

By: Senator(s) Burton

To: Judiciary, Division A

SENATE BILL NO. 2069

1 AN ACT TO CREATE THE MISSISSIPPI UNIFORM POWER OF ATTORNEY
2 ACT; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE APPLICABILITY OF
3 THIS ACT; TO PROVIDE FOR THE EXECUTION, VALIDITY AND MEANING OF A
4 POWER OF ATTORNEY; TO PROVIDE FOR THE NOMINATION OF CONSERVATORS
5 OR GUARDIANS; TO PROVIDE WHEN A POWER OF ATTORNEY IS EFFECTIVE; TO
6 PROVIDE FOR THE TERMINATION OF A POWER OF ATTORNEY OR AN AGENT'S
7 AUTHORITY; TO PROVIDE THE DUTIES AND RESPONSIBILITIES OF AGENTS;
8 TO PROVIDE FOR THE EXONERATION OF AN AGENT; TO PROVIDE FOR
9 JUDICIAL RELIEF; TO PROVIDE FOR THE RESIGNATION OF AGENTS AND
10 NOTICE THEREOF; TO PROVIDE FOR ACCEPTANCE AND RELIANCE UPON AN
11 ACKNOWLEDGED POWER OF ATTORNEY; TO PROVIDE LIABILITY FOR REFUSAL
12 TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY; TO PROVIDE AUTHORITY
13 THAT REQUIRES SPECIFIC GRANT; TO PROVIDE FOR THE INCORPORATION AND
14 CONSTRUCTION OF AUTHORITY; TO PROVIDE FOR THE AUTHORITY OF AN
15 AGENT AND THE USES THEREFOR; TO PROVIDE FORMS FOR A POWER OF
16 ATTORNEY; TO PROVIDE FOR AN AGENT'S CERTIFICATION; TO AMEND
17 SECTION 75-3-307, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REPEAL
18 SECTIONS 87-3-101, 87-3-103, 87-3-105, 87-3-107, 87-3-109,
19 87-3-111 AND 87-3-113, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE
20 THE UNIFORM DURABLE POWER OF ATTORNEY ACT; AND FOR RELATED
21 PURPOSES.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

23 **SECTION 1.** The following shall be codified as Chapter 4 of
24 Title 87, Mississippi Code of 1972:

25 **ARTICLE 1**

26 **SECTION 2.** The following shall be codified as Section
27 87-4-101, Mississippi Code of 1972:



28 87-4-101. **Short title.** This act may be cited as the
29 Mississippi Uniform Power of Attorney Act.

30 **SECTION 3.** The following shall be codified as Section
31 87-4-102, Mississippi Code of 1972:

32 87-4-102. **Definitions.** In this act:

33 (1) "Agent" means a person granted authority to act for
34 a principal under a power of attorney, whether denominated an
35 agent, attorney-in-fact, or otherwise. The term includes an
36 original agent, coagent, successor agent, and a person to which an
37 agent's authority is delegated. The term does not include a
38 trustee and does not include an authorized signer on a deposit
39 account.

40 (2) "Durable," with respect to a power of attorney,
41 means not terminated by the principal's incapacity.

42 (3) "Electronic" means relating to technology having
43 electrical, digital, magnetic, wireless, optical, electromagnetic,
44 or similar capabilities.

45 (4) "Good faith" means honesty in fact.

46 (5) "Incapacity" means inability of an individual to
47 manage property or business affairs because the individual:

48 (A) Has an impairment in the ability to receive
49 and evaluate information or make or communicate decisions even
50 with the use of technological assistance; or

51 (B) Is:

52 (i) Missing;



53 (ii) Detained, including incarcerated in a
54 penal system; or

55 (iii) Outside the United States and unable to
56 return.

57 (6) "Person" means an individual, corporation, business
58 trust, estate, trust, partnership, limited liability company,
59 association, joint venture, public corporation, government or
60 governmental subdivision, agency, or instrumentality, or any other
61 legal or commercial entity.

62 (7) "Power of attorney" means a writing or other record
63 that grants authority to an agent to act in the place of the
64 principal, whether or not the term power of attorney is used.
65 Specifically excluded from the definition of power of attorney is
66 a health care power of attorney, a trust, and a writing or record
67 granting the authority to be an authorized signer on a deposit
68 account or bank account.

69 (8) "Presently exercisable general power of
70 appointment," with respect to property or a property interest
71 subject to a power of appointment, means power exercisable at the
72 time in question to vest absolute ownership in the principal
73 individually, the principal's estate, the principal's creditors,
74 or the creditors of the principal's estate. The term includes a
75 power of appointment not exercisable until the occurrence of a
76 specified event, the satisfaction of an ascertainable standard, or
77 the passage of a specified period only after the occurrence of the



78 specified event, the satisfaction of the ascertainable standard,
79 or the passage of the specified period. The term does not include
80 a power exercisable in a fiduciary capacity or only by will.

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

83 (10) "Property" means anything that may be the subject
84 of ownership, whether real or personal, or legal or equitable, or
85 any interest or right therein.

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

89 (12) "Sign" means, with present intent to authenticate
90 or adopt a record:

91 (A) To execute or adopt a tangible symbol; or

92 (B) To attach to or logically associate with the
93 record an electronic sound, symbol, or process.

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

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



103 **SECTION 4.** The following shall be codified as Section
104 87-4-103, Mississippi Code of 1972:

105 87-4-103. **Applicability.** This act applies to all powers of
106 attorney except:

107 (1) A power to the extent it is coupled with an
108 interest in the subject of the power, including a power given to
109 or for the benefit of a creditor in connection with a credit
110 transaction;

111 (2) A power to make health care decisions;

112 (3) A proxy or other delegation to exercise voting
113 rights or management rights with respect to an entity;

114 (4) A power created on a form prescribed by a
115 government or governmental subdivision, agency, or instrumentality
116 for a governmental purpose;

117 (5) A power, delegation or grant of authority under a
118 trust or will;

119 (6) A power, delegation or grant of authority under a
120 court order to a conservator, guardian, executor, executrix,
121 administrator, administratrix, or other court-appointed fiduciary;
122 and

123 (7) A power, delegation, or grant of authority under a
124 writing or record to an authorized signer on a deposit account.

125 **SECTION 5.** The following shall be codified as Section
126 87-4-104, Mississippi Code of 1972:



127 87-4-104. **Power of attorney is durable.** A power of attorney
128 created under this act is durable unless it expressly provides
129 that it is terminated by the incapacity of the principal.

130 **SECTION 6.** The following shall be codified as Section
131 87-4-105, Mississippi Code of 1972:

132 87-4-105. **Execution of power of attorney.** A power of
133 attorney must be signed by the principal or in the principal's
134 conscious presence by another individual directed by the principal
135 to sign the principal's name on the power of attorney. A
136 signature on a power of attorney is presumed to be genuine if the
137 principal acknowledges the signature before a notary public or
138 other individual authorized by law to take acknowledgments.

139 **SECTION 7.** The following shall be codified as Section
140 87-4-106, Mississippi Code of 1972:

141 87-4-106. **Validity of power of attorney.** (a) A power of
142 attorney executed in this state on or after July 1, 2019, is valid
143 if its execution complies with Section 87-4-105.

144 (b) A power of attorney executed in this state before July
145 1, 2019, is valid if its execution complied with the law of this
146 state as it existed at the time of execution.

147 (c) A power of attorney executed other than in this state is
148 valid in this state if, when the power of attorney was executed,
149 the execution complied with:



150 (1) The law of the jurisdiction that determines the
151 meaning and effect of the power of attorney pursuant to Section
152 87-4-107; or

153 (2) The requirements for a military power of attorney
154 pursuant to 10 USCS Section 1044b.

155 (d) Except as otherwise provided by statute other than this
156 act, a photocopy or electronically transmitted copy of an original
157 power of attorney has the same effect as the original.

158 **SECTION 8.** The following shall be codified as Section
159 87-4-107, Mississippi Code of 1972:

160 87-4-107. **Meaning and effect of power of attorney.** The
161 meaning and effect of a power of attorney is determined by the law
162 of the jurisdiction indicated in the power of attorney and, in the
163 absence of an indication of jurisdiction, by the law of the
164 jurisdiction in which the power of attorney was executed.

165 **SECTION 9.** The following shall be codified as Section
166 87-4-108, Mississippi Code of 1972:

167 87-4-108. **Nomination of conservator or guardian; relation of**
168 **agent to court-appointed fiduciary.** (a) In a power of attorney,
169 a principal may nominate a conservator or guardian of the
170 principal's estate or guardian of the principal's person for
171 consideration by the court if protective proceedings for the
172 principal's estate or person are begun after the principal
173 executes the power of attorney. Except for good cause shown or
174 disqualification, the court shall make its appointment in



175 accordance with the principal's most recent nomination. If the
176 power of attorney names a conservator or a guardian but does not
177 specify whether the nomination applies to the principal's estate
178 or to the principal's person, the nomination applies to both the
179 principal's estate and the principal's person.

180 (b) If, after a principal executes a power of attorney, a
181 court appoints a conservator or guardian of the principal's estate
182 or other fiduciary charged with the management of some or all of
183 the principal's property, the agent is accountable to the
184 fiduciary as well as to the principal. The power of attorney is
185 not terminated and the agent's authority continues unless limited,
186 suspended, or terminated by the court, in which case the
187 limitation, suspension, or termination is not effective as to a
188 person that accepts an acknowledged power of attorney until the
189 person that accepts an acknowledged power of attorney has actual
190 knowledge of the appointment of a conservator, guardian, or other
191 fiduciary and has a reasonable time to act on the knowledge.

192 **SECTION 10.** The following shall be codified as Section
193 87-4-109, Mississippi Code of 1972:

194 87-4-109. **When power of attorney is effective.** (a) A power
195 of attorney is effective when executed unless the principal
196 provides in the power of attorney that it becomes effective at a
197 future date or upon the occurrence of a future event or
198 contingency.



199 (b) If a power of attorney becomes effective upon the
200 occurrence of a future event or contingency, the principal, in the
201 power of attorney, may authorize one or more persons, including
202 the agent, to determine in a writing or other record that the
203 event or contingency has occurred.

204 (c) If a power of attorney becomes effective upon the
205 principal's incapacity and the principal has not authorized a
206 person to determine whether the principal is incapacitated, or the
207 person authorized is unable or unwilling to make the
208 determination, the power of attorney becomes effective upon a
209 determination in a writing or other record by:

210 (1) A physician or licensed psychologist that the
211 principal is incapacitated within the meaning of Section
212 87-4-102(5) (A); or

213 (2) An attorney-at-law, a judge, or an appropriate
214 governmental official that the principal is incapacitated within
215 the meaning of Section 87-4-102(5) (B).

216 (d) A person authorized by the principal in the power of
217 attorney to determine that the principal is incapacitated may act
218 as the principal's personal representative pursuant to the Health
219 Insurance Portability and Accountability Act, Sections 1171
220 through 1179 of the Social Security Act, 42 USCS Section 1320d and
221 applicable regulations, to obtain access to the principal's health
222 care information and communicate with the principal's health care
223 provider.



224 **SECTION 11.** The following shall be codified as Section
225 87-4-110, Mississippi Code of 1972:

226 87-4-110. **Termination of power of attorney or agent's**
227 **authority.** (a) A power of attorney terminates when:

228 (1) The principal dies;

229 (2) The principal becomes incapacitated, if the power
230 of attorney is not durable;

231 (3) The principal revokes the power of attorney;

232 (4) The power of attorney provides that it terminates;

233 (5) The purpose of the power of attorney is
234 accomplished; or

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

239 (b) An agent's authority terminates when:

240 (1) The principal revokes the authority;

241 (2) The agent dies, becomes incapacitated, or resigns;

242 (3) An action is filed for the dissolution or annulment
243 of the agent's marriage to the principal or their legal

244 separation, unless the power of attorney otherwise provides; or

245 (4) The power of attorney terminates.

246 (c) Unless the power of attorney otherwise provides, an
247 agent's authority is exercisable until the authority terminates



248 under subsection (b), notwithstanding a lapse of time since the
249 execution of the power of attorney.

250 (d) Termination of an agent's authority or of a power of
251 attorney is not effective as to the agent or another person that,
252 without actual knowledge of the termination, acts under the power
253 of attorney. An act so performed, unless otherwise invalid or
254 unenforceable, binds the principal and the principal's successors
255 in interest. A person that accepts an acknowledged power of
256 attorney may continue to act on a power of attorney or at an
257 agent's direction until that person that accepts an acknowledged
258 power of attorney has actual knowledge of the termination of the
259 power of attorney or of the agent's authority and has had a
260 reasonable time to act on that knowledge.

261 (e) Incapacity of the principal of a power of attorney that
262 is not durable does not revoke or terminate the power of attorney
263 as to an agent or other person that, without actual knowledge of
264 the incapacity, acts under the power of attorney. An act so
265 performed, unless otherwise invalid or unenforceable, binds the
266 principal and the principal's successors in interest.

267 (f) The execution of a power of attorney does not revoke a
268 power of attorney previously executed by the principal unless the
269 subsequent power of attorney provides that the previous power of
270 attorney is revoked or that all other powers of attorney are
271 revoked. If the subsequent power of attorney does not expressly



272 revoke the previous power of attorney, the previous power of
273 attorney remains in full force and effect.

274 **SECTION 12.** The following shall be codified as Section
275 87-4-111, Mississippi Code of 1972:

276 87-4-111. **Coagents and successor agents.** (a) A principal
277 may designate two (2) or more persons to act as coagents. Unless
278 the power of attorney otherwise provides, each coagent may
279 exercise its authority independently.

280 (b) A principal may designate one or more successor agents
281 to act if an agent resigns, dies, becomes incapacitated, is not
282 qualified to serve, or declines to serve. A principal may grant
283 authority to designate one or more successor agents to an agent or
284 other person designated by name, office, or function. Unless the
285 power of attorney otherwise provides, a successor agent:

286 (1) Has the same authority as that granted to the
287 original agent; and

288 (2) May not act until all predecessor agents have
289 resigned, died, become incapacitated, are no longer qualified to
290 serve, or have declined to serve.

291 (c) Except as otherwise provided in the power of attorney
292 and subsection (d), an agent that does not participate in or
293 conceal a breach of fiduciary duty committed by another agent,
294 including a predecessor agent, is not liable for the actions of
295 the other agent.



296 (d) An agent that has actual knowledge of a breach or
297 imminent breach of fiduciary duty by another agent shall notify
298 the principal and, if the principal is incapacitated, take any
299 action reasonably appropriate in the circumstances to safeguard
300 the principal's best interest. An agent that fails to notify the
301 principal or take action as required by this subsection is liable
302 for the reasonably foreseeable damages that could have been
303 avoided if the agent had notified the principal or taken such
304 action.

305 **SECTION 13.** The following shall be codified as Section
306 87-4-112, Mississippi Code of 1972:

307 87-4-112. **Reimbursement and compensation of agent.** Unless
308 the power of attorney otherwise provides, an agent is entitled to
309 reimbursement of expenses reasonably incurred on behalf of the
310 principal and to compensation that is reasonable under the
311 circumstances.

312 **SECTION 14.** The following shall be codified as Section
313 87-4-113, Mississippi Code of 1972:

314 87-4-113. **Agent's acceptance.** Except as otherwise provided
315 in the power of attorney, a person accepts appointment as an agent
316 under a power of attorney by exercising authority or performing
317 duties as an agent or by any other assertion or conduct indicating
318 acceptance.

319 **SECTION 15.** The following shall be codified as Section
320 87-4-114, Mississippi Code of 1972:



321 87-4-114. **Agent's duties.** (a) Notwithstanding provisions
322 in the power of attorney, an agent that has accepted appointment
323 shall:

324 (1) Act in accordance with the principal's reasonable
325 expectations to the extent actually known by the agent and,
326 otherwise, in the principal's best interest;

327 (2) Act in good faith; and

328 (3) Act only within the scope of authority granted in
329 the power of attorney.

330 (b) Except as otherwise provided in the power of attorney,
331 an agent that has accepted appointment shall:

332 (1) Act loyally for the principal's benefit;

333 (2) Act so as not to create a conflict of interest that
334 impairs the agent's ability to act impartially in the principal's
335 best interest;

336 (3) Act with the care, competence, and diligence
337 ordinarily exercised by agents in similar circumstances;

338 (4) Keep a record of all receipts, disbursements, and
339 transactions made on behalf of the principal;

340 (5) Cooperate with a person that has authority to make
341 health care decisions for the principal to carry out the
342 principal's reasonable expectations to the extent actually known
343 by the agent and, otherwise, act in the principal's best interest;
344 and



345 (6) Attempt to preserve the principal's estate plan, to
346 the extent actually known by the agent, if preserving the plan is
347 consistent with the principal's best interest based on all
348 relevant factors, including:

349 (A) The value and nature of the principal's
350 property;

351 (B) The principal's foreseeable obligations and
352 need for maintenance;

353 (C) Minimization of taxes, including income,
354 estate, inheritance, generation-skipping transfer, and gift taxes;
355 and

356 (D) Eligibility for a benefit, a program, or
357 assistance under a statute or regulation.

358 (c) An agent that acts in good faith is not liable to any
359 beneficiary of the principal's estate plan for failure to preserve
360 the plan.

361 (d) An agent that acts with care, competence, and diligence
362 for the best interest of the principal is not liable solely
363 because the agent also benefits from the act or has an individual
364 or conflicting interest in relation to the property or affairs of
365 the principal.

366 (e) If an agent is selected by the principal because of
367 special skills or expertise possessed by the agent or in reliance
368 on the agent's representation that the agent has special skills or
369 expertise, the special skills or expertise must be considered in



370 determining whether the agent has acted with care, competence, and
371 diligence under the circumstances.

372 (f) Absent a breach of duty to the principal, an agent is
373 not liable if the value of the principal's property declines.

374 (g) An agent that exercises authority to delegate to another
375 person the authority granted by the principal or that engages
376 another person on behalf of the principal is not liable for an
377 act, error of judgment, or default of that person if the agent
378 exercises care, competence, and diligence in selecting and
379 monitoring the person.

380 (h) Except as otherwise provided in the power of attorney,
381 an agent is not required to disclose receipts, disbursements, or
382 transactions conducted on behalf of the principal unless ordered
383 by a court or requested by the principal, a guardian, a
384 conservator, another fiduciary acting for the principal, a
385 governmental agency having authority to protect the welfare of the
386 principal, or, upon the death of the principal, by the personal
387 representative or successor in interest of the principal's estate.
388 If so requested, within thirty (30) days the agent shall comply
389 with the request or provide a writing or other record
390 substantiating why additional time is needed and shall comply with
391 the request within an additional thirty (30) days.

392 **SECTION 16.** The following shall be codified as Section
393 87-4-115, Mississippi Code of 1972:



394 87-4-115. **Exoneration of agent.** A provision in a power of
395 attorney relieving an agent of liability for breach of duty is
396 binding on the principal and the principal's successors in
397 interest except to the extent the provision:

398 (1) Relieves the agent of liability for breach of duty
399 committed dishonestly or with reckless indifference to the
400 purposes of the power of attorney or the best interest of the
401 principal; or

402 (2) Was inserted as a result of an abuse of a
403 confidential or fiduciary relationship with the principal.

404 **SECTION 17.** The following shall be codified as Section
405 87-4-116, Mississippi Code of 1972:

406 87-4-116. **Judicial relief.** (a) The following persons may
407 petition a court to construe a power of attorney or review the
408 agent's conduct, and grant appropriate relief:

409 (1) The principal or the agent;

410 (2) A guardian, conservator, or other fiduciary acting
411 for the principal;

412 (3) A person authorized to make health care decisions
413 for the principal;

414 (4) The principal's spouse, parent, or descendant;

415 (5) An individual who would qualify as a presumptive
416 heir of the principal;

417 (6) A person named as a beneficiary to receive any
418 property, benefit, or contractual right on the principal's death



419 or as a beneficiary of a trust created by or for the principal
420 that has a financial interest in the principal's estate;

421 (7) A governmental agency having regulatory authority
422 to protect the welfare of the principal;

423 (8) The principal's caregiver or another person that
424 demonstrates sufficient interest in the principal's welfare; and

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

426 (b) Upon motion by the principal, the court shall dismiss a
427 petition filed under this section, unless the court finds that the
428 principal lacks capacity to revoke the agent's authority or the
429 power of attorney.

430 **SECTION 18.** The following shall be codified as Section
431 87-4-117, Mississippi Code of 1972:

432 87-4-117. **Agent's liability.** An agent that violates this
433 act is liable to the principal or the principal's successors in
434 interest for the amount required to:

435 (1) Restore the value of the principal's property to
436 what it would have been had the violation not occurred; and

437 (2) Reimburse the principal or the principal's
438 successors in interest for the attorney's fees and costs paid on
439 the agent's behalf.

440 **SECTION 19.** The following shall be codified as Section
441 87-4-118, Mississippi Code of 1972:

442 87-4-118. **Agent's resignation; notice.** Unless the power of
443 attorney provides a different method for an agent's resignation,



444 an agent may resign by giving notice to the principal and, if the
445 principal is incapacitated:

446 (1) To the conservator or guardian, if one has been
447 appointed for the principal, and a coagent or successor agent; or

448 (2) If there is no person described in paragraph (1),
449 to:

450 (A) The principal's caregiver;

451 (B) Another person reasonably believed by the
452 agent to have sufficient interest in the principal's welfare; or

453 (C) A governmental agency having authority to
454 protect the welfare of the principal.

455 **SECTION 20.** The following shall be codified as Section
456 87-4-119, Mississippi Code of 1972:

457 87-4-119. **Acceptance of and reliance upon acknowledged power**

458 **of attorney.** (a) For purposes of this section and Section
459 87-4-120, "acknowledged" means purportedly verified before a
460 notary public or other individual authorized to take
461 acknowledgements.

462 (b) A person that accepts an acknowledged power of attorney
463 without actual knowledge that the signature is not genuine may
464 rely upon the presumption under Section 87-4-105 that the
465 signature is genuine.

466 (c) A person that accepts an acknowledged power of attorney
467 without actual knowledge that the power of attorney is void,
468 invalid, or terminated, that the purported agent's authority is



469 void, invalid, or terminated, or that the agent is exceeding or
470 improperly exercising the agent's authority may rely upon the
471 power of attorney as if the power of attorney were genuine, valid
472 and still in effect, the agent's authority were genuine, valid and
473 still in effect, and the agent had not exceeded and had properly
474 exercised the authority. A person that accepts an acknowledged
475 power of attorney shall be fully exonerated from all liability to
476 the principal and any other person for any and all actions taken
477 or omitted at the request, order or instruction of an agent under
478 the power of attorney without actual knowledge that (1) the power
479 of attorney is void, invalid or terminated, (2) the purported
480 agents' authority is void, invalid or terminated, or (3) the agent
481 is exceeding the agents' authority.

482 (d) A person that is asked to accept an acknowledged power
483 of attorney may request, and rely upon, without further
484 investigation:

485 (1) An agent's certification under penalty of perjury
486 of any factual matter concerning the principal, agent, or power of
487 attorney;

488 (2) An English translation of the power of attorney if
489 the power of attorney contains, in whole or in part, language
490 other than English; and

491 (3) An opinion of counsel, who is approved by the
492 person, as to any matter of law concerning the power of attorney,



493 if the person making the request provides in a writing or other
494 record the reason for the request.

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

499 (f) For purposes of this section and Section 87-4-120, a
500 person that conducts activities through employees is without
501 actual knowledge of a fact relating to a power of attorney, a
502 principal, or an agent if the employee conducting the transaction
503 involving the power of attorney is without actual knowledge of the
504 fact.

505 **SECTION 21.** The following shall be codified as Section
506 87-4-120, Mississippi Code of 1972:

507 87-4-120. **Liability for refusal to accept acknowledged power**
508 **of attorney.** (a) Except as otherwise provided in subsection (b):

509 (1) A person shall either accept an acknowledged power
510 of attorney or request a certification, a translation, or an
511 opinion of counsel under Section 87-4-119(d) no later than seven
512 (7) business days after presentation of the power of attorney for
513 acceptance;

514 (2) If a person requests a certification, a
515 translation, or an opinion of counsel under Section 87-4-119(d),
516 the person shall accept the power of attorney no later than five



517 (5) business days after receipt of the certification, translation,
518 or opinion of counsel; and

519 (3) A person may not require an additional or different
520 form of power of attorney for authority granted in the power of
521 attorney presented.

522 (b) A person is not required to accept an acknowledged power
523 of attorney if:

524 (1) The person is not otherwise required to engage in a
525 transaction with the principal in the same circumstances;

526 (2) Engaging in a transaction with the agent or the
527 principal in the same circumstances would be inconsistent with
528 federal law;

529 (3) The person has actual knowledge of the termination
530 of the agent's authority or of the power of attorney before
531 exercise of the power;

532 (4) A request for a certification, a translation, or an
533 opinion of counsel under Section 87-4-119(d) is refused or the
534 certification, translation, or opinion of counsel does not support
535 acceptance of the power of attorney for the transaction or purpose
536 for which it was presented;

537 (5) The person has a reasonable basis to believe that
538 the power is not valid or that the agent does not have the
539 authority to perform the act requested, whether or not a
540 certification, a translation, or an opinion of counsel under
541 Section 119(d) has been requested or provided;



542 (6) The person makes, or has actual knowledge that
543 another person has made, a report under the Mississippi Vulnerable
544 Persons Act or a report to the Department of Human Services or to
545 law enforcement stating a good-faith belief that the principal may
546 be subject to physical or financial abuse, neglect, exploitation,
547 or abandonment by the agent or a person acting for or with the
548 agent;

549 (7) The agent or agents refuse a request for
550 indemnification for the acts or omissions of the agent or agents;
551 or

552 (c) A person that refuses in violation of this section to
553 accept an acknowledged power of attorney is subject to a court
554 order mandating acceptance of the power of attorney. In any such
555 action or proceeding, the prevailing party shall be entitled to
556 recovery of reasonable attorney's fees and costs, and expenses
557 incurred.

558 (d) For purposes of this section and Section 87-4-119, each
559 transaction requested, conducted or attempted to be conducted by
560 the agent shall be deemed to be a separate presentation of the
561 power of attorney for acceptance.

562 **SECTION 22.** The following shall be codified as Section
563 87-4-121, Mississippi Code of 1972:

564 87-4-121. **Principles of law and equity.** Unless displaced by
565 a provision of this act, the principles of law and equity
566 supplement this act.



567 **SECTION 23.** The following shall be codified as Section
568 87-4-122, Mississippi Code of 1972:

569 87-4-122. **Laws applicable to financial institutions and**
570 **entities.** Except as expressly provided in this act, this act does
571 not supersede any other law applicable to financial institutions
572 or other entities, and the other law controls if inconsistent with
573 this act.

574 **SECTION 24.** The following shall be codified as Section
575 87-4-123, Mississippi Code of 1972:

576 87-4-123. **Remedies under other law.** Except as expressly
577 provided in this act, the remedies under this act are not
578 exclusive and do not abrogate any right or remedy under the law of
579 this state other than this act.

580 **ARTICLE 2**

581 **AUTHORITY**

582 **SECTION 25.** The following shall be codified as Section
583 87-4-201, Mississippi Code of 1972:

584 87-4-201. **Authority that requires specific grant; grant of**
585 **general authority.** (a) An agent under a power of attorney may do
586 the following on behalf of the principal or with the principal's
587 property only if the power of attorney expressly grants the agent
588 the authority and exercise of the authority is not otherwise
589 prohibited by another agreement or instrument to which the
590 authority or property is subject:



- 591 (1) Create, amend, revoke, or terminate an inter vivos
592 trust;
- 593 (2) Make a gift;
- 594 (3) Create or change rights of survivorship;
- 595 (4) Create or change a beneficiary designation;
- 596 (5) Delegate authority granted under the power of
597 attorney;
- 598 (6) Waive the principal's right to be a beneficiary of
599 a joint and survivor annuity, including a survivor benefit under a
600 retirement plan;
- 601 (7) Exercise fiduciary powers that the principal has
602 authority to delegate;
- 603 (8) Disclaim property, including a power of
604 appointment; or
- 605 (9) Make the agent an owner or joint owner of a deposit
606 account.
- 607 (b) Notwithstanding a grant of authority to do an act
608 described in subsection (a), unless the power of attorney
609 otherwise provides, an agent that is not an ancestor, spouse, or
610 descendant of the principal may not exercise authority under a
611 power of attorney to create in the agent, or in an individual to
612 whom the agent owes a legal obligation of support, an interest in
613 the principal's property, whether by gift, right of survivorship,
614 beneficiary designation, disclaimer, or otherwise.



615 (c) Subject to subsections (a), (b), (d), and (e), if a
616 power of attorney grants to an agent authority to do all acts that
617 a principal could do, the agent has the general authority
618 described in Sections 87-4-204 through 87-4-216.

619 (d) Unless the power of attorney otherwise provides, a grant
620 of authority to make a gift is subject to Section 87-4-217.

621 (e) Subject to subsections (a), (b), and (d), if the
622 subjects over which authority is granted in a power of attorney
623 are similar or overlap, the broadest authority controls.

624 (f) Authority granted in a power of attorney is exercisable
625 with respect to property that the principal has when the power of
626 attorney is executed or acquires later, whether or not the
627 property is located in this state and whether or not the authority
628 is exercised or the power of attorney is executed in this state.

629 (g) An act performed by an agent pursuant to a power of
630 attorney has the same effect and inures to the benefit of and
631 binds the principal and the principal's successors in interest as
632 if the principal had performed the act.

633 **SECTION 26.** The following shall be codified as Section
634 87-4-202, Mississippi Code of 1972:

635 87-4-202. **Incorporation of authority.** (a) An agent has
636 authority described in this act if the power of attorney refers to
637 general authority with respect to the descriptive term for the
638 subjects stated in Sections 87-4-204 through 87-4-217 or cites the
639 section in which the authority is described.



640 (b) A reference in a power of attorney to general authority
641 with respect to the descriptive term for a subject in Sections
642 87-4-204 through 87-4-217 or a citation to a section of Sections
643 87-4-204 through 87-4-217 incorporates the entire section as if it
644 were set out in full in the power of attorney.

645 (c) A principal may modify authority incorporated by
646 reference.

647 **SECTION 27.** The following shall be codified as Section
648 87-4-203, Mississippi Code of 1972:

649 87-4-203. **Construction of authority generally.** Except as
650 otherwise provided in the power of attorney, by executing a power
651 of attorney that incorporates by reference a subject described in
652 Sections 87-4-204 through 87-4-217 or that grants to an agent
653 authority to do all acts that a principal could do pursuant to
654 Section 87-4-201(c), a principal authorizes the agent, with
655 respect to that subject, to:

656 (1) Demand, receive, and obtain by litigation or
657 otherwise, money or another thing of value to which the principal
658 is, may become, or claims to be entitled, and conserve, invest,
659 disburse, or use anything so received or obtained for the purposes
660 intended;

661 (2) Contract in any manner with any person, on terms
662 agreeable to the agent, to accomplish a purpose of a transaction
663 and perform, rescind, cancel, terminate, reform, restate, release,



664 or modify the contract or another contract made by or on behalf of
665 the principal;

666 (3) Execute, acknowledge, seal, deliver, file, or
667 record any instrument or communication the agent considers
668 desirable to accomplish a purpose of a transaction, including
669 creating at any time a schedule listing some or all of the
670 principal's property and attaching it to the power of attorney;

671 (4) Initiate, participate in, submit to alternative
672 dispute resolution, settle, oppose, or propose or accept a
673 compromise with respect to a claim existing in favor of or against
674 the principal or intervene in litigation relating to the claim;

675 (5) Seek on the principal's behalf the assistance of a
676 court or other governmental agency to carry out an act authorized
677 in the power of attorney;

678 (6) Engage, compensate, and discharge an attorney,
679 accountant, discretionary investment manager, expert witness, or
680 other advisor;

681 (7) Prepare, execute, and file a record, report, or
682 other document to safeguard or promote the principal's interest
683 under a statute or regulation;

684 (8) Communicate with any representative or employee of
685 a government or governmental subdivision, agency, or
686 instrumentality, on behalf of the principal;



687 (9) Access communications intended for, and communicate
688 on behalf of the principal, whether by mail, electronic
689 transmission, telephone, or other means; and

690 (10) Do any lawful act with respect to the subject and
691 all property related to the subject.

692 **SECTION 28.** The following shall be codified as Section
693 87-4-204, Mississippi Code of 1972:

694 87-4-204. **Real property.** (a) Unless the power of attorney
695 otherwise provides, language in a power of attorney granting
696 general authority with respect to real property authorizes the
697 agent to:

698 (1) Demand, buy, lease, receive, accept as a gift or as
699 security for an extension of credit, or otherwise acquire or
700 reject an interest in real property or a right incident to real
701 property;

702 (2) Sell; exchange; convey with or without covenants,
703 representations, or warranties; quitclaim; release; surrender;
704 retain title for security; encumber; partition; consent to
705 partitioning; subject to an easement or covenant; subdivide; apply
706 for zoning or other governmental permits; plat or consent to
707 platting; develop; grant an option concerning; lease; sublease;
708 contribute to an entity in exchange for an interest in that
709 entity; or otherwise grant or dispose of an interest in real
710 property or a right incident to real property;



711 (3) Pledge or mortgage an interest in real property or
712 right incident to real property as security to borrow money or
713 pay, renew, or extend the time of payment of a debt of the
714 principal or a debt guaranteed by the principal;

715 (4) Release, assign, satisfy, or enforce by litigation
716 or otherwise a mortgage, deed of trust, conditional sale contract,
717 encumbrance, lien, or other claim to real property which exists or
718 is asserted;

719 (5) Manage or conserve an interest in real property or
720 a right incident to real property owned or claimed to be owned by
721 the principal, including:

722 (A) Insuring against liability or casualty or
723 other loss;

724 (B) Obtaining or regaining possession of or
725 protecting the interest or right by litigation or otherwise;

726 (C) Paying, assessing, compromising, or contesting
727 taxes or assessments or applying for and receiving refunds in
728 connection with them; and

729 (D) Purchasing supplies, hiring assistance or
730 labor, and making repairs or alterations to the real property;

731 (6) Use, develop, alter, replace, remove, erect, or
732 install structures or other improvements upon real property in or
733 incident to which the principal has, or claims to have, an
734 interest or right;



735 (7) Participate in a reorganization with respect to
736 real property or an entity that owns an interest in or right
737 incident to real property and receive, and hold, and act with
738 respect to stocks and bonds or other property received in a plan
739 of reorganization, including:

740 (A) Selling or otherwise disposing of them;

741 (B) Exercising or selling an option, right of
742 conversion, or similar right with respect to them; and

743 (C) Exercising any voting rights in person or by
744 proxy;

745 (8) Change the form of title of an interest in or right
746 incident to real property; and

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

750 (b) A power of attorney used by an agent on behalf of a
751 principal concerning a conveyance, transaction, or any matter
752 involving real property, including a contract relating to real
753 property, shall be recorded in the land records, or other
754 permanent records for the recordation of powers of attorney, of
755 the chancery clerk of the county in which the real property is
756 located.

757 **SECTION 29.** The following shall be codified as Section
758 87-4-205, Mississippi Code of 1972:



759 87-4-205. **Tangible personal property.** Unless the power of
760 attorney otherwise provides, language in a power of attorney
761 granting general authority with respect to tangible personal
762 property authorizes the agent to:

763 (1) Demand, buy, receive, accept as a gift or as
764 security for an extension of credit, or otherwise acquire or
765 reject ownership or possession of tangible personal property or an
766 interest in tangible personal property;

767 (2) Sell; exchange; convey with or without covenants,
768 representations, or warranties; quitclaim; release; surrender;
769 create a security interest in; grant options concerning; lease;
770 sublease; or, otherwise dispose of tangible personal property or
771 an interest in tangible personal property;

772 (3) Grant a security interest in tangible personal
773 property or an interest in tangible personal property as security
774 to borrow money or pay, renew, or extend the time of payment of a
775 debt of the principal or a debt guaranteed by the principal;

776 (4) Release, assign, satisfy, or enforce by litigation
777 or otherwise, a security interest, lien, or other claim on behalf
778 of the principal, with respect to tangible personal property or an
779 interest in tangible personal property;

780 (5) Manage or conserve tangible personal property or an
781 interest in tangible personal property on behalf of the principal,
782 including:



- 783 (A) Insuring against liability or casualty or
784 other loss;
- 785 (B) Obtaining or regaining possession of or
786 protecting the property or interest, by litigation or otherwise;
- 787 (C) Paying, assessing, compromising, or contesting
788 taxes or assessments or applying for and receiving refunds in
789 connection with taxes or assessments;
- 790 (D) Moving the property from place to place;
- 791 (E) Storing the property for hire or on a
792 gratuitous bailment; and
- 793 (F) Using and making repairs, alterations, or
794 improvements to the property; and
- 795 (6) Change the form of title of an interest in tangible
796 personal property.

797 **SECTION 30.** The following shall be codified as Section
798 87-4-206, Mississippi Code of 1972:

799 87-4-206. **Stocks and bonds.** Unless the power of attorney
800 otherwise provides, language in a power of attorney granting
801 general authority with respect to stocks and bonds authorizes the
802 agent to:

- 803 (1) Buy, sell, and exchange stocks and bonds;
- 804 (2) Establish, continue, modify, or terminate an
805 account with respect to stocks and bonds;
- 806 (3) Pledge stocks and bonds as security to borrow, pay,
807 renew, or extend the time of payment of a debt of the principal;



808 (4) Receive certificates and other evidences of
809 ownership with respect to stocks and bonds; and

810 (5) Exercise voting rights with respect to stocks and
811 bonds in person or by proxy, enter into voting trusts, and consent
812 to limitations on the right to vote.

813 **SECTION 31.** The following shall be codified as Section
814 87-4-207, Mississippi Code of 1972:

815 87-4-207. **Commodities and options.** Unless the power of
816 attorney otherwise provides, language in a power of attorney
817 granting general authority with respect to commodities and options
818 authorizes the agent to:

819 (1) Buy, sell, exchange, assign, settle, and exercise
820 commodity futures contracts and call or put options on stocks or
821 stock indexes traded on a regulated option exchange; and

822 (2) Establish, continue, modify, and terminate option
823 accounts.

824 **SECTION 32.** The following shall be codified as Section
825 87-4-208, Mississippi Code of 1972:

826 87-4-208. **Banks and other financial institutions.** Unless
827 the power of attorney otherwise provides, language in a power of
828 attorney granting general authority with respect to banks and
829 other financial institutions authorizes the agent to:

830 (1) Continue, modify, and terminate an account or other
831 banking arrangement made by or on behalf of the principal;



832 (2) Establish, modify, and terminate an account or
833 other banking arrangement with a bank, trust company, savings and
834 loan association, credit union, thrift company, brokerage firm, or
835 other financial institution;

836 (3) Contract for services available from a financial
837 institution, including renting a safe deposit box or space in a
838 vault;

839 (4) Withdraw, by check, order, electronic funds
840 transfer, or otherwise, money or property of the principal
841 deposited with or left in the custody of a financial institution;

842 (5) Receive statements of account, vouchers, notices,
843 and similar documents from a financial institution and act with
844 respect to them;

845 (6) Enter a safe deposit box or vault and withdraw or
846 add to the contents;

847 (7) Borrow money and pledge as security personal
848 property of the principal necessary to borrow money or pay, renew,
849 or extend the time of payment of a debt of the principal or a debt
850 guaranteed by the principal;

851 (8) Make, assign, draw, endorse, discount, guarantee,
852 and negotiate promissory notes, checks, drafts, and other
853 negotiable or nonnegotiable paper of the principal or payable to
854 the principal or the principal's order, transfer money, receive
855 the cash or other proceeds of those transactions, and accept a
856 draft drawn by a person upon the principal and pay it when due;



857 (9) Receive for the principal and act upon a sight
858 draft, warehouse receipt, or other document of title whether
859 tangible or electronic, or other negotiable or nonnegotiable
860 instrument;

861 (10) Apply for, receive, and use letters of credit,
862 credit and debit cards, electronic transaction authorizations, and
863 traveler's checks from a financial institution and give an
864 indemnity or other agreement in connection with letters of credit;
865 and

866 (11) Consent to an extension of the time of payment
867 with respect to commercial paper or a financial transaction with a
868 financial institution.

869 **SECTION 33.** The following shall be codified as Section
870 87-4-209, Mississippi Code of 1972:

871 87-4-209. **Operation of entity or business.** Subject to the
872 terms of a document or an agreement governing an entity or an
873 entity ownership interest, and unless the power of attorney
874 otherwise provides, language in a power of attorney granting
875 general authority with respect to operation of an entity or
876 business authorizes the agent to:

877 (1) Operate, buy, sell, enlarge, reduce, or terminate
878 an ownership interest;

879 (2) Perform a duty or discharge a liability and
880 exercise in person or by proxy a right, power, privilege, or
881 option that the principal has, may have, or claims to have;



882 (3) Enforce the terms of an ownership agreement;
883 (4) Initiate, participate in, submit to alternative
884 dispute resolution, settle, oppose, or propose or accept a
885 compromise with respect to litigation to which the principal is a
886 party because of an ownership interest;

887 (5) Exercise in person or by proxy, or enforce by
888 litigation or otherwise, a right, power, privilege, or option the
889 principal has or claims to have as the holder of stocks and bonds;

890 (6) Initiate, participate in, submit to alternative
891 dispute resolution, settle, oppose, or propose or accept a
892 compromise with respect to litigation to which the principal is a
893 party concerning stocks and bonds;

894 (7) With respect to an entity or business owned solely
895 by the principal:

896 (A) Continue, modify, renegotiate, extend, and
897 terminate a contract made by or on behalf of the principal with
898 respect to the entity or business before execution of the power of
899 attorney;

900 (B) Determine:

901 (i) The location of its operation;

902 (ii) The nature and extent of its business;

903 (iii) The methods of manufacturing, selling,
904 merchandising, financing, accounting, and advertising employed in
905 its operation;



906 (iv) The amount and types of insurance
907 carried; and

908 (v) The mode of engaging, compensating, and
909 dealing with its employees and accountants, attorneys, or other
910 advisors;

911 (C) Change the name or form of organization under
912 which the entity or business is operated and enter into an
913 ownership agreement with other persons to take over all or part of
914 the operation of the entity or business; and

915 (D) Demand and receive money due or claimed by the
916 principal or on the principal's behalf in the operation of the
917 entity or business and control and disburse the money in the
918 operation of the entity or business;

919 (8) Put additional capital into an entity or business
920 in which the principal has an interest;

921 (9) Join in a plan of reorganization, consolidation,
922 conversion, domestication, or merger of the entity or business;

923 (10) Sell or liquidate all or part of an entity or
924 business;

925 (11) Establish the value of an entity or business under
926 a buy-out agreement to which the principal is a party;

927 (12) Prepare, sign, file, and deliver reports,
928 compilations of information, returns, or other papers with respect
929 to an entity or business and make related payments; and



930 (13) Pay, compromise, or contest taxes, assessments,
931 fines, or penalties and perform any other act to protect the
932 principal from illegal or unnecessary taxation, assessments,
933 fines, or penalties, with respect to an entity or business,
934 including attempts to recover, in any manner permitted by law,
935 money paid before or after the execution of the power of attorney.

936 **SECTION 34.** The following shall be codified as Section
937 87-4-210, Mississippi Code of 1972:

938 87-4-210. **Insurance and annuities.** Unless the power of
939 attorney otherwise provides, language in a power of attorney
940 granting general authority with respect to insurance and annuities
941 authorizes the agent to:

942 (1) Continue, pay the premium or make a contribution
943 on, modify, exchange, rescind, release, or terminate a contract
944 procured by or on behalf of the principal which insures or
945 provides an annuity to either the principal or another person,
946 whether or not the principal is a beneficiary under the contract;

947 (2) Procure new, different, and additional contracts of
948 insurance and annuities for the principal and the principal's
949 spouse, children, and other dependents, and select the amount,
950 type of insurance or annuity, and mode of payment;

951 (3) Pay the premium or make a contribution on, modify,
952 exchange, rescind, release, or terminate a contract of insurance
953 or annuity procured by the agent;



954 (4) Apply for and receive a loan secured by a contract
955 of insurance or annuity;

956 (5) Surrender and receive the cash surrender value on a
957 contract of insurance or annuity;

958 (6) Exercise an election;

959 (7) Exercise investment powers available under a
960 contract of insurance or annuity;

961 (8) Change the manner of paying premiums on a contract
962 of insurance or annuity;

963 (9) Change or convert the type of insurance or annuity
964 with respect to which the principal has or claims to have
965 authority described in this section;

966 (10) Apply for and procure a benefit or assistance
967 under a statute or regulation to guarantee or pay premiums of a
968 contract of insurance on the life of the principal;

969 (11) Collect, sell, assign, hypothecate, borrow
970 against, or pledge the interest of the principal in a contract of
971 insurance or annuity;

972 (12) Select the form and timing of the payment of
973 proceeds from a contract of insurance or annuity; and

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



979 **SECTION 35.** The following shall be codified as Section
980 87-4-211, Mississippi Code of 1972:

981 87-4-211. **Estates, trusts, and other beneficial interests.**

982 (a) In this section, "estate, trust, or other beneficial
983 interest" means a trust, probate estate, guardianship,
984 conservatorship, escrow, or custodianship or a fund from which the
985 principal is, may become, or claims to be, entitled to a share or
986 payment.

987 (b) Unless the power of attorney otherwise provides,
988 language in a power of attorney granting general authority with
989 respect to estates, trusts, and other beneficial interests
990 authorizes the agent to:

991 (1) Accept, receive, receipt for, sell, assign, pledge,
992 or exchange a share in or payment from an estate, trust, or other
993 beneficial interest;

994 (2) Demand or obtain money or another thing of value to
995 which the principal is, may become, or claims to be, entitled by
996 reason of an estate, trust, or other beneficial interest, by
997 litigation or otherwise;

998 (3) Exercise for the benefit of the principal a
999 presently exercisable general power of appointment held by the
1000 principal;

1001 (4) Initiate, participate in, submit to alternative
1002 dispute resolution, settle, oppose, or propose or accept a
1003 compromise with respect to litigation to ascertain the meaning,



1004 validity, or effect of a deed, will, declaration of trust, or
1005 other instrument or transaction affecting the interest of the
1006 principal;

1007 (5) Initiate, participate in, submit to alternative
1008 dispute resolution, settle, oppose, or propose or accept a
1009 compromise with respect to litigation to remove, substitute, or
1010 surcharge a fiduciary;

1011 (6) Conserve, invest, disburse, or use anything
1012 received for an authorized purpose;

1013 (7) Transfer an interest of the principal in real
1014 property, stocks and bonds, accounts with financial institutions
1015 or securities intermediaries, insurance, annuities, and other
1016 property to the trustee of a revocable trust created by the
1017 principal as settlor; and

1018 (8) Reject, renounce, disclaim, release, or consent to
1019 a reduction in or modification of a share in or payment from an
1020 estate, trust, or other beneficial interest.

1021 **SECTION 36.** The following shall be codified as Section
1022 87-4-212, Mississippi Code of 1972:

1023 87-4-212. **Claims and litigation.** Unless the power of
1024 attorney otherwise provides, language in a power of attorney
1025 granting general authority with respect to claims and litigation
1026 authorizes the agent to:

1027 (1) Assert and maintain before a court or
1028 administrative agency a claim, claim for relief, cause of action,



1029 counterclaim, offset, recoupment, or defense, including an action
1030 to recover property or other thing of value, recover damages
1031 sustained by the principal, eliminate or modify tax liability, or
1032 seek an injunction, specific performance, or other relief;

1033 (2) Bring an action to determine adverse claims or
1034 intervene or otherwise participate in litigation;

1035 (3) Seek an attachment, garnishment, order of arrest,
1036 or other preliminary, provisional, or intermediate relief and use
1037 an available procedure to effect or satisfy a judgment, order, or
1038 decree;

1039 (4) Make or accept a tender, offer of judgment, or
1040 admission of facts, submit a controversy on an agreed statement of
1041 facts, consent to examination, and bind the principal in
1042 litigation;

1043 (5) Submit to alternative dispute resolution, settle,
1044 and propose or accept a compromise;

1045 (6) Waive the issuance and service of process upon the
1046 principal, accept service of process, appear for the principal,
1047 designate persons upon which process directed to the principal may
1048 be served, execute and file or deliver stipulations on the
1049 principal's behalf, verify pleadings, seek appellate review,
1050 procure and give surety and indemnity bonds, contract and pay for
1051 the preparation and printing of records and briefs, receive,
1052 execute, and file or deliver a consent, waiver, release,
1053 confession of judgment, satisfaction of judgment, notice,



1054 agreement, or other instrument in connection with the prosecution,
1055 settlement, or defense of a claim or litigation;

1056 (7) Act for the principal with respect to bankruptcy or
1057 insolvency, whether voluntary or involuntary, concerning the
1058 principal or some other person, or with respect to a
1059 reorganization, receivership, or application for the appointment
1060 of a receiver or trustee which affects an interest of the
1061 principal in property or other thing of value;

1062 (8) Pay a judgment, award, or order against the
1063 principal or a settlement made in connection with a claim or
1064 litigation; and

1065 (9) Receive money or other thing of value paid in
1066 settlement of or as proceeds of a claim or litigation.

1067 **SECTION 37.** The following shall be codified as Section
1068 87-4-213, Mississippi Code of 1972:

1069 87-4-213. **Personal and family maintenance.** (a) Unless the
1070 power of attorney otherwise provides, language in a power of
1071 attorney granting general authority with respect to personal and
1072 family maintenance authorizes the agent to:

1073 (1) Perform the acts necessary to maintain the
1074 customary standard of living of the principal, the principal's
1075 spouse, and the following individuals, whether living when the
1076 power of attorney is executed or later born:

1077 (A) The principal's children;



1078 (B) Other individuals legally entitled to be
1079 supported by the principal; and

1080 (C) The individuals whom the principal has
1081 customarily supported or indicated the intent to support;

1082 (2) Make periodic payments of child support and other
1083 family maintenance required by a court or governmental agency or
1084 an agreement to which the principal is a party;

1085 (3) Provide living quarters for the individuals
1086 described in paragraph (1) by:

1087 (A) Purchase, lease, or other contract; or

1088 (B) Paying the operating costs, including
1089 interest, amortization payments, repairs, improvements, and taxes,
1090 for premises owned by the principal or occupied by those
1091 individuals;

1092 (4) Provide normal domestic help, usual vacations and
1093 travel expenses, and funds for shelter, clothing, food,
1094 appropriate education, including postsecondary and vocational
1095 education, and other current living costs for the individuals
1096 described in paragraph (1);

1097 (5) Pay expenses for necessary health care and
1098 custodial care on behalf of the individuals described in paragraph
1099 (1);

1100 (6) Act as the principal's personal representative
1101 pursuant to the Health Insurance Portability and Accountability
1102 Act, Sections 1171 through 1179 of the Social Security Act, 42



1103 USCS Section 1320d, and applicable regulations, in making
1104 decisions related to the past, present, or future payment for the
1105 provision of health care consented to by the principal or anyone
1106 authorized under the law of this state to consent to health care
1107 on behalf of the principal;

1108 (7) Continue any provision made by the principal for
1109 automobiles or other means of transportation, including
1110 registering, licensing, insuring, and replacing them, for the
1111 individuals described in paragraph (1);

1112 (8) Maintain credit and debit accounts for the
1113 convenience of the individuals described in paragraph (1) and open
1114 new accounts; and

1115 (9) Continue payments incidental to the membership or
1116 affiliation of the principal in a religious institution, club,
1117 society, order, or other organization or to continue contributions
1118 to those organizations.

1119 (b) Authority with respect to personal and family
1120 maintenance is neither dependent upon, nor limited by, authority
1121 that an agent may or may not have with respect to gifts under this
1122 act.

1123 **SECTION 38.** The following shall be codified as Section
1124 87-4-214, Mississippi Code of 1972:

1125 87-4-214. **Benefits from governmental programs or civil or**
1126 **military service.** (a) In this section, "benefits from
1127 governmental programs or civil or military service" means any



1128 benefit, program or assistance provided under a statute or
1129 regulation including social security, Medicare, and Medicaid.

1130 (b) Unless the power of attorney otherwise provides,
1131 language in a power of attorney granting general authority with
1132 respect to benefits from governmental programs or civil or
1133 military service authorizes the agent to:

1134 (1) Execute vouchers in the name of the principal for
1135 allowances and reimbursements payable by the United States or a
1136 foreign government or by a state or subdivision of a state to the
1137 principal, including allowances and reimbursements for
1138 transportation of the individuals described in Section
1139 87-4-213(a) (1), and for shipment of their household effects;

1140 (2) Take possession and order the removal and shipment
1141 of property of the principal from a post, warehouse, depot, dock,
1142 or other place of storage or safekeeping, either governmental or
1143 private, and execute and deliver a release, voucher, receipt, bill
1144 of lading, shipping ticket, certificate, or other instrument for
1145 that purpose;

1146 (3) Enroll in, apply for, select, reject, change,
1147 amend, or discontinue, on the principal's behalf, a benefit or
1148 program;

1149 (4) Prepare, file, and maintain a claim of the
1150 principal for a benefit or assistance, financial or otherwise, to
1151 which the principal may be entitled under a statute or regulation;



1152 (5) Initiate, participate in, submit to alternative
1153 dispute resolution, settle, oppose, or propose or accept a
1154 compromise with respect to litigation concerning any benefit or
1155 assistance the principal may be entitled to receive under a
1156 statute or regulation; and

1157 (6) Receive the financial proceeds of a claim described
1158 in paragraph (4) and conserve, invest, disburse, or use for a
1159 lawful purpose anything so received.

1160 **SECTION 39.** The following shall be codified as Section
1161 87-4-215, Mississippi Code of 1972:

1162 87-4-215. **Retirement plans.** (a) In this section,
1163 "retirement plan" means a plan or account created by an employer,
1164 the principal, or another individual to provide retirement
1165 benefits or deferred compensation of which the principal is a
1166 participant, beneficiary, or owner, including a plan or account
1167 under the following sections of the Internal Revenue Code:

1168 (1) An individual retirement account under Internal
1169 Revenue Code Section 408, 26 USCS Section 408;

1170 (2) A Roth individual retirement account under Internal
1171 Revenue Code Section 408A, 26 USCS Section 408A;

1172 (3) A deemed individual retirement account under
1173 Internal Revenue Code Section 408(q), 26 USCS Section 408(q);

1174 (4) An annuity or mutual fund custodial account under
1175 Internal Revenue Code Section 403(b), 26 USCS Section 403(b);



1176 (5) A pension, profit-sharing, stock bonus, or other
1177 retirement plan qualified under Internal Revenue Code Section
1178 401(a), 26 USCS Section 401(a);

1179 (6) A plan under Internal Revenue Code Section 457(b),
1180 26 USCS Section 457(b); and

1181 (7) A nonqualified deferred compensation plan under
1182 Internal Revenue Code Section 409A, 26 USCS Section 409A.

1183 (b) Unless the power of attorney otherwise provides,
1184 language in a power of attorney granting general authority with
1185 respect to retirement plans authorizes the agent to:

1186 (1) Select the form and timing of payments under a
1187 retirement plan and withdraw benefits from a plan;

1188 (2) Make a rollover, including a direct
1189 trustee-to-trustee rollover, of benefits from one retirement plan
1190 to another;

1191 (3) Establish a retirement plan in the principal's
1192 name;

1193 (4) Make contributions to a retirement plan;

1194 (5) Exercise investment powers available under a
1195 retirement plan; and

1196 (6) Borrow from, sell assets to, or purchase assets
1197 from a retirement plan.

1198 **SECTION 40.** The following shall be codified as Section
1199 87-4-216, Mississippi Code of 1972:



1200 87-4-216. **Taxes.** Unless the power of attorney otherwise
1201 provides, language in a power of attorney granting general
1202 authority with respect to taxes authorizes the agent to:

1203 (1) Prepare, sign, and file federal, state, local, and
1204 foreign income, gift, payroll, property, Federal Insurance
1205 Contributions Act, and other tax returns, claims for refunds,
1206 requests for extension of time, petitions regarding tax matters,
1207 and any other tax-related documents, including receipts, offers,
1208 waivers, consents, including consents and agreements under
1209 Internal Revenue Code Section 2032A, 26 USCS Section 2032A,
1210 closing agreements, and any power of attorney required by the
1211 Internal Revenue Service or other taxing authority with respect to
1212 a tax year upon which the statute of limitations has not run and
1213 the following twenty-five (25) tax years;

1214 (2) Pay taxes due, collect refunds, post bonds, receive
1215 confidential information, and contest deficiencies determined by
1216 the Internal Revenue Service or other taxing authority;

1217 (3) Exercise any election available to the principal
1218 under federal, state, local, or foreign tax law; and

1219 (4) Act for the principal in all tax matters for all
1220 periods before the Internal Revenue Service, or other taxing
1221 authority.

1222 **SECTION 41.** The following shall be codified as Section
1223 87-4-217, Mississippi Code of 1972:



1224 87-4-217. **Gifts.** (a) In this section, a gift "for the
1225 benefit of" a person includes a gift to a trust, an account under
1226 the Uniform Transfers to Minors Act, and a tuition savings account
1227 or prepaid tuition plan as defined under Internal Revenue Code
1228 Section 529, 26 USCS Section 529.

1229 (b) Unless the power of attorney otherwise provides,
1230 language in a power of attorney granting general authority with
1231 respect to gifts authorizes the agent only to:

1232 (1) Make outright to, or for the benefit of, a person,
1233 a gift of any of the principal's property, including by the
1234 exercise of a presently exercisable general power of appointment
1235 held by the principal, in an amount per donee not to exceed the
1236 annual dollar limits of the federal gift tax exclusion under
1237 Internal Revenue Code Section 2503(b), 26 USCS Section 2503(b),
1238 without regard to whether the federal gift tax exclusion applies
1239 to the gift, or if the principal's spouse agrees to consent to a
1240 split gift pursuant to Internal Revenue Code Section 2513, 26 USCS
1241 2513, in an amount per donee not to exceed twice the annual
1242 federal gift tax exclusion limit; and

1243 (2) Consent, pursuant to Internal Revenue Code Section
1244 2513, 26 USCS Section 2513, to the splitting of a gift made by the
1245 principal's spouse in an amount per donee not to exceed the
1246 aggregate annual gift tax exclusions for both spouses.

1247 (c) An agent may make a gift of the principal's property
1248 only as the agent determines is consistent with the principal's



1249 objectives if actually known by the agent and, if unknown, as the
1250 agent determines is consistent with the principal's best interest
1251 based on all relevant factors, including:

1252 (1) The value and nature of the principal's property;

1253 (2) The principal's foreseeable obligations and need
1254 for maintenance;

1255 (3) Minimization of taxes, including income, estate,
1256 inheritance, generation-skipping transfer, and gift taxes;

1257 (4) Eligibility for a benefit, a program, or assistance
1258 under a statute or regulation; and

1259 (5) The principal's personal history of making or
1260 joining in making gifts.

1261 **SECTION 42.** The following shall be codified as Section
1262 87-4-218, Mississippi Code of 1972:

1263 87-4-218. **Attorney identification.** An attorney-at-law who
1264 drafts a power of attorney for another person must list the
1265 attorney's name, address, phone number and bar number at the
1266 bottom of the power of attorney.

1267 **SECTION 43.** The following shall be codified as Section
1268 87-4-219, Mississippi Code of 1972:

1269 87-4-219. **Homestead.** A power of attorney used by an agent
1270 to convey, mortgage, deed, or otherwise pledge or encumber a
1271 homestead shall comply with Section 89-1-29 and shall designate an
1272 agent other than the spouse of the principal.

1273 **ARTICLE 3**



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STATUTORY FORMS

SECTION 44. The following shall be codified as Section 87-4-301, Mississippi Code of 1972:

87-4-301. **Statutory form power of attorney.** 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.

MISSISSIPPI 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). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Mississippi Uniform Power of Attorney Act (Section 87-4-101 et seq., Mississippi Code of 1972).

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

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will 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.



1299 This form provides for designation of one (1) agent. If you
1300 wish to name more than one (1) agent you may name a coagent in the
1301 Special Instructions. Coagents are not required to act together
1302 unless you include that requirement in the Special Instructions.

1303 If your agent is unable or unwilling to act for you, your
1304 power of attorney will end unless you have named a successor
1305 agent. You may also name a second successor agent.

1306 This power of attorney becomes effective immediately unless
1307 you state otherwise in the Special Instructions.

1308 **If you have questions about the power of attorney**
1309 **or the authority you are granting to your agent, you**
1310 **should seek legal advice before signing this form.**

1311 **DESIGNATION OF AGENT**

1312 I _____

1313 name the following _____

1314 (Name of Principal)

1315 person as my agent:

1316 Name of Agent:

1317 _____

1318 Agent's Address:

1319 _____

1320 Agent's Telephone Number: _____

1321 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

1322 If my agent is unable or unwilling to act for me, I name as
1323 my successor agent:



1324 Name of Successor Agent:
1325 _____
1326 Successor Agent's Address:
1327 _____
1328 Successor Agent's Telephone Number:
1329 _____
1330 If my successor agent is unable or unwilling to act for me, I
1331 name as my second successor agent:
1332 _____
1333 Name of Second Successor Agent:
1334 _____
1335 Second Successor Agent's Address:
1336 _____
1337 Second Successor Agent's Telephone Number:
1338 _____

1339 **GRANT OF GENERAL AUTHORITY**

1340 I grant my agent and any successor agent general authority to
1341 act for me with respect to the following subjects as defined in
1342 the Mississippi Uniform Power of Attorney Act (Section 87-4-101 et
1343 seq., Mississippi Code of 1972):

1344 (INITIAL each subject you want to include in the agent's
1345 general authority. If you wish to grant general authority over
1346 all of the subjects you may initial "All Preceding Subjects"
1347 instead of initialing each subject.)

1348 (___) Real Property



- 1349 (___) Tangible Personal Property
1350 (___) Stocks and Bonds
1351 (___) Commodities and Options
1352 (___) Banks and Other Financial Institutions
1353 (___) Operation of Entity or Business
1354 (___) Insurance and Annuities
1355 (___) Estates, Trusts, and Other Beneficial Interests
1356 (___) Claims and Litigation
1357 (___) Personal and Family Maintenance
1358 (___) Benefits from Governmental Programs or Civil or Military
1359 Service
1360 (___) Retirement Plans
1361 (___) Taxes
1362 (___) All Preceding Subjects

1363 **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

1364 My agent MAY NOT do any of the following specific acts for me
1365 UNLESS I have INITIALED the specific authority listed below:

1366 **(CAUTION: Granting any of the following will give**
1367 **your agent the authority to take actions that could**
1368 **significantly reduce your property or change how your**
1369 **property is distributed at your death. INITIAL ONLY**
1370 **the specific authority you WANT to give your agent.)**

- 1371 (___) Create, amend, revoke, or terminate an inter vivos trust



- 1372 (___) Make a gift, subject to the limitations of the Mississippi
1373 Uniform Power of Attorney Act (Section 87-4-217, Mississippi Code
1374 of 1972) and any special instructions in this power of attorney
1375 (___) Create or change rights of survivorship
1376 (___) Create or change a beneficiary designation
1377 (___) Authorize another person to exercise the authority granted
1378 under this power of attorney
1379 (___) Waive the principal's right to be a beneficiary of a joint
1380 and survivor annuity, including a survivor benefit under a
1381 retirement plan
1382 (___) Exercise fiduciary powers that the principal has authority
1383 to delegate
1384 (___) Disclaim or refuse an interest in property, including a
1385 power of appointment
1386 (___) Make the agent an owner or joint owner of a deposit
1387 account.

1388 **LIMITATION ON AGENT'S AUTHORITY**

1389 An agent that is not my ancestor, spouse, or descendant MAY
1390 NOT use my property to benefit the agent or a person to whom the
1391 agent owes an obligation of support unless I have included that
1392 authority in the Special Instructions.

1393 **SPECIAL INSTRUCTIONS (OPTIONAL)**

1394 You may give special instructions on the following lines:

1395 _____
1396 _____



1397 _____
1398 _____
1399 _____
1400 _____
1401 _____
1402 _____

1403 **EFFECTIVE DATE**

1404 This power of attorney is effective immediately unless I have
1405 stated otherwise in the Special Instructions.

1406 **NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

1407 If it becomes necessary for a court to appoint a conservator
1408 or guardian of my estate or conservator or of my person, I
1409 nominate the following person(s) for appointment:

1410 Name of Nominee for conservator or guardian of my estate:

1411 _____

1412 Nominee's Address: _____

1413 Nominee's Telephone Number: _____

1414 Name of Nominee for conservator or guardian of my person:

1415 _____

1416 Nominee's Address: _____

1417 Nominee's Telephone Number: _____

1418 **RELIANCE ON THIS POWER OF ATTORNEY**

1419 Any person, including my agent, may rely upon the validity of
1420 this power of attorney or a copy of it unless that person knows it
1421 has terminated or is invalid.



1422 **SIGNATURE AND ACKNOWLEDGMENT**

1423 _____
1424 Your Signature

1425 _____
1426 Date

1427 _____
1428 Your Name Printed

1429 _____
1430 _____

1431 Your Address
1432 _____

1433 Your Telephone Number

1434 State of _____

1435 County of _____

1436 This document was acknowledged before me on _____ (Date)

1437 by _____.

1438 (Name of Principal)

1439 _____ (Seal, if any)

1440 _____

1441 Signature of Notary

1442 My commission expires: _____

1443 This document prepared by: _____

1444 **IMPORTANT INFORMATION FOR AGENT**

1445 **Agent's Duties**



1446 When you accept the authority granted under this power of
1447 attorney, a special legal relationship is created between you and
1448 the principal. This relationship imposes upon you legal duties
1449 that continue until you resign or the power of attorney is
1450 terminated or revoked. You must:

1451 (1) Do what you know the principal reasonably expects you to
1452 do with the principal's property or, if you do not know the
1453 principal's expectations, act in the principal's best interest;

1454 (2) Act in good faith;

1455 (3) Do nothing beyond the authority granted in this power of
1456 attorney; and

1457 (4) Disclose your identity as an agent whenever you act for
1458 the principal by writing or printing the name of the principal and
1459 signing your own name as "agent" in the following manner:

1460

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

1462 Unless the special instructions in this power of attorney
1463 state otherwise, you must also:

1464 (1) Act loyally for the principal's benefit;

1465 (2) Avoid conflicts that would impair your ability to act in
1466 the principal's best interest;

1467 (3) Act with care, competence, and diligence;

1468 (4) Keep a record of all receipts, disbursements, and
1469 transactions made on behalf of the principal;



1470 (5) Cooperate with any person that has authority to make
1471 health care decisions for the principal to do what you know the
1472 principal reasonably expects or, if you do not know the
1473 principal's expectations, to act in the principal's best interest;
1474 and

1475 (6) Attempt to preserve the principal's estate plan if you
1476 know the plan and preserving the plan is consistent with the
1477 principal's best interest.

1478 **Termination of Agent's Authority**

1479 You must stop acting on behalf of the principal if you learn
1480 of any event that terminates this power of attorney or your
1481 authority under this power of attorney. Events that terminate a
1482 power of attorney or your authority to act under a power of
1483 attorney include:

1484 (1) Death of the principal;

1485 (2) The principal's revocation of the power of attorney or
1486 your authority;

1487 (3) The occurrence of a termination event stated in the
1488 power of attorney;

1489 (4) The purpose of the power of attorney is fully
1490 accomplished; or

1491 (5) If you are married to the principal, a legal action is
1492 filed with a court to end your marriage, or for your legal
1493 separation, unless the special instructions in this power of



1494 attorney state that such an action will not terminate your
1495 authority.

1496 **Liability of Agent**

1497 The meaning of the authority granted to you is defined in the
1498 Mississippi Uniform Power of Attorney Act. If you violate the
1499 Mississippi Uniform Power of Attorney Act or act outside the
1500 authority granted, you may be liable for any damages caused by
1501 your violation.

1502 **If there is anything about this document or your**
1503 **duties that you do not understand, you should seek**
1504 **legal advice.**

1505 **SECTION 45.** The following shall be codified as Section
1506 87-4-302, Mississippi Code of 1972:

1507 87-4-302. **Agent's certification.** The following optional
1508 form may be used by an agent to certify facts concerning a power
1509 of attorney.

1510 **AGENT'S CERTIFICATION AS TO THE VALIDITY**
1511 **OF POWER OF ATTORNEY AND AGENT'S AUTHORITY**

1512 State of _____

1513 County of _____

1514 I, _____ (Name of
1515 Agent), certify under penalty of perjury that _____

1516 _____ (Name of Principal)

1517 granted me authority as an agent or successor agent in a power of
1518 attorney dated _____.



1519 I further certify that to my knowledge:

1520 (1) The principal is alive and has not revoked the power of
1521 attorney or my authority to act under the power of attorney and
1522 the power of attorney and my authority to act under the power of
1523 attorney have not terminated;

1524 (2) If the power of attorney was drafted to become effective
1525 upon the happening of an event or contingency, the event or
1526 contingency has occurred;

1527 (3) If I was named as a successor agent, the prior agent is
1528 no longer able or willing to serve; and

1529 (4) I am an adult and not under any incapacity;

1530 (5) The principal was an adult and competent when the power
1531 of attorney was executed; and

1532 **SIGNATURE AND ACKNOWLEDGMENT**

1533 _____

1534 Agent's Signature Date

1535 _____

1536 Agent's Name Printed

1537 _____

1538 _____

1539 Agent's Address

1540 _____

1541 Agent's Telephone Number _____

1542 This document was acknowledged before me on _____ (Date)

1543 by _____.



1544 (Name of Agent)
1545 _____ (Seal, if any)
1546 Signature of Notary
1547 My commission expires: _____
1548 This document prepared by _____

1549 **ARTICLE 4**

1550 **MISCELLANEOUS PROVISIONS**

1551 **SECTION 46.** The following shall be codified as Section
1552 87-4-401, Mississippi Code of 1972:

1553 87-4-401. **Uniformity of application and construction.** In
1554 applying and construing this uniform act, consideration must be
1555 given to the need to promote uniformity of the law with respect to
1556 its subject matter among the states that enact it.

1557 **SECTION 47.** The following shall be codified as Section
1558 87-4-402, Mississippi Code of 1972:

1559 87-4-402. **Relation to Electronic Signatures in Global and**
1560 **National Commerce Act.** This act modifies, limits, and supersedes
1561 the federal Electronic Signatures in Global and National Commerce
1562 Act, 15 USCS Section 7001 et seq., but does not modify, limit, or
1563 supersede Section 101(c) of that act, 15 USCS Section 7001(c), or
1564 authorize electronic delivery of any of the notices described in
1565 Section 103(b) of that act, 15 USCS Section 7003(b).

1566 **SECTION 48.** The following shall be codified as Section
1567 87-4-403, Mississippi Code of 1972:



1568 87-4-403. **Effect of existing powers of attorney.** Except as
1569 otherwise provided in this act:

1570 (1) This act applies to a power of attorney created
1571 before, on, or after July 1, 2019;

1572 (2) This act applies to a judicial proceeding
1573 concerning a power of attorney commenced on or after July 1, 2019;

1574 (3) This act applies to a judicial proceeding
1575 concerning a power of attorney commenced before July 1, 2019,
1576 unless the court finds that application of a provision of this act
1577 would substantially interfere with the effective conduct of the
1578 judicial proceeding or prejudice the rights of a party, in which
1579 case that provision does not apply and the superseded law applies;
1580 and

1581 (4) An act done before July 1, 2019, is not affected by
1582 this act.

1583 **SECTION 49.** Section 75-3-307, Mississippi Code of 1972, is
1584 amended as follows:

1585 75-3-307. (a) In this section:

1586 (1) "Fiduciary" means an agent, trustee, partner,
1587 corporate officer or director, or other representative owing a
1588 fiduciary duty with respect to an instrument.

1589 (2) "Represented person" means the principal,
1590 beneficiary, partnership, corporation, or other person to whom the
1591 duty stated in paragraph (1) is owed.



1592 (b) If (i) an instrument is taken from a fiduciary for
1593 payment or collection or for value, (ii) the taker has knowledge
1594 of the fiduciary status of the fiduciary, and (iii) the
1595 represented person makes a claim to the instrument or its proceeds
1596 on the basis that the transaction of the fiduciary is a breach of
1597 fiduciary duty, the following rules apply:

1598 (1) Notice of breach of fiduciary duty by the fiduciary
1599 is notice of the claim of the represented person.

1600 (2) In the case of an instrument payable to the
1601 represented person or the fiduciary as such, the taker has notice
1602 of the breach of fiduciary duty if the instrument is (i) taken in
1603 payment of or as security for a debt known by the taker to be the
1604 personal debt of the fiduciary, (ii) taken in a transaction known
1605 by the taker to be for the personal benefit of the fiduciary, or
1606 (iii) deposited to an account other than an account of the
1607 fiduciary, as such, or an account of the represented person.

1608 (3) If an instrument is issued by the represented
1609 person or the fiduciary as such, and made payable to the fiduciary
1610 personally, the taker does not have notice of the breach of
1611 fiduciary duty unless the taker knows of the breach of fiduciary
1612 duty.

1613 (4) If an instrument is issued by the represented
1614 person or the fiduciary as such, to the taker as payee, the taker
1615 has notice of the breach of fiduciary duty if the instrument is
1616 (i) taken in payment of or as security for a debt known by the



1617 taker to be the personal debt of the fiduciary, (ii) taken in a
1618 transaction known by the taker to be for the personal benefit of
1619 the fiduciary, or (iii) deposited to an account other than an
1620 account of the fiduciary, as such, or an account of the
1621 represented person.

1622 (5) To the extent that this section conflicts with
1623 Section 87-4-119(c), Section 87-4-119(c) controls.

1624 **SECTION 50.** Sections 87-3-101, 87-3-103, 87-3-105, 87-3-107,
1625 87-3-109, 87-3-111 and 87-3-113, Mississippi Code of 1972, which
1626 constitute the Uniform Durable Power of Attorney Act, are
1627 repealed.

1628 **SECTION 51.** This act shall take effect and be in force from
1629 and after July 1, 2019.

