principal that are actually known to the agent and, to the extent the expectations are not actually known, act in the principal's best interest.

(b) Act in good faith.

(c) Act only within the scope of authority granted by the principal.

(d) Keep reasonable records of receipts, disbursements, and transactions made by the agent on behalf of the principal.

(2) Except as otherwise provided in the power of attorney, an agent who has accepted appointment shall do all of the following:

(a) Act loyally for the principal's benefit.

(b) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest.

(c) Act with the care, competence, and diligence that a prudent person would in dealing with the property of another.

(d) Cooperate with a person that has authority to make health care decisions for the principal to carry out reasonable expectations of the principal concerning health care that are actually known to the agent and, to the extent the expectations are not actually known, to act in the principal's best interest.

(e) Attempt to preserve the principal's estate plan to the extent that plan is actually known to the agent and preserving the plan is consistent with the principal's best interest based on relevant factors including all of the following:

(i) The value and nature of the principal's property.

(ii) The principal's foreseeable obligations and need for maintenance.

(iii) The desirability of minimizing taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.

(iv) Eligibility for a benefit, a program, or assistance under a statute or regulation.

(3) An agent who acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent who acts for the best interest of the principal with the care, competence, and diligence that a prudent person would in dealing with the property of another is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence.

(6) A decline in the value of the principal's property is not in itself sufficient to establish a breach of fiduciary duty.

(7) An agent serving under a power of attorney that does not have knowledge of a breach or imminent breach of fiduciary duty by another agent who is or was serving under that power does not have a duty to investigate the conduct of any coagent or predecessor agent to rule out the possibility of any breach.

(8) An agent who exercises authority to delegate to another person the authority granted by the principal or who engages another person on behalf of the principal is not liable for an act, error of judgment, or default of the person if the agent exercises care, competence, and diligence in selecting and monitoring

the person.

(9) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, or adult protective services, or, on the death of the principal, by the personal representative or successor in interest of the principal's estate. If a person that is authorized by the power of attorney or by this subsection to request a disclosure described in this subsection makes a request, the agent shall comply with the request within 30 days or provide a record substantiating why additional time is needed. If additional time is needed, the agent shall comply with the request within an additional 30 days.

History: 2023, Act 187, Eff. July 1, 2024

556.215 Exoneration of agent for breach of duty; exceptions.

Sec. 115.

(1) A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent either of the following applies:

(a) The provision relieves the agent of liability for breach of duty committed in bad faith or, except as provided in subsection (2), with reckless indifference to the purposes of the power of attorney or the best interest of the principal.

(b) The provision was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

(2) A provision in a power of attorney relieving an agent of liability under section 111(4) is binding on the principal and the principal's successors in interest except to the extent that it relieves the agent of liability for breach of duty committed in bad faith or was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

History: 2023, Act 187, Eff. July 1, 2024

556.216 Judicial relief; dismissal of petition.

Sec. 116.

(1) Without precluding other bases on which such matters may properly be brought before the court, any of the following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(a) The principal or the agent.

(b) A guardian, conservator, or other fiduciary acting for the principal.

(c) A person that, at the time of the petition, is exercising authority to make health care decisions for the principal.

(d) An individual who, at the time of the petition, would be an heir of the principal if the principal were to die intestate at that time.

(e) A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal the trustee of which has a financial interest in the principal's estate.

(f) The personal representative of the principal's estate.

(g) Adult protective services.

(h) A caregiver or another person that demonstrates sufficient interest in the principal's welfare.

(i) A person asked to accept the power of attorney.

(2) Upon motion by the principal, the court shall dismiss a petition filed under subsection (1) unless the court finds 1 of the following:

(a) That the principal lacks capacity to revoke the agent's authority or the power of attorney.

(b) That the motion is the effect of undue influence, fraud, or duress.

(3) Without precluding other bases on which such matters may properly be brought before the court, any of the following persons may petition a court to review conduct regulated by this act on the part of a person to whom a power of attorney is presented for acceptance and to grant appropriate relief:

(a) The principal or the agent.

(b) A guardian, conservator, or other court-appointed fiduciary acting for the principal.

History: 2023, Act 187, Eff. July 1, 2024

556.217 Violation of act; agent's liability.

Sec. 117.

(1) An agent who violates this act is liable to the principal or the principal's successors in interest for the amount required to restore the value of the principal's property to what it would have been had the violation not occurred, including reimbursement of attorney fees and costs paid on the agent's behalf in the defense of conduct constituting or contributing to the violation.

(2) If an agent embezzles or wrongfully converts the principal's property, or refuses, without colorable claim of right, to transfer possession of the principal's property to the principal or the principal's successors in interest on demand, the agent is liable in an action brought by the principal or the principal's successors in interest for treble the value of any property embezzled, converted, or wrongfully withheld from the principal or the principal's successors in interest.

556.218 Agent's resignation; notice.

Sec. 118.

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by notifying the principal if the principal is not incapacitated or, if the principal is incapacitated, by notifying the following persons, as applicable:

- (a) If a conservator or guardian has been appointed for the principal, the conservator or guardian.
- (b) If a coagent or successor agent has been designated, the coagent or successor agent.
- (c) If there is not a person described in subdivision (a) or (b), 1 of the following:
 - (i) A caregiver of the principal who is reasonably believed by the agent to have a significant interest in the principal's welfare or another person that is reasonably believed by the agent to have the significant interest.
 - (ii) Adult protective services.

History: 2023, Act 187, Eff. July 1, 2024

556.219 Acceptance of and reliance upon acknowledged power of attorney; good faith.

Sec. 119.

(1) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 105(4) that the signature is genuine.

(2) A person that in good faith accepts a power of attorney that is either an acknowledged power or a vintage durable power without actual knowledge that the power is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding the agent's authority may rely on the power as if the power were genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority. This subsection applies regardless of whether the purported agent under a durable power has executed an acknowledgment that complies with section 113(2) or any similar requirement under prior law.

(3) If a power of attorney that is durable is presented for acceptance without an agent's acknowledgment that complies with section 113(2) and is signed by the agent who is to act on the principal's behalf in the transaction in question, a person that is asked to accept the power may require that the agent provide the acknowledgment before accepting the power.

(4) A person that is asked to accept an acknowledged power of attorney may request and may rely, without further investigation, upon any of the following:

- (a) A certification under penalty of perjury, including, as may be appropriate for the intended purpose, an affidavit in recordable form, by an agent or an attorney at law who represents either the agent or the principal of any factual matter concerning the principal, agent, or power of attorney.
- (b) An English translation of the power of attorney if the power contains, in whole or in part, language other than English and the translation's accuracy is the subject of either a certification or an opinion of counsel.
- (c) An opinion of counsel as to any matter of law concerning the power of attorney if the person requesting the opinion explains the reason for the request in a record.

(5) Except as provided in subsection (6), an English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than 7 business days after the power of attorney is presented for acceptance.

(6) If a person that is asked to accept an acknowledged power of attorney requests an opinion of counsel under subsection (4), and a court finds that the reason for the request as stated in the required record is frivolous, the person making the request is subject to liability for attorney fees and costs incurred in providing the requested opinion. In deciding whether the stated reason for the request is frivolous, the court shall consider, in addition to other relevant factors, whether, in light of the language of the power, the provisions of this act, and the surrounding circumstances, there is arguable merit to the legal concern that the request addresses.

(7) As used in this section:

- (a) "Acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.
- (b) "Vintage durable power" means a power of attorney to which all of the following apply:
 - (i) The power is valid within the meaning of section 106.
 - (ii) The power is durable under the law that validates the power within the meaning of section 106.
 - (iii) The power was executed after September 29, 2012 and before the effective date of this act.

History: 2023, Act 187, Eff. July 1, 2024

556.220 Acceptance of acknowledged power of attorney; exceptions; liability for refusal to accept acknowledged power of attorney.

Sec. 120.

(1) Except as otherwise provided in subsection (3), a person shall either accept an acknowledged power of attorney or request an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4) not later than 7 business days after the power is presented for acceptance, and a person shall not require either of the following:

- (a) An additional or different form of power of attorney for authority granted in the acknowledged power presented.
- (b) An additional or different form of agent's acknowledgment if an acknowledgment that complies with section 113(2) and is signed by the agent who is to act on the principal's behalf in the transaction in question is presented with the acknowledged power presented or in response to a request under section 119(3).

(2) Except as otherwise provided in subsection (3), if a person requests an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4), the person shall accept the power of attorney not later than 5 business days after receipt of the requested agent's

acknowledgment, certification, translation, or opinion of counsel or, if more than 1 item has been timely requested in response to the same presentation, 5 business days after the requesting person has received all of the items timely requested.

(3) A person is not required to accept a power of attorney if any of the following apply:

(a) The person is not required to engage in a transaction with the principal in the same circumstances.

(b) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law or with guidance issued by a federal regulatory agency to whose jurisdiction the person is subject.

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power.

(d) The person's timely request for an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4) is refused.

(e) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4) has been requested or provided.

(f) The person in good faith makes, or has actual knowledge that another person has made, a report to adult protective services as defined in section 3 of the financial exploitation prevention act, 2020 PA 344, MCL 487.2083, stating a belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(g) The person is a financial institution as defined in section 3 of the financial exploitation prevention act, 2020 PA 344, MCL 487.2083, and the person is, at the time in question, delaying or placing a freeze on transactions or assets relative to the principal under the financial exploitation prevention act, 2020 PA 344, MCL 487.2081 to 487.2091.

(4) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to a court order mandating acceptance of the power and liability for reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power or mandates acceptance of the power.

(5) A person that refuses in violation of this section to accept an acknowledged power of attorney after having requested and received a certification, a translation, or an opinion of counsel under section 119(4) is subject to, in addition to the liability described in subsection (4), liability for reasonable attorney fees and costs incurred in providing the requested certification, translation, or opinion of counsel.

(6) As used in this section, "acknowledged" means that term as defined in section 119.

History: 2023, Act 187, Eff. July 1, 2024

556.221 Principles of common law and equity.

Sec. 121.

Unless displaced by a provision of this act, principles of common law and equity supplement this act.

History: 2023, Act 187, Eff. July 1, 2024

556.222 Laws applicable to financial institutions and certain other entities.

Sec. 122.

This act does not supersede any other law applicable to financial institutions or other regulated entities, and that other law controls to the extent it is inconsistent with this act.

History: 2023, Act 187, Eff. July 1, 2024

556.223 Remedies under other law.

Sec. 123.

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

History: 2023, Act 187, Eff. July 1, 2024

ARTICLE 2 AUTHORITY

556.301 Express or specific grant of authority; grant of general authority.

Sec. 201.

(1) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power expressly grants the agent the authority and exercise of the authority is not prohibited by another agreement or instrument to which the authority or property is subject or the authority is granted by judicial order:

- (a) Create, amend, revoke, or terminate an inter vivos trust.
 - (b) Make a gift.
 - (c) Create or change rights of survivorship.
 - (d) Create or change a beneficiary designation.
 - (e) Delegate authority granted under the power of attorney.
 - (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
 - (g) Exercise fiduciary powers that the principal has authority to delegate.
 - (h) Exercise authority over the content of electronic communications, as defined in 18 USC 2510(12), sent or received by the principal.
 - (i) Exercise authority over any bank, securities, or other financial account in a foreign country within the meaning of 31 CFR 1010.350.
- (2) Notwithstanding a grant of authority to do an act described in subsection (1), unless the power of attorney provides otherwise, an agent who is not an ancestor, spouse, or descendant of the principal shall not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise. The terms of a power of attorney may expand or narrow the class of agents permitted by this subsection to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property.
- (3) Subject to subsections (1), (2), (4), and (5), if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 204 to 216.
- (4) Unless the power of attorney provides otherwise, a grant of authority to make a gift is subject to section 217.
- (5) Subject to subsections (1), (2), and (4), if the subjects over which authority is granted by a power of attorney are similar or overlap, the broadest authority controls.
- (6) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power is executed in this state.
- (7) An act performed by an agent under a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

History: 2023, Act 187, Eff. July 1, 2024

556.302 Incorporation of authority.

Sec. 202.

- (1) An agent has authority described in this article if the power of attorney does either of the following:
 - (a) Cites the section in which the authority is described.
 - (b) Refers to a heading or catchline added to sections 204 to 217 under section 108 of the legislative council act, 1986 PA 268, MCL 4.1108.
- (2) A power of attorney that incorporates by reference any section of sections 204 to 217 under subsection (1) incorporates the entire section as if that section were set out in full in the power.
- (3) A principal may modify authority incorporated by reference.

History: 2023, Act 187, Eff. July 1, 2024

556.303 Powers of agent with a grant of general authority.

Sec. 203.

Except as otherwise provided in the power of attorney, by executing a power that incorporates by reference a subject described in sections 204 to 217 under section 202 or that grants to an agent authority to do all acts that a principal could do under section 201(3), a principal authorizes the agent, with respect to that subject, to do all of the following:

- (a) Demand, receive, and obtain, by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended.
- (b) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal.
- (c) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney.
- (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or 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.
- (e) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney.
- (f) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor.
- (g) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation.
- (h) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal.
- (i) Access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means.
- (j) Do any lawful act with respect to the subject and all property related to the subject.

History: 2023, Act 187, Eff. July 1, 2024

556.304 Authority of agent; real property.

Sec. 204.

A power of attorney that authorizes the agent to convey or otherwise exercise power over real property does not need to contain the real property's legal description. Unless the power of attorney provides otherwise, language in a power granting general authority with respect to real property authorizes the agent to do all of the following:

- (a) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property.
- (b) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property.
- (c) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.
- (d) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted.
- (e) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including all of the following:
 - (i) Insuring against liability or casualty or other loss.
 - (ii) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise.
 - (iii) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them.
 - (iv) Purchasing supplies, hiring labor, and making repairs or alterations to the real property.
- (f) Use, develop, alter, replace, remove, erect, or install structures or other improvements on real property in or incident to which the principal has, or claims to have, an interest or right.
- (g) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including all of the following:
 - (i) Selling or otherwise disposing of them.
 - (ii) Exercising or selling an option, right of conversion, or similar right with respect to them.
 - (iii) Exercising any voting rights in person or by proxy.
 - (h) Change the form of title of an interest in or right incident to real property.
 - (i) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

History: 2023, Act 187, Eff. July 1, 2024

556.305 Authority of agent; tangible personal property.

Sec. 205.

Unless the power of attorney provides otherwise, language in a power granting general authority with respect to tangible personal property authorizes the agent to do all of the following:

- (a) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property.
- (b) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property.
- (c) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.
- (d) Release, assign, satisfy, or enforce, by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property.
- (e) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including all of the following:
 - (i) Insuring against liability or casualty or other loss.
 - (ii) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise.
 - (iii) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments.
 - (iv) Moving the property from place to place.
 - (v) Storing the property for hire or on a gratuitous bailment.
 - (vi) Using and making repairs, alterations, or improvements to the property.
- (f) Change the form of title of an interest in tangible personal property.

History: 2023, Act 187, Eff. July 1, 2024

556.306 Authority of agent; stocks and bonds.

Sec. 206.

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

- (a) Buy, sell, and exchange stocks and bonds.
- (b) Establish, continue, modify, or terminate an account with respect to stocks and bonds.
- (c) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.
- (d) Receive certificates and other evidence of ownership with respect to stocks and bonds.
- (e) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

History: 2023, Act 187, Eff. July 1, 2024

556.307 Authority of agent; commodities and options.

Sec. 207.

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

- (a) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange.
- (b) Establish, continue, modify, and terminate option accounts.

History: 2023, Act 187, Eff. July 1, 2024

556.308 Authority of agent; banks and other financial institutions.

Sec. 208.

Unless the power of attorney provides otherwise, language in a power granting general authority with respect to banks and other financial institutions authorizes 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) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault.
- (d) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution.
- (e) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them.
- (f) Enter a safe deposit box or vault and withdraw or add to the contents.
- (g) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal.
- (h) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due.
- (i) Receive for the principal and act on a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument.
- (j) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit.
- (k) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

History: 2023, Act 187, Eff. July 1, 2024

556.309 Authority of agent; operation of an entity or business.

Sec. 209.

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

- (a) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest.
- (b) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have.
- (c) Enforce the terms of an ownership agreement.
- (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest.
- (e) 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 stocks and bonds.
- (f) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds.
- (g) With respect to an entity or business owned solely by the principal, do all of the following:
 - (i) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney.
 - (ii) Determine all of the following:
 - (A) The location of the entity's or business's operation.
 - (B) The nature and extent of the business.
 - (C) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the entity's or business's operation.
 - (D) The amount and types of insurance carried.
 - (E) The mode of engaging, compensating, and dealing with the entity's or business's employees and accountants, attorneys, or other advisors.
 - (iii) Change the name or form of organization under which the entity or business is operated or enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business.

- (iv) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business.
- (h) Put additional capital into an entity or business in which the principal has an interest.
- (i) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business.
- (j) Sell or liquidate all or part of an entity or business.
- (k) Establish the value of an entity or business under a buy-out agreement to which the principal is a party.
- (l) Prepare, sign, file, and deliver reports, compilations of information, returns, or other records with respect to an entity or business and make related payments.
- (m) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

History: 2023, Act 187, Eff. July 1, 2024

556.310 Authority of agent; insurance and annuities.

Sec. 210.

Unless the power of attorney provides otherwise, language in a power granting general authority with respect to insurance and annuities authorizes the agent to do all of the following:

- (a) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that 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 make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent.
- (d) Apply for and receive a loan secured by a contract of insurance or annuity.
- (e) Surrender and receive the cash surrender value on a contract of insurance or annuity.
- (f) Exercise an election.
- (g) Exercise investment powers available under a contract of insurance or annuity.
- (h) Change the manner of paying premiums on a contract of insurance or annuity.
- (i) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section.
- (j) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal.
- (k) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity.
- (l) Select the form and timing of the payment of proceeds from 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.

History: 2023, Act 187, Eff. July 1, 2024

556.311 Authority of agent; estates, trusts, and other beneficial interests.

Sec. 211.

(1) Unless the power of attorney provides otherwise, language in a power granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to do all of the following:

- (a) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest.
 - (b) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise.
 - (c) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal.
 - (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to 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.
 - (e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary.
 - (f) Conserve, invest, disburse, or use anything received for an authorized purpose.
 - (g) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.
- (2) As used in this section, "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

History: 2023, Act 187, Eff. July 1, 2024

556.312 Authority of agent; claims and litigation.

Sec. 212.

Unless the power of attorney provides otherwise, language in a power granting general authority with respect to claims and litigation authorizes the agent to do all of the following:

- (a) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief.
- (b) Bring an action to determine adverse claims or intervene or otherwise participate in litigation.
- (c) Seek an attachment, garnishment, 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) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation.
- (e) Submit to alternative dispute resolution, settle, and propose or accept a compromise.
- (f) Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on 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, receive, 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, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value.
- (h) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation.
- (i) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

History: 2023, Act 187, Eff. July 1, 2024

556.313 Authority of agent; personal and family maintenance.

Sec. 213.

(1) Unless the power of attorney provides otherwise, language in a power granting general authority with respect to personal and family maintenance authorizes the agent to do all of the following:

- (a) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether they are living when the power of attorney is executed or are born later:
 - (i) The principal's children.
 - (ii) Individuals legally entitled to be supported by the principal.
 - (iii) Individuals whom the principal has customarily supported or indicated the intent to support.
 - (b) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party.
 - (c) Provide living quarters for the individuals described in subdivision (a) by any the following:
 - (i) Purchase, lease, or other contract.
 - (ii) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals.
 - (d) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subdivision (a).
 - (e) Pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (a).
 - (f) Act as the principal's personal representative under the health insurance portability and accountability act of 1996, Public Law 104-191, sections 1171 to 1179 of the social security act, 42 USC 1320d to 1320d-8, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal.
 - (g) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subdivision (a).
 - (h) Maintain credit and debit accounts for the convenience of the individuals described in subdivision (a) and open new accounts for that purpose.
 - (i) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue an established pattern of contributions to those organizations.
- (2) Authority with respect to personal and family maintenance is not dependent on, or limited by, authority that an agent may or may not have with respect to gifts under this act.

History: 2023, Act 187, Eff. July 1, 2024

556.314 Authority of agent; benefits from governmental programs or civil or military service.

Sec. 214.

(1) Unless the power of attorney provides otherwise, language in a power granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to do all of the following:

- (a) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 213(1)(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) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program.
- (d) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation.

- (e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation.
 - (f) Receive the financial proceeds of a claim described in subdivision (d) and conserve, invest, disburse, or use for a lawful purpose anything so received.
- (2) As used in this section, "benefits from governmental programs or civil or military service" means any benefit, program, or other assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid.

History: 2023, Act 187, Eff. July 1, 2024

556.315 Authority of agent; retirement plans.

Sec. 215.

- (1) Unless the power of attorney provides otherwise, language in a power granting general authority with respect to retirement plans authorizes the agent to do all of the following:
- (a) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan.
 - (b) Make a rollover or a trustee-to-trustee transfer of benefits from 1 retirement plan to another.
 - (c) Establish a retirement plan in the principal's name.
 - (d) Make contributions to a retirement plan.
 - (e) Exercise investment powers available under a retirement plan.
 - (f) Borrow from, sell assets to, or purchase assets from a retirement plan as permitted by the plan.
- (2) As used in this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under any of the following:
- (a) An individual retirement account under section 408 of the internal revenue code of 1986, 26 USC 408.
 - (b) A Roth individual retirement account under section 408A of the internal revenue code of 1986, 26 USC 408A.
 - (c) A deemed individual retirement account under section 408(q) of the internal revenue code of 1986, 26 USC 408.
 - (d) An annuity or mutual fund custodial account under section 403(b) of the internal revenue code of 1986, 26 USC 403.
 - (e) A pension, profit-sharing, stock bonus, or other retirement plan qualified under section 401(a) of the internal revenue code of 1986, 26 USC 401.
 - (f) A plan under section 457(b) of the internal revenue code of 1986, 26 USC 457.
 - (g) A nonqualified deferred compensation plan under section 409A of the internal revenue code of 1986, 26 USC 409A.

History: 2023, Act 187, Eff. July 1, 2024

556.316 Authority of agent; taxes.

Sec. 216.

- Unless the power of attorney provides otherwise, language in a power granting general authority with respect to taxes authorizes the agent to do all of the following:
- (a) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, 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 of 1986, 26 USC 2032A, 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, including consent, under section 2513 of the internal revenue code of 1986, 26 USC 2513, to the splitting of 1 or more gifts made by the principal's spouse.
 - (d) Act for the principal in all tax matters for all periods before the Internal Revenue Service or other taxing authority.

History: 2023, Act 187, Eff. July 1, 2024

556.317 Authority of agent; gifts.

Sec. 217.

- (1) Unless the power of attorney provides otherwise, language in a power granting general authority with respect to gifts authorizes the agent to make outright gifts of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, to, or for the benefit of, a person or persons as the agent determines is consistent with the principal's objectives if actually known by the agent and, to the extent the principal's objectives are unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including the following:
- (a) The value and nature of the principal's property.
 - (b) The principal's foreseeable obligations and need for maintenance, including anticipated private-pay nursing or assisted-living care costs incurred in a facility or at home.
 - (c) The desirability of minimizing taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.
 - (d) Eligibility for a benefit, a program, or assistance under a statute or regulation, including eligibility for assistance with nursing or assisted-living care in a facility or at home.
 - (e) The principal's personal history of making gifts.

(2) As used in this section, a gift "for the benefit of" a person includes, without limitation, a gift in trust, an account under the Michigan uniform transfers to minors act, 1998 PA 433, MCL 554.521 to 554.552, a tuition savings account or prepaid tuition plan as described under section 529 of the internal revenue code of 1986, 26 USC 529, and an ABLE account as defined under section 529A of the internal revenue code of 1986, 26 USC 529A.

History: 2023, Act 187, Eff. July 1, 2024

ARTICLE 3 STATUTORY FORMS

556.401 Statutory form power of attorney.

Sec. 301.

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

MICHIGAN

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). It is, therefore, an important legal document, and you are taking a serious step if you decide to make use of this form without seeking legal advice; for if the person you designate as your agent accepts authority granted under this power of attorney, the agent will be able to make decisions and act with respect to your property (including your money). The extent of your agent's authority over subjects listed on this form is explained in the uniform power of attorney act, MCL 556.201 to 556.505.

This power of attorney does not authorize the agent to make health care decisions for you and it does not authorize the agent to exercise powers you have as a parent or guardian regarding care, custody, or property of a minor child or ward.

You should select someone you trust to serve as your agent and you should ask yourself as you review each section of this form, whether you have chosen the right person(s) to act in that capacity. If your signature on this form is notarized or witnessed as provided below, then unless you specify otherwise, the agent's authority will generally continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

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

This form provides for designation of an agent and successor agent(s) who serve one at a time, as opposed to coagents who serve simultaneously. If you wish to name coagents, you may do so in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions. And unless you state otherwise in the Special Instructions, this power of attorney does not revoke any other power of attorney you may have created.

If you have questions about the power of attorney or the authority it grants to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ name

(Name of Principal)

the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

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

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, MCL 556.201 to 556.505:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may simply initial "All Preceding Subjects.")

☐ Real Property

☐ Tangible Personal Property

☐ Stocks and Bonds

☐ Commodities and Options

☐ Banks and Other Financial Institutions

- ☐ Operation of Entity or Business
- ☐ Insurance and Annuities
- ☐ Estates, Trusts, and Other Beneficial Interests
- ☐ Claims and Litigation
- ☐ Personal and Family Maintenance
- ☐ Benefits from Governmental Programs or Civil or Military Service
- ☐ Retirement Plans
- ☐ Taxes
- ☐ All Preceding Subjects (regardless of whether any of the preceding subjects are initialed)

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

CAUTION! Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. Furthermore, depending on the amount in one or more of the accounts mentioned in the last item listed below (which refers to 31 CFR 1010.350), granting that particular power may subject your agent to burdensome federal reporting obligations that are subject to stiff penalties. INITIAL ONLY the specific authority you WANT to give your agent. If you have questions about the wisdom of granting any specific authority to your agent, you should seek legal advice before signing this form. If you are inclined to grant specific authority but doubt the wisdom of granting that authority to a particular person you have designated as your agent or successor agent, you should ask yourself whether you have designated the right person(s).

- ☐ Create, amend, revoke, or terminate an inter vivos trust
- ☐ Make a gift as limited by section 217 of the uniform power of attorney act, MCL 556.317, and any special instructions in this power of attorney
- ☐ Create or change rights of survivorship by, for example, creating a joint account
- ☐ Create or change a beneficiary designation
- ☐ Authorize another person to exercise the authority granted under this power of attorney
- ☐ Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- ☐ Exercise fiduciary powers that the principal has authority to delegate
- ☐ Access the content of electronic communications
- ☐ Exercise authority over any "bank, securities, or other financial account in a foreign country" within the meaning of 31 CFR 1010.350

LIMITATION ON AGENT'S AUTHORITY

Even if I have authorized my agent to make a gift (by initialing the relevant line above), an agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines.

CAUTION! Special instructions are liable to cause ambiguities that may impair the effectiveness of this power of attorney. You are taking a solemn step if you decide to make any use of this form without seeking legal advice; you should be especially wary of providing special instructions without the benefit of legal counsel.

EFFECTIVE DATE

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

EFFECT ON PREVIOUS POWERS OF ATTORNEY

Unless I have said otherwise in the Special Instructions, the execution of this power of attorney does not revoke any prior power of attorney.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for Conservator or Guardian of My Estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for Guardian of My Person: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

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

**SIGNATURE OF PRINCIPAL, SIGNATURES OF WITNESSES,
AND ACKNOWLEDGMENT**

CAUTION! Unless you provide otherwise in the Special Instructions, this form will create a "durable" power of attorney if you sign it either before a notary public (or other individual authorized to take acknowledgments) or in the presence of two witnesses neither of whom is designated as your agent or successor agent, both of whom sign below (and one of whom may be the notary public or other individual authorized by law to take acknowledgments who also signs below in his or her official capacity). The power's being "durable" means that unless the power is revoked or the agent's authority is otherwise terminated beforehand, your agent's authority will continue during any period in which you are alive but incapacitated. If you have questions about the wisdom of making this power durable, you should seek legal advice before signing this form.

CAUTION! You have an important motivation to acknowledge your signature before a notary public (or other individual authorized to take acknowledgments) regardless of the question of durability (described above): doing so will make it harder, under section 120 of the uniform power of attorney act, MCL 556.220, for someone to whom the power is presented to decline to accept the power and your agent's authority to act on your behalf.

Your Signature _____ Date

Your Name Printed

Your Address

Your Telephone Number

Witness No. 1's Signature _____ Date

Witness No. 1's Name Printed

Witness No. 1's Address

Witness No. 2's Signature _____ Date

Witness No. 2's Name Printed

Witness No. 2's Address

State of _____

[County] of _____

This document was acknowledged before me on _____

(Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary

My commission expires: _____

This document prepared by: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power or your authority under it is terminated by a termination event described in the uniform power of attorney act, MCL 556.201 to 556.505. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act in good faith;
- (3) Do nothing beyond the authority granted in this power of attorney;
- (4) Keep a record of receipts, disbursements, and transactions made on behalf of the principal;
- (5) Disclose your identity as an agent whenever you act for the principal by, for example, writing or printing the name of the principal and signing your own name as "agent"; in the following manner:

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

- (6) And if the power is "durable" in the sense described below, you must, before acting as agent under the power, sign an acknowledgment of your duties as agent that contains all the declarations contained in the optional template "Agent's Acknowledgment"; provided in section 302 of the uniform power of attorney act, MCL 556.402, in substantially the form of that optional template.

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

- (1) Act loyally for the principal's benefit;
- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Act with care, competence, and diligence;
- (4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects concerning health care or, if you do not know the principal's expectations, to act in the principal's best interest; and

(5) Attempt, to the extent of the powers you have been granted as agent, to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

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

- (1) Death of the principal;
- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power;
- (4) If the power is intended only for a specified, limited purpose, the specified purpose of the power is fully accomplished; or
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Statutory Duty to Acknowledge Agent's Duties under "Durable" Power

Unless the Special Instructions in this power of attorney state otherwise, this form will create a "durable" power of attorney (meaning that unless the power is revoked or your authority is otherwise terminated beforehand, your authority as agent will continue during any period in which the principal is alive but incapacitated) if the principal signs it either before a notary public (or other individual authorized to take acknowledgments) or in the presence of two witnesses neither of whom is designated as the principal's agent or successor agent and both of whom also sign the form. If this power of attorney is durable, then before you act as agent under the power, you must execute an acknowledgment of your duties as agent that contains all the declarations contained in the optional template "Agent's Acknowledgment" provided in section 302 of the uniform power of attorney act, MCL 556.402, in substantially the form of that optional template.

Liability of Agent

The meaning of the authority granted to you is defined in the uniform power of attorney act, MCL 556.201 to 556.505. If you violate that act or the terms of this power, you may be liable for any damages caused by your violation.

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

History: 2023, Act 187, Eff. July 1, 2024

556.402 Agent's acknowledgment form.

Sec. 302.

The following optional template may be used by a nominated agent under a durable power of attorney to provide the acknowledgment required by section 113(2):

AGENT'S ACKNOWLEDGMENT

I, _____, have been appointed agent for _____ (Your Name), the principal _____ (Name of Principal), under a durable power of attorney dated _____. By signing this document, I acknowledge that if and when I act as agent under the power, all of the following apply:

MY DUTIES AS AGENT

I must:

1. Do what I know the principal reasonably expects me to do with the principal's property or, if I do not know the principal's expectations, act in the principal's best interest.
2. Act in good faith.
3. Do nothing beyond the authority granted in the durable power of attorney.
4. Keep reasonable records of receipts, disbursements, and transactions I make on behalf of the principal.
5. Disclose my identity as an agent whenever I act for the principal by writing or printing the principal's name and signing my own name as "agent".
6. And depending on the terms of the power of attorney, I may have additional duties described in section 114 of the uniform power of attorney act, MCL 556.201 to 556.505, including the presumptive duties to act loyally for the principal's benefit, avoid conflicts of interest that would make it hard for me to act in the principal's best interest, and act with care, competence, and diligence.

POWERS REQUIRING SPECIFIC AUTHORITY

Unless specifically provided in the durable power of attorney or by judicial order, I cannot do any of the following:

1. Create, amend, revoke, or terminate an inter vivos trust.
2. Make a gift of the principal's property to someone else, let alone to myself.
3. Create or change rights of survivorship by, for example, creating a joint account.
4. Create or change a beneficiary designation.
5. Delegate authority granted under the durable power of attorney.
6. Exercise fiduciary powers that the principal has authority to delegate.
7. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
8. Exercise authority over the content of electronic communications, as defined in 18 USC 2510, sent or received by the principal.
9. Exercise authority over any bank, securities, or other financial account in a foreign country within the meaning of 31 CFR 1010.350.

TERMINATION OF MY AUTHORITY

I must stop acting on behalf of the principal if I learn of any event that terminates the durable power of attorney or my authority under the power, including the death of the principal or the principal's revocation of either the power or my authority to act under it.

MY POTENTIAL LIABILITY AS AGENT

If I violate the uniform power of attorney act, MCL 556.201 to 556.505, or act outside the authority granted in the durable power, I may be liable to the principal or the principal's successors for damages caused by my violation and to civil or criminal penalties. An exoneration clause in the power (if any) does not relieve me of liability for acts or omissions committed in bad faith or, in some cases, for acts or omissions committed with reckless indifference to the purposes of the power of attorney or the interests of the principal.

Signature: _____

Date: _____

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

History: 2023, Act 187, Eff. July 1, 2024

556.403 Certification of validity of power of attorney by agent or attorney at law.

Sec. 303.

The following optional template may be used by an agent or an attorney at law who represents either the agent or the principal to certify facts concerning a power of attorney:

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

State of _____

[County] of _____

I, _____ (Name of Certifier), certify under penalty of perjury that
_____ (Name of Principal) granted
_____ (Name of Agent) authority as an agent or successor agent in a power of
attorney dated _____.

I further certify that to my knowledge:

- (1) The Principal is alive and has not revoked the Power of Attorney or the Agent's authority to act under the Power and the Power and the Agent's authority to act under the Power have not otherwise terminated;
- (2) If the Power of Attorney was drafted to become effective upon the happening of a specified event or contingency, the specified event or contingency has occurred;
- (3) If the Agent was named as a successor agent, the prior agent is unable or unwilling to serve; and
- (4) _____

(Insert other relevant statements. You may attach separate sheets if additional space is needed.)

SIGNATURE AND ACKNOWLEDGMENT

Certifier's Signature

Date

Certifier's Name Printed

Certifier's Capacity (as Agent, attorney at law for Agent, or attorney at law for Principal)

Certifier's Address

Certifier's Telephone Number

This document was acknowledged before me on _____,

(Date)

by _____.

(Name of Certifier)

(Seal, if any)

Signature of Notary

My commission expires: _____

This document prepared by:

History: 2023, Act 187, Eff. July 1, 2024

**ARTICLE 4
MISCELLANEOUS PROVISIONS**

556.501 Uniformity of application and construction.

Sec. 401.

In applying and construing this act, consideration should be given to the need to promote uniformity of the law with respect to the act's subject matter among the states that enact the uniform act on which this act is based.

History: 2023, Act 187, Eff. July 1, 2024

556.502 Relation to electronic signatures in global and national commerce act.

Sec. 402.

This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 USC 7001 to 7006, but does not modify, limit, or supersede section 101(c) of that act, 15 USC 7001, or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 USC 7003.

History: 2023, Act 187, Eff. July 1, 2024

556.503 Effect on existing powers of attorney.

Sec. 403.

Except as otherwise provided in this act, on the effective date of this act all of the following apply:

- (a) Except as provided in subdivision (c), this act applies to a power of attorney created before, on, or after the effective date of this act.
- (b) This act applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this act.
- (c) This act applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this act unless the court finds that application of a provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.
- (d) An act done before the effective date of this act is not affected by this act.

History: 2023, Act 187, Eff. July 1, 2024

556.504 Repeal of MCL 700.5501-700.5505.

Sec. 404.

Sections 5501 to 5505 of the estates and protected individuals code, 1998 PA 386, MCL 700.5501 to 700.5505, are repealed.

History: 2023, Act 187, Eff. July 1, 2024

556.505 Effective date.

Sec. 405.

This act takes effect July 1, 2024.

History: 2023, Act 187, Eff. July 1, 2024