

HOUSE BILL NO. 254

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HUGHES AND GRUENBERG

Introduced: 1/21/14

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to powers of attorney; relating to the uniform probate code; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 13.06.050(1) is repealed and reenacted to read:

5 (1) "agent" means a person granted authority to act for a principal
6 under a power of attorney, whether denominated an agent, attorney-in-fact, or
7 otherwise; "agent" includes an original agent, coagent, successor agent, and a person
8 to which an agent's authority is delegated;

9 * **Sec. 2.** AS 13.06.050(46) is amended to read:

10 (46) "state" means a state of the United States, the District of
11 Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or a
12 territory or insular possession subject to the jurisdiction of the United States;

13 * **Sec. 3.** AS 13.06.050 is amended by adding new paragraphs to read:

14 (57) "durable," with respect to a power of attorney, means not

1 terminated by the principal's incapacity;

2 (58) "electronic" means relating to technology having electrical,
3 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

4 (59) "power of attorney" means a writing or other record that grants
5 authority to an agent to act in the place of the principal, whether or not the term
6 "power of attorney" is used; "power of attorney" does not include a power exercisable
7 by the principal in a fiduciary capacity or exercisable only by will;

8 (60) "principal" means an individual who grants authority to an agent
9 in a power of attorney;

10 (61) "record" means information that is inscribed on a tangible
11 medium or that is stored in an electronic or other medium and is retrievable in
12 perceivable form;

13 (62) "sign" means, with present intent to authenticate or adopt a
14 record,

15 (A) to execute or adopt a tangible symbol; or

16 (B) to attach to or logically associate with the record an
17 electronic sound, symbol, or process.

18 * **Sec. 4.** AS 13.26.332 is amended to read:

19 **Sec. 13.26.332. Statutory form power of attorney.** A person who wishes to
20 designate another as attorney-in-fact or agent by a power of attorney may execute a
21 statutory power of attorney set out in substantially the following form:

22 GENERAL POWER OF ATTORNEY

23 THE POWERS GRANTED FROM THE PRINCIPAL TO THE
24 AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE
25 VERY BROAD. THEY MAY INCLUDE THE POWER TO
26 DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND
27 PERSONAL PROPERTY. ACCORDINGLY, THE FOLLOWING
28 DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL
29 CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT
30 THIS DOCUMENT, YOU SHOULD SEEK COMPETENT ADVICE.

31 YOU MAY REVOKE THIS POWER OF ATTORNEY AT

1 ANY TIME.

2 Pursuant to AS 13.26.338 - 13.26.353, I, (Name of principal), of
 3 (Address of principal), do hereby appoint (Name and address of agent
 4 or agents), my attorney(s)-in-fact to act as indicated below in my name,
 5 place, and stead in any way which I myself could do, if I were
 6 personally present, with respect to the following matters, as each of
 7 them is defined in AS 13.26.344, to the full extent that I am permitted
 8 by law to act through an agent:

9 THE AGENT OR AGENTS YOU HAVE APPOINTED WILL
 10 HAVE ALL THE POWERS LISTED BELOW UNLESS YOU DRAW
 11 A LINE THROUGH A CATEGORY; AND INITIAL THE BOX
 12 OPPOSITE THAT CATEGORY

13 (A) real estate transactions ()

14 (B) transactions involving tangible personal
 15 property, chattels, and goods ()

16 (C) bonds, shares, and commodities transactions ()

17 (D) banking transactions ()

18 (E) business operating transactions ()

19 (F) insurance transactions ()

20 (G) estate transactions ()

21 (H) [GIFT TRANSACTIONS ()

22 (I) claims and litigation ()

23 (J) [(J)] personal relationships and affairs ()

24 (J) [(K)] benefits from government programs
 25 and civil or military service ()

26 (K) [(L)] records, reports, and statements ()

27 (L) [(M)] delegation ()

28 (M) [(N)] voter registration and absentee ballot requests ()

29 (N) retirement plans ()

30 (O) all other matters, including those specified as follows: ()

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

The agent or agents you have appointed WILL NOT have the power to do any of the following acts UNLESS you INITIAL the box opposite that category:

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

() Make a gift, subject to the limitations of AS 13.26.344(h) and any special instructions in this power of attorney.

IF YOU HAVE APPOINTED MORE THAN ONE AGENT, CHECK ONE OF THE FOLLOWING:

() Each agent may exercise the powers conferred separately, without the consent of any other agent.

() All agents shall exercise the powers conferred jointly, with the consent of all other agents.

TO INDICATE WHEN THIS DOCUMENT SHALL BECOME EFFECTIVE, CHECK ONE OF THE FOLLOWING:

() This document shall become effective upon the date of my signature.

() This document shall become effective upon the date of my disability and shall not otherwise be affected by my disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE ON THE DATE OF YOUR SIGNATURE, CHECK ONE OF THE FOLLOWING:

() This document shall not be affected by my subsequent disability.

() This document shall be revoked by my subsequent disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR SIGNATURE AND WANT TO LIMIT THE TERM OF THIS DOCUMENT, COMPLETE THE FOLLOWING:

This document shall only continue in effect for _____ () years

1 from the date of my signature.

2 NOTICE OF REVOCATION OF THE POWERS GRANTED
3 IN THIS DOCUMENT

4 You may revoke one or more of the powers granted in this document.
5 Unless otherwise provided in this document, you may revoke a specific
6 power granted in this power of attorney by completing a special power
7 of attorney that includes the specific power in this document that you
8 want to revoke. Unless otherwise provided in this document, you may
9 revoke all the powers granted in this power of attorney by completing a
10 subsequent power of attorney.

11 NOTICE TO THIRD PARTIES

12 A third party who relies on the reasonable representations of an
13 attorney-in-fact as to a matter relating to a power granted by a properly
14 executed statutory power of attorney does not incur any liability to the
15 principal or to the principal's heirs, assigns, or estate as a result of
16 permitting the attorney-in-fact to exercise the authority granted by the
17 power of attorney. A third party who fails to honor a properly executed
18 statutory form power of attorney may be liable to the principal, the
19 attorney-in-fact, the principal's heirs, assigns, or estate for a civil
20 penalty, plus damages, costs, and fees associated with the failure to
21 comply with the statutory form power of attorney. If the power of
22 attorney is one which becomes effective upon the disability of the
23 principal, the disability of the principal is established by an affidavit, as
24 required by law.

25 IN WITNESS WHEREOF, I have hereunto signed my name
26 this ____ day of _____, ____.

27 _____
28 Signature of Principal

29 Acknowledged before me at _____
30 _____ on _____.

31 Signature of Officer or Notary

1 * **Sec. 5.** AS 13.26.344(a) is amended to read:

2 (a) In a statutory form power of attorney, the language conferring general
3 authority with respect to real estate transactions shall be construed to mean that, as to
4 an estate or interest in land of the principal, whether in the estate or elsewhere, the
5 principal authorizes the agent to

6 (1) accept as a gift or as security for a loan, demand, buy, lease,
7 receive, or otherwise acquire either ownership or possession of any estate or interest in
8 land;

9 (2) sell, exchange, convey, quitclaim, release, surrender, mortgage,
10 encumber, partition or consent to the partitioning, [REVOKE, CREATE OR MODIFY
11 A TRUST,] grant options concerning, lease or sublet, or otherwise to dispose of, an
12 estate or interest in land;

13 (3) release in whole or in part, assign the whole or a part of, satisfy in
14 whole or in part, and enforce a mortgage, encumbrance, lien, or other claim to land
15 that exists, or is claimed to exist, in favor of the principal;

16 (4) do any act of management or of conservation with respect to an
17 estate or interest in land owned, or claimed to be owned, by the principal, including by
18 way of illustration, but not of restriction, power to insure against any casualty,
19 liability, or loss, obtain or regain possession or protect the estate or interest, pay,
20 compromise, or contest taxes or assessments, or apply for refunds in connection with a
21 payment, compromise, or tax, purchase supplies, hire assistance of labor, and make
22 repairs or alterations in the structures or land;

23 (5) use, develop, modify, alter, replace, remove, erect, or install
24 structures or other improvements on land in which the principal has, or claims to have,
25 an estate or interest;

26 (6) demand, receive, or obtain money or any other thing of value to
27 which the principal is, or may become, or may claim to be entitled as the proceeds of
28 an interest in land or of one or more of the transactions enumerated in this subsection;
29 conserve, invest, disburse, or use anything so received for purposes enumerated in this
30 subsection; and reimburse the agent for an expenditure properly made in the execution
31 of the powers conferred by the statutory form power of attorney;

(7) participate in any reorganization with respect to real property and receive and hold any shares of stock or instrument of similar character received under a plan of reorganization, and act with respect to a plan of reorganization, including by way of illustration, but not of restriction, power to sell or otherwise to dispose of shares, to exercise or to sell an option, conversion, or similar right, and to vote in person by the granting of a proxy;

(8) agree and contract, in any manner, and with any person and on any terms that the agent may select, for the accomplishment of any of the purposes enumerated in this subsection, and perform, rescind, reform, release, or modify an agreement or contract made by or on behalf of the principal;

(9) execute, acknowledge, seal, and deliver a deed, revocation, declaration or modification of trust, mortgage, lease, notice, check, or other instrument that the agent considers useful for the accomplishment of any of the purposes enumerated in this subsection;

(10) prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of, or against, the principal based on or involving a real estate transaction or intervene in any related action;

(11) hire, discharge, and compensate an attorney, accountant, expert witness, or assistant when the agent considers that action to be desirable for the proper execution of a power described in this subsection, and for the keeping of records about that action; and

(12) do any other act or acts that the principal can do through an agent with respect to any estate or interest in land.

* **Sec. 6.** AS 13.26.344(b) is amended to read:

(b) In a statutory form power of attorney, the language conferring general authority with respect to tangible personal property, chattels, and goods transactions shall be construed to mean that, as to tangible personal property, chattels, or goods owned by the principal, whether located in the state or elsewhere, the principal authorizes the agent to

(1) accept as a gift, or as a security for a loan, reject, demand, buy,

1 receive, or otherwise acquire either ownership or possession of chattels or goods or an
2 interest in the tangible personal property, chattels, or goods;

3 (2) sell, exchange, convey, release, surrender, mortgage, encumber,
4 pledge, hypothecate, pawn, [REVOKE, CREATE, OR MODIFY A TRUST,] grant
5 options concerning, lease or sublet to others, or otherwise dispose of tangible personal
6 property, chattels, or goods or an interest in them;

7 (3) release in whole or in part, assign the whole or a part of, satisfy in
8 whole or in part, and enforce a mortgage, encumbrance, lien, or other claim that exists,
9 or is claimed to exist, in favor of the principal with respect to any tangible personal
10 property, chattels, or goods or an interest in them;

11 (4) do any act of management or of conservation with respect to any
12 tangible personal property, chattels, or goods or to an interest in any tangible personal
13 property, chattels, or goods owned, or claimed to be owned, by the principal, including
14 by way of illustration, but not of restriction, power to insure against any casualty,
15 liability, or loss, obtain or regain possession, or protect the tangible personal property,
16 chattels, or goods or an interest in them, pay, compromise, or contest taxes or
17 assessments, apply for refunds in connection with a payment, compromise, or tax,
18 move from place to place, store for hire or on a gratuitous bailment, use, alter, and
19 make repairs or alterations of any tangible personal property, chattels, or goods, or an
20 interest in them;

21 (5) demand, receive, and obtain money or any other thing of value to
22 which the principal is, or may become, or may claim to be, entitled as the proceeds of
23 any tangible personal property, chattels, or goods or of an interest in them, or of one or
24 more of the transactions enumerated in this subsection, conserve, invest, disburse, or
25 use anything so received for purposes enumerated in this subsection, and reimburse
26 the agent for any expenditures properly made in the execution of the powers conferred
27 by the power of attorney;

28 (6) agree and contract, in any manner, and with any person and on any
29 terms that the agent may select, for the accomplishment of the purposes enumerated in
30 this subsection, and perform, rescind, reform, release, or modify any agreement or
31 contract or any other similar agreement or contract made by or on behalf of the

principal;

(7) execute, acknowledge, seal, and deliver a conveyance, revocation, declaration or modification of [TRUST,] mortgage, lease, notice, check or other instrument that the agent considers useful for the accomplishment of the purposes enumerated in this subsection;

(8) prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of, or against, the principal based on or involving a transaction involving tangible personal property, chattels, or goods, or intervene in an action or proceeding;

(9) hire, discharge, and compensate an attorney, accountant, expert witness, or assistant when the agent considers the action to be desirable to the proper execution of a power described in this subsection, and for the keeping of records about that action;

(10) do any other act or acts that the principal can do through an agent with respect to any chattels or goods or interest in any tangible personal property, chattels, or goods.

* **Sec. 7.** AS 13.26.344(c) is amended to read:

(c) In a statutory form power of attorney, the language conferring general authority with respect to bonds, shares, and commodities transactions shall be construed to mean that, with respect to a bond, share, or commodity of the principal, whether in the state or elsewhere, the principal authorizes the agent to

(1) accept as a gift, or as a security for a loan, reject, demand, buy, receive, or otherwise acquire either ownership or possession of, a bond, share, or instrument of similar character including, by way of illustration, but not of restriction, stock in a corporation organized under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), commodity interest, or an instrument with respect to a bond, share, or instruments of similar character, together with the interest, dividends, proceeds, or other distributions connected with a bond, share, or instrument of a similar character;

(2) sell, exchange, transfer, release, surrender, hypothecate, pledge, [REVOKE, CREATE, OR MODIFY A TRUST,] grant options concerning, loan, trade in, or otherwise dispose of a bond, share, instrument of similar character, commodity

1 interest, or a related instrument;

2 (3) release, assign the whole or part of, satisfy in whole or in part, and
3 enforce a pledge, encumbrance, lien, or other claim as to a bond, share, instrument of
4 similar character, commodity interest, or a related interest, when the pledge,
5 encumbrance, lien, or other claim is owned, or claimed to be owned, by the principal;

6 (4) do any act of management or of conservation with respect to a
7 bond, share, instrument of similar character, commodity interest, or a related
8 instrument, owned or claimed to be owned by the principal or in which the principal
9 has or claims to have an interest, including by way of illustration, but not of
10 restriction, power to insure against a casualty, liability, or loss, obtain or regain
11 possession or protect the principal's interest, pay, compromise, or contest taxes or
12 assessments, apply for a refund in connection with a payment, compromise, or tax,
13 consent to and participate in a reorganization, recapitalization, liquidation, merger,
14 consolidation, sale or lease or other change in or revival of a corporation or other
15 association, or in the financial structure of a corporation or other association, or in the
16 priorities, voting rights, or other special rights with respect to a corporation or
17 association, become a depositor with a protective, reorganization or similar committee
18 of the bond, share, other instrument of similar character, commodity interest or a
19 related instrument, belonging to the principal, make a payment reasonably incident to
20 them, and exercise or sell an option, conversion, or similar right, or vote in person or
21 by the granting of a proxy for the accomplishment of the purposes enumerated in this
22 subsection;

23 (5) carry in the name of a nominee selected by the agent evidence of
24 the ownership of a bond, share, other instrument of similar character, commodity
25 interest, or related instrument belonging to the principal;

26 (6) employ, in any way believed to be desirable by the agent, a bond,
27 share, other instrument of similar character, commodity interest, or a related
28 instrument, in which the principal has or claims to have an interest, for the protection
29 or continued operation of a speculative or margin transaction personally begun or
30 personally guaranteed, in whole or in part, by the principal;

31 (7) demand, receive, or obtain money or any other thing of value to

1 which the principal is, or may claim to be, entitled as the proceeds of an interest in a
 2 bond, share, other instrument of similar character, commodity interest or a related
 3 instrument, or of one or more of the transactions enumerated in this subsection,
 4 conserve, invest, disburse, or use anything so received for purposes enumerated in this
 5 subsection; and reimburse the agent for an expenditure properly made in the execution
 6 of the powers conferred by the statutory form power of attorney;

7 (8) agree and contract, in any manner, and with a broker or other
 8 person, and on terms that the agent may select, for the accomplishment of the purposes
 9 enumerated in this subsection, and perform, rescind, reform, release, or modify the
 10 agreement or contract or other similar agreement made by or on behalf of the
 11 principal;

12 (9) execute, acknowledge, seal, and deliver a consent, agreement,
 13 authorization, assignment, revocation, declaration or modification of [TRUST,] notice,
 14 waiver of notice, check, or other instrument that the agent considers useful for the
 15 accomplishment of the purposes enumerated in this subsection;

16 (10) execute, acknowledge and file a report or certificate required by
 17 law or regulation;

18 (11) prosecute, defend, submit to arbitration, settle, and propose or
 19 accept a compromise with respect to, a claim existing in favor of, or against, the
 20 principal based on or involving a bond, share, or commodity transactions, or intervene
 21 in a related action or proceeding;

22 (12) hire, discharge, and compensate an attorney, accountant, expert
 23 witness, or assistant when the agent considers that action to be desirable for the proper
 24 execution of the powers described in this subsection, and for the keeping of records
 25 about that action; and

26 (13) do any other act or acts that the principal can do through an agent,
 27 with respect to an interest in a bond, share, or other instrument of similar character,
 28 commodity, or instrument with respect to a commodity.

29 * **Sec. 8.** AS 13.26.344(d) is amended to read:

30 (d) In a statutory form power of attorney, the language conferring general
 31 authority with respect to banking transactions shall be construed to mean that, as to a

1 banking transaction engaged in by the principal, whether in the state or elsewhere, the
2 principal authorizes the agent to

3 (1) continue, modify, or terminate a deposit account or other banking
4 arrangement made by or on the behalf of the principal before the execution of the
5 power of attorney;

6 (2) open, either in the name of the agent alone or in the name of the
7 principal alone, or in both their names jointly, a deposit account of any type in a
8 financial institution selected by the agent, hire a safe deposit box or vault space, and
9 enter into contracts for the procuring of other services made available by the
10 institution that the agent considers desirable;

11 (3) make, sign, and deliver checks or drafts for any purpose, and
12 withdraw funds or property of the principal deposited with or left in the custody of a
13 financial institution, wherever located, either before or after the execution of the
14 power of attorney;

15 (4) prepare financial statements concerning the assets and liabilities or
16 income and expenses of the principal, and deliver the statements to a financial
17 institution or person whom the agent believes to be reasonably entitled to them;

18 (5) receive statements, vouchers, notices, or other documents from a
19 financial institution and act with respect to them;

20 (6) have free access to a safe deposit box or vault to which the
21 principal would have access if personally present;

22 (7) borrow money as the agent may determine, give security out of the
23 assets of the principal as the agent considers necessary for the borrowing, and pay,
24 renew, or extend the time of payment of a financial institution by any other procedure
25 made available by the institution;

26 (8) make, assign, endorse, discount, guarantee, use, and negotiate
27 promissory notes, bills of exchange, checks, drafts, credit and debit cards, electronic
28 transaction authorizations, or other negotiable or nonnegotiable paper of the
29 principal, or payable to the principal or to the principal's order, receive the cash or
30 other proceeds of them; and accept any bill of exchange or draft drawn by any person
31 upon the principal, and pay it when due;

1 (9) receive for the principal and deal in and with a negotiable or
2 nonnegotiable instrument in which the principal has or claims to have an interest;

3 (10) apply for and receive letters of credit or traveler's checks from a
4 banker or banking institution selected by the agent, giving indemnity or other
5 agreements in connection with the applications or receipts that the agent considers
6 desirable or necessary;

7 (11) consent to an extension in the time of payment with respect to
8 commercial paper or a banking transaction in which the principal has an interest or by
9 which the principal is, or might be, affected in any way;

10 (12) pay, compromise, or contest taxes or assessments and apply for
11 refunds in connection with the payment, compromise, or contest;

12 (13) demand, receive, or obtain money or any other thing of value to
13 which the principal is, or may become, or may claim to be entitled as the proceeds of
14 any banking transaction conducted by the principal or by the agent in the execution of
15 the powers described in this subsection, or partly by the principal and partly by the
16 agent; conserve, invest, disburse, or use anything received for purposes enumerated in
17 this subsection, and reimburse the agent for an expenditure properly made in the
18 execution of the powers conferred by the statutory form power of attorney;

19 (14) execute, acknowledge, seal, and deliver an instrument, in the
20 name of the principal or otherwise, that the agent considers useful for the
21 accomplishment of a purpose enumerated in this subsection;

22 (15) prosecute, defend, submit to arbitration, settle, and propose or
23 accept a compromise with respect to, a claim existing in favor of, or against, the
24 principal based on or involving a banking transaction, or intervene in an action or
25 proceeding relating to a banking transaction;

26 (16) hire, discharge, and compensate an attorney, accountant, expert
27 witness, or assistant when the agent considers that the action is desirable for the proper
28 execution of the powers described in this subsection, and for the keeping of records
29 about that action; and

30 (17) do any other act or acts that the principal can do through an agent
31 in connection with a banking transaction that does or might in any way affect the

1 financial or other interests of the principal.

2 * **Sec. 9.** AS 13.26.344(e) is amended to read:

3 (e) In a statutory form power of attorney, the language conferring general
4 authority with respect to business operating transactions shall be construed to mean
5 that, with respect to a business in which the principal has an interest, whether in the
6 state or elsewhere, the principal authorizes the agent

7 (1) to the extent that an agent is permitted by law to act for a principal,
8 to discharge and perform any duty or liability and exercise any right, power, privilege,
9 or option that the principal has, or claims to have, under a contract of partnership,
10 whether as a general or special partner, enforce the terms of the partnership agreement
11 for the protection of the principal that the agent considers desirable or necessary, and
12 defend, submit to arbitration, settle, or compromise an action to which the principal is
13 a party because of membership in a partnership;

14 (2) to exercise in person or by proxy or enforce a right, power,
15 privilege, or option that the principal has as the holder of a bond, share, or other
16 instrument of similar character, and defend, submit to arbitration, settle, or
17 compromise an action to which the principal is a party because of a bond, share, or
18 other instrument of similar character;

19 (3) with respect to a business enterprise that is owned solely by the
20 principal,

21 (A) continue, modify, renegotiate, extend and terminate a
22 contractual arrangement made with a person, firm, association, or corporation
23 by or on behalf of the principal;

24 (B) determine the policy of the enterprise as to the location of
25 the site or sites to be used for its operation, the nature and extent of the
26 business to be undertaken by it, the methods of manufacturing, selling,
27 merchandising, financing, accounting, and advertising to be employed in its
28 operation, the amount and types of insurance to be carried, the mode of
29 securing compensation and dealing with accountants, attorneys, and employees
30 required for its operation, agree and contract, in any manner, and with any
31 person and on any terms, that the agent considers desirable or necessary to

1 carry out any or all of the decisions of the agent as to policy, and perform,
2 rescind, reform, release, or modify an agreement or contract or any other
3 similar agreement or contract made by or on behalf of the principal;

4 (C) change the name or form of organization under which the
5 business is operated and enter into a partnership agreement with others or
6 organize a corporation to take over the operation of the business, or any part of
7 it, that the agent considers desirable or necessary;

8 (D) demand and receive all money that is or may become due
9 to the principal, or that may be claimed by the principal or on the principal's
10 behalf, in the operation of the enterprise, and control and disburse the funds in
11 the operation of the enterprise in any way that the agent considers desirable or
12 necessary, and engage in banking transactions that the agent considers
13 desirable or necessary to carry out the execution of the powers of the agent
14 described in this subparagraph;

15 (4) prepare, sign, file, and deliver all reports, compilations of
16 information, returns, and other papers with respect to a business operating transaction
17 of the principal that is required by a government agency or that the agent considers
18 desirable or necessary for any purpose, and make any payments with respect to the
19 agency;

20 (5) pay, compromise, or contest taxes or assessments and do any act or
21 acts that the agent considers desirable or necessary to protect the principal from illegal
22 or unnecessary taxation, fines, penalties, or assessments in connection with the
23 business operations;

24 (6) demand, receive, or obtain money or any other thing of value to
25 which the principal is or may claim to be entitled as the proceeds of a business
26 operation of the principal, conserve, invest, disburse, and use anything so received for
27 purposes enumerated in this subsection, and reimburse the agent for expenditures
28 properly made in the execution of the powers conferred by the statutory form power of
29 attorney;

30 (7) execute, acknowledge, seal, and deliver a deed, assignment,
31 mortgage, lease, notice, consent, agreement, authorization check, or other instrument

1 that the agent considers useful for the accomplishment of any of the purposes
2 enumerated in this subsection;

3 (8) prosecute, defend, submit to arbitration, settle, and propose or
4 accept a compromise with respect to, a claim existing in favor of, or against, the
5 principal based on or involving a business operating transaction or intervene in a
6 related action;

7 (9) hire, discharge, and compensate an attorney, accountant, expert
8 witness, or assistant when the agent reasonably believes that the action is desirable for
9 the proper execution of the powers described in this subsection, and for the keeping of
10 records about that action;

11 (10) to operate, buy, sell, enlarge, reduce, or terminate an
12 ownership interest;

13 (11) to put additional capital into an entity or business in which
14 the principal has an interest;

15 (12) to join in a plan of reorganization, consolidation, conversion,
16 domestication, or merger of the entity or business;

17 (13) to sell or liquidate all or part of an entity or business; and

18 (14) to establish the value of an entity or business under a buy-out
19 agreement to which the principal is a party; and

20 (15) [AND (10)] do any other act or acts that the principal can do
21 through an agent in connection with a business operated by the principal that the agent
22 considers desirable or necessary for the furtherance or protection of the interests of the
23 principal.

24 * **Sec. 10.** AS 13.26.344(f) is amended to read:

25 (f) In a statutory form power of attorney, the language conferring general
26 authority with respect to insurance transactions shall be construed to mean that, as to a
27 contract of insurance in which the principal has an interest, whether in the state or
28 elsewhere, the principal authorizes the agent to

29 (1) continue, pay the premium or assessment on, modify, rescind,
30 release, or terminate any contract of life, accident, health, disability, or liability
31 insurance, or any combination of insurance, procured by or on behalf of the principal

1 before the creation of the agency that insures either the principal or any other person
2 without regard to whether the principal is or is not a beneficiary under the insurance
3 coverage;

4 (2) procure new, different, or additional contracts on the life of the
5 principal or protecting the principal with respect to ill health, disability, accident, or
6 liability of any sort, select the amount, the type of insurance contract, and the mode of
7 payment under each policy, pay the premium or assessment on, modify, rescind,
8 release, or terminate a contract so procured by the agent; and designate the beneficiary
9 of the contract of insurance, except that the agent cannot be the beneficiary unless the
10 agent is spouse, child, grandchild, parent, brother, or sister of the principal;

11 (3) apply for and receive a loan on the security of the contract of
12 insurance, whether for the payment of a premium or for the procuring of cash;
13 surrender and receive the cash surrender value; exercise an election as to beneficiary
14 or mode of payment, change the manner of paying premiums, change or convert the
15 type of insurance contract with respect to any insurance that the principal has, or
16 claims to have, as to any power described in this subsection; and change the
17 beneficiary of a contract of insurance, except that the agent cannot be the new
18 beneficiary unless the agent is spouse, child, grandchild, parent, brother, or sister of
19 the principal;

20 (4) demand, receive, or obtain money or any other thing of value to
21 which the principal is, or may become, or may claim to be entitled as the proceeds of a
22 contract of insurance or of one or more of the transactions enumerated in this
23 subsection; conserve, invest, disburse, or use anything received for purposes
24 enumerated in this subsection and reimburse the agent for expenditures properly made
25 in the execution of the powers conferred by the statutory form power of attorney;

26 (5) apply for and procure available government aid in the guaranteeing
27 or paying of premiums of a contract of insurance on the life of the principal;

28 (6) sell, assign, hypothecate, borrow upon, or pledge the interest of the
29 principal in any contract of insurance;

30 (7) pay, from the proceeds of an insurance contract or otherwise,
31 compromise, or contest, and apply for refunds in connection with, a tax or assessment

1 levied by a taxing authority with respect to a contract of insurance or the proceeds of
2 or liability accruing by reason of a tax or assessment;

3 (8) agree and contract, in any manner and with any person and on any
4 terms that the agent may select, for the accomplishment of the purposes enumerated in
5 this subsection, and perform, rescind, reform, release, or modify any agreement or
6 contract;

7 (9) execute, acknowledge, seal, and deliver any consent, demand,
8 request, application, agreement, indemnity, authorization, assignment, pledge, notice,
9 check, receipt, waiver, or other instrument that the agent considers useful for the
10 accomplishment of a purpose enumerated in this subsection;

11 (10) continue, procure, pay the premium or assessment on, modify,
12 rescind, release, terminate, or otherwise deal with any contract of insurance, other than
13 those enumerated in (1) and (2) of this subsection, or any combination of insurance;
14 and do any act with respect to the contract or with respect to its proceeds or
15 enforcement that the agent considers desirable or necessary for the promotion or
16 protection of the interests of the principal;

17 (11) prosecute, defend, submit to arbitration, settle, and propose or
18 accept a compromise with respect to a claim existing in favor of, or against, the
19 principal based on or involving an insurance transaction, or intervene in an action
20 relating to an insurance transaction;

21 (12) hire, discharge, and compensate an attorney, accountant, expert
22 witness, or assistant when the agent considers the action to be desirable for the proper
23 execution of a power described in this subsection, and for the keeping of records about
24 that action; [AND]

25 (13) **exercise investment powers available under a contract of**
26 **insurance or annuity; and**

27 **(14)** do any other act or acts that the principal can do through an agent
28 in connection with procuring, supervising, managing, modifying, enforcing, and
29 terminating contracts of insurance in which the principal is the insured or has an
30 interest.

31 * **Sec. 11.** AS 13.26.344(h) is repealed and reenacted to read:

1 (h) In a statutory form power of attorney, unless the power of attorney
 2 otherwise provides, the language conferring general authority with respect to gift
 3 transactions shall be construed to mean that the principal authorizes the agent only

4 (1) to make a gift of the principal's property only as the agent
 5 determines is consistent with the principal's objectives if actually known by the agent
 6 and, if unknown, as the agent determines is consistent with the principal's best interest
 7 based on all relevant factors, including

8 (A) the value and nature of the principal's property;

9 (B) the principal's foreseeable obligations and need for
 10 maintenance;

11 (C) minimization of taxes, including income, estate,
 12 inheritance, generation-skipping transfer, and gift taxes;

13 (D) eligibility for a benefit, a program, or assistance under a
 14 statute or regulation; and

15 (E) the principal's personal history of making or joining in
 16 making gifts;

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

26 (3) subject to (1) of this subsection, to consent, under 26 U.S.C. 2513
 27 (Internal Revenue Code), as amended, to the splitting of a gift made by the principal's
 28 spouse in an amount for each donee not to exceed the aggregate annual gift tax
 29 exclusions for both spouses.

30 * **Sec. 12.** AS 13.26.344(j) is amended to read:

31 (j) In a statutory form power of attorney, the language conferring general

1 authority with respect to personal relationships **is neither dependent on, nor limited**
 2 **by, authority that an agent may or may not have with respect to gifts under**
 3 **AS 13.26.332 - 13.26.359, and** shall be construed to mean that, as to real and personal
 4 property owned by the principal, whether in the state or elsewhere, the principal
 5 authorizes the agent to

6 (1) do all acts necessary to maintain the customary standard of living
 7 of the spouse, children, [AND] other dependents of the principal, **whether living**
 8 **when the power of attorney is executed or later born, and individuals whom the**
 9 **principal has customarily supported or indicated the intent to support,** including
 10 by way of illustration and not by way of restriction, power to provide living quarters
 11 by purchase, **by** lease, or by other contract, or by any payment of the operating costs,
 12 including interest, amortization payments, repairs, and taxes, of premises owned by
 13 the principal and occupied by the principal's family or dependents, to provide normal
 14 domestic help for the operation of the household, to provide usual vacations and usual
 15 travel expenses, to provide usual educational facilities, [AND] to provide funds for all
 16 the current living costs of the spouse, children, and other dependents, including,
 17 among other things, shelter, clothing, food, and incidentals, **and to make periodic**
 18 **payments of child support and other family maintenance required by a court or**
 19 **governmental agency or an agreement to which the principal is a party;**

20 (2) provide, whenever necessary, medical, dental, and surgical care,
 21 hospitalization, and custodial care for the spouse, children, and other dependents of the
 22 principal;

23 (3) continue whatever provision has been made by the principal for the
 24 principal's spouse, children, and other dependents, with respect to automobiles, or
 25 other means of transportation, including by way of illustration, but not by way of
 26 restriction, power to license, insure, and replace automobiles owned by the principal
 27 and customarily used by the spouse, children, or other dependents of the principal;

28 (4) continue whatever charge accounts have been opened for the
 29 convenience of the principal's spouse, children, or other dependents, open any new
 30 accounts that the agent considers desirable to accomplish the purposes enumerated in
 31 this subsection, and pay the items charged on these accounts by a person authorized or

1 permitted by the principal to make the charges;

2 (5) continue the discharge of any services or duties assumed by the
3 principal to a parent, relative, or friend of the principal;

4 (6) supervise, enforce, defend, or settle any claim by or against the
5 principal arising out of property damages or personal injuries suffered by or caused by
6 the principal, or under any circumstance that the resulting loss will or may fall on the
7 principal;

8 (7) continue payments incidental to the membership or affiliation of
9 the principal in a church, club, society, order, or other organization, or continue
10 contributions to the organization;

11 (8) demand, receive, or obtain money or any other thing of value to
12 which the principal is or may become or may claim to be entitled as remuneration for
13 services performed, or as a stock dividend or distribution, or as interest or principal
14 upon indebtedness, or as a periodic distribution of profits from any partnership or
15 business in which the principal has or claims an interest, and endorse, collect, or
16 otherwise realize upon an instrument for the payment received;

17 (9) prepare, execute, and file all tax, social security, unemployment
18 insurance, and information returns required by the laws of the United States or of any
19 state or subdivision, or of any foreign government; prepare, execute, and file all other
20 papers and instruments that the agent considers desirable or necessary for the
21 safeguarding of the principal against excess or illegal taxation or against penalties
22 imposed for claimed violation of a law or regulation; and pay, compromise, or contest
23 or apply for refunds in connection with a tax or assessment for which the principal is
24 or may be liable;

25 (10) use an asset of the principal to perform a power enumerated in
26 this subsection, including by way of illustration and not by way of restriction, power
27 to draw money by check or otherwise from a bank deposit of the principal, to sell land
28 or a chattel, bond, share, commodity interest, or other asset of the principal, to borrow
29 money, and to pledge as security for the loan any asset, including insurance, that
30 belongs to the principal;

31 (11) execute, acknowledge, verify, seal, file, and deliver an

1 application, consent, petition, notice, release, waiver, agreement, or other instrument
2 that the agent considers useful to accomplish a purpose enumerated in this subsection;

3 (12) prosecute, defend, submit to arbitration, settle, and propose or
4 accept a compromise with respect to a claim existing in favor of, or against, the
5 principal based on or involving a transaction enumerated in this subsection, or
6 intervene in any action or proceeding related to a transaction;

7 (13) hire, discharge, and compensate an attorney, accountant, expert
8 witness, or assistant when the agent considers the action to be desirable for the proper
9 execution of any of the powers described in this subsection, and for the keeping of
10 records, about that action; [AND]

11 (14) do any other act or acts that the principal can do through an agent,
12 for the welfare of the spouse, children, or dependents of the principal or for the
13 preservation and maintenance of the other personal relationships of the principal to a
14 parent, relative, friend, or organization; **and**

15 **(15) act as the principal's personal representative under 42 U.S.C.**
16 **1320d (Health Insurance Portability and Accountability Act and secs. 1171 -**
17 **1179, Social Security Act), as amended, and applicable regulations, in making**
18 **decisions related to the past, present, or future payment for the provision of**
19 **health care consented to by the principal or anyone authorized under the law of**
20 **this state to consent to health care on behalf of the principal.**

21 * **Sec. 13.** AS 13.26.344(k) is amended to read:

22 (k) In a statutory form power of attorney, the language conferring general
23 authority with respect to benefits from government programs **or civil or** [AND]
24 military service shall be construed to mean that, whether the benefits from the
25 government programs or **civil or** military service have accrued to the principal in the
26 state or elsewhere, the principal authorizes the agent to

27 (1) prepare and execute vouchers, applications, requests, forms, and
28 other legal documents in the name of the principal for all benefits, bonuses, dividends,
29 allowances, and reimbursements payable under any government program or military
30 service of the United States, a state, or a subdivision, **including allowances and**
31 **reimbursements for transportation of the individuals described in (j)(1) of this**

1 section, and for shipment of their household effects, and receive, endorse, and
 2 collect the proceeds of a check payable to the order of the principal drawn on the
 3 treasurer or other fiscal officer or depository of the United States, a state, or a
 4 subdivision;

5 (2) take possession and order the removal and shipment of property of
 6 the principal from any post, warehouse, depot, dock, or other place or storage or
 7 safekeeping and execute and deliver any release, voucher, receipt, bill of lading,
 8 shipping ticket, certificate, or other instrument that the agent considers desirable or
 9 necessary for that purpose;

10 (3) prepare, file, and prosecute the claim of the principal to any benefit
 11 or assistance to which the principal is, or claims to be, entitled under the provisions of
 12 a statute or regulation of the United States, a state, or a subdivision;

13 (4) receive the financial proceeds of a claim of the type described in
 14 this subsection; conserve, invest, disburse or use anything received for purposes
 15 enumerated in this subsection; and reimburse the agent for expenditures properly made
 16 in the execution of the powers conferred by the statutory form power of attorney;

17 (5) prosecute, defend, submit to arbitration, settle, and propose or
 18 accept a compromise with respect to a claim existing in favor of, or against, the
 19 principal based on or involving a benefit from a government program or military
 20 service, or intervene in an action relating to a claim;

21 (6) hire, discharge, or compensate an attorney, accountant, expert
 22 witness, or assistant when the agent considers that action to be desirable for the proper
 23 execution of any of the powers described in this subsection; [AND]

24 (7) enroll in, apply for, select, reject, change, amend, or
 25 discontinue, on the principal's behalf, a benefit or program; and

26 (8) do any other act or acts that the principal can do through an agent,
 27 and that [WHICH] the agent considers desirable or necessary to assure to the principal
 28 and to the dependents of the principal [,] the maximum possible benefit from the
 29 government programs or civil or military service of the United States, a state, or a
 30 subdivision.

31 * **Sec. 14.** AS 13.26.344 is amended by adding a new subsection to read:

(q) In a statutory form power of attorney, the language conferring authority with respect to retirement plans shall be construed to mean that the principal authorizes the agent to

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

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) establish a retirement plan in the principal's name;

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

* **Sec. 15.** AS 13.26 is amended by adding a new section to read:

Sec. 13.26.346. Validity of power of attorney executed in another state. A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with

(1) the law of the jurisdiction where the power of attorney was executed; or

(2) the requirements for a military power of attorney under 10 U.S.C. 1044b, as amended.

* **Sec. 16.** AS 13.26.347 is amended to read:

Sec. 13.26.347. Validity of modified statutory form power of attorney. A power of attorney that satisfies the requirements of AS 13.26.332 - 13.26.344 is not prevented from being a statutory form power of attorney by the fact that it also contains additional language that

(1) eliminates from the power of attorney one or more of the powers enumerated in one or more of the subsections of AS 13.26.344 with respect to a section of the statutory form power of attorney that is not eliminated by the principal;

(2) supplements one or more of the powers enumerated in one or more of the subsections of AS 13.26.344 with respect to a section of the statutory form power of attorney that is not eliminated by the principal by specifically listing

1 additional powers of the agent; [OR]

2 (3) makes an additional provision that is not substantially inconsistent
3 with the other provisions of the statutory form power of attorney; or

4 (4) relieves an agent of liability for breach of a duty under
5 AS 13.26.349, except to the extent the provision

6 (A) relieves the agent of liability for breach of duty
7 committed dishonestly, with an improper motive, or with reckless
8 indifference to the purposes of the power of attorney or the best interest of
9 the principal; or

10 (B) was inserted as a result of an abuse of a confidential or
11 fiduciary relationship with the principal.

12 * **Sec. 17.** AS 13.26 is amended by adding new sections to read:

13 **Sec. 13.26.348. Agent's acceptance and liability.** (a) Except as otherwise
14 provided in the power of attorney, a person accepts appointment as an agent under a
15 power of attorney by exercising authority or performing duties as an agent or by any
16 other assertion or conduct indicating acceptance.

17 (b) An agent that violates a provision in AS 13.26.332 - 13.26.359 is liable to
18 the principal or the principal's successors in interest for the amount required to

19 (1) restore the value of the principal's property to what it would have
20 been had the violation not occurred; and

21 (2) reimburse the principal or the principal's successors in interest for
22 the attorney fees and costs paid on the agent's behalf.

23 **Sec. 13.26.349. Agent's duties.** (a) Notwithstanding provisions in the power of
24 attorney, an agent that has accepted appointment shall

25 (1) act in accordance with the principal's reasonable expectations to the
26 extent actually known by the agent and, otherwise, in the principal's best interest;

27 (2) act in good faith; and

28 (3) act only within the scope of authority granted in the power of
29 attorney.

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

- 1 (1) act loyally for the principal's benefit;
- 2 (2) act so as not to create a conflict of interest that impairs the agent's
- 3 ability to act impartially in the principal's best interest;
- 4 (3) act with the care, competence, and diligence ordinarily exercised
- 5 by agents in similar circumstances;
- 6 (4) keep a record of all receipts, disbursements, and transactions made
- 7 on behalf of the principal;
- 8 (5) cooperate with a person that has authority to make health care
- 9 decisions for the principal to carry out the principal's reasonable expectations to the
- 10 extent actually known by the agent and, otherwise, act in the principal's best interest;
- 11 and
- 12 (6) attempt to preserve the principal's estate plan, to the extent actually
- 13 known by the agent, if preserving the plan is consistent with the principal's best
- 14 interest based on all relevant factors, including
 - 15 (A) the value and nature of the principal's property;
 - 16 (B) the principal's foreseeable obligations and need for
 - 17 maintenance;
 - 18 (C) minimization of taxes, including income, estate,
 - 19 inheritance, generation-skipping transfer, and gift taxes; and
 - 20 (D) eligibility for a benefit, a program, or assistance under a
 - 21 statute or regulation.
- 22 (c) An agent that acts in good faith is not liable to any beneficiary of the
- 23 principal's estate plan for failure to preserve the plan.
- 24 (d) An agent that acts with care, competence, and diligence for the best
- 25 interest of the principal is not liable solely because the agent also benefits from the act
- 26 or has an individual or conflicting interest in relation to the property or affairs of the
- 27 principal.
- 28 (e) If an agent is selected by the principal because of special skills or expertise
- 29 possessed by the agent or in reliance on the agent's representation that the agent has
- 30 special skills or expertise, the special skills or expertise must be considered in
- 31 determining whether the agent has acted with care, competence, and diligence under

1 the circumstances.

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

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

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

18 * **Sec. 18.** AS 13.26.350(b) is amended to read:

19 (b) An act done by an **agent** [ATTORNEY-IN-FACT] under a power granted
20 in a power of attorney under AS 13.26.332 - 13.26.344 during a period of disability,
21 incompetence, or uncertainty as to whether the principal is dead or alive has the same
22 effect and enures to the benefit of and binds a principal and the principal's distributees,
23 devisees, legatees, and personal representatives as if the principal were competent and
24 not disabled. If a conservator is later appointed for the principal, during the
25 continuance of the appointment, **the agent is accountable to the conservator as well**
26 **as to the principal** [THE ATTORNEY-IN-FACT SHALL ACCOUNT TO THE
27 CONSERVATOR RATHER THAN TO THE PRINCIPAL]. The conservator has the
28 same power the principal would have if the principal were not disabled or incompetent
29 to revoke, suspend, or terminate the power of attorney.

30 * **Sec. 19.** AS 13.26 is amended by adding new sections to read:

31 **Sec. 13.26.351. Judicial relief.** (a) The following persons may petition a court

in accordance with the provisions of AS 13.26.165 - 13.26.324 to construe a power of attorney, review the agent's conduct, and grant appropriate relief:

- (1) the principal or the agent;
- (2) the principal's attorney or other legal representative;
- (3) a guardian, conservator, or other fiduciary acting for the principal;
- (4) a person authorized to make health care decisions for the principal;
- (5) the principal's spouse, parent, or descendant;
- (6) an individual who would qualify as a presumptive heir of the principal;
- (7) 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 that has a financial interest in the principal's estate;
- (8) the Department of Health and Social Services, the Department of Administration, or other governmental agency having statutory authority to protect the welfare of the principal;
- (9) the principal's caregiver, custodian, or another person that demonstrates sufficient interest in the principal's welfare; and
- (10) a person asked to accept the power of attorney.

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

Sec. 13.26.352. Relationship to other laws. (a) AS 13.26.332 - 13.26.359 do not supersede any other law applicable to a financial institution or other entity, and the other law controls if inconsistent with AS 13.26.332 - 13.26.359.

(b) The remedies in AS 13.26.332 - 13.26.359 are not exclusive and do not abrogate any right or remedy under the law of this state.

* **Sec. 20.** AS 13.26.353(b) is amended to read:

(b) A third party who relies on the reasonable representations of an attorney-in-fact designated under AS 13.26.332 - 13.26.347 [AS 13.26.332 - 13.26.344] as to a matter relating to a power granted by a properly executed statutory form power of attorney does not incur a liability to the principal or the principal's heirs, assigns, or

1 estate as a result of permitting the attorney-in-fact to exercise the authority granted by
2 the power of attorney.

3 * **Sec. 21.** AS 13.26 is amended by adding a new section to read:

4 **Sec. 13.26.354. Acceptance of power of attorney.** (a) A third party asked to
5 accept a power of attorney may request, and rely upon, without further investigation

6 (1) an agent's certification under penalty of perjury of any factual
7 matter concerning the principal, agent, or power of attorney;

8 (2) an English translation of the power of attorney if the power of
9 attorney contains, in whole or in part, language other than English; and

10 (3) an opinion of counsel as to any matter of law concerning the power
11 of attorney if the person making the request provides in a writing or other record the
12 reason for the request.

13 (b) An English translation or an opinion of counsel requested under this
14 section must be provided at the principal's expense unless the request is made more
15 than seven business days after the power of attorney is presented for acceptance.

16 (c) For purposes of this section, a person that conducts activities through
17 employees is without actual knowledge of a fact relating to a principal, agent, or
18 power of attorney if the employee conducting the transaction involving the power of
19 attorney is without actual knowledge of the fact.

20 (d) Except as otherwise provided in (e) of this section,

21 (1) a person shall accept an acknowledged power of attorney or request
22 a certification, a translation, or an opinion of counsel under (a) of this section not later
23 than seven business days after presentation of the power of attorney for acceptance;

24 (2) if a person requests a certification, a translation, or an opinion of
25 counsel under (a) of this section, the person shall accept the power of attorney not later
26 than five business days after receipt of the certification, translation, or opinion of
27 counsel; and

28 (3) a person may not require an additional or different form of power
29 of attorney for authority granted in the power of attorney presented.

30 (e) A person is not required to accept an acknowledged power of attorney if

31 (1) the person is not otherwise required to engage in a transaction with

1 the principal in the same circumstances;

2 (2) engaging in a transaction with the agent or principal in the same
3 circumstances would be inconsistent with federal law;

4 (3) the person has actual knowledge of the termination of the agent's
5 authority or of the power of attorney before exercise of the power;

6 (4) a request for a certification, a translation, or an opinion of counsel
7 under (a) of this section is refused;

8 (5) the person in good faith believes that the power is not valid or that
9 the agent does not have the authority to perform the act requested, whether or not a
10 certification, a translation, or an opinion of counsel under (a) of this section has been
11 requested or provided; or

12 (6) the person makes, or has actual knowledge that another person has
13 made, a report to Department of Health and Social Services or other governmental
14 agency, stating a good faith belief that the principal may be subject to physical or
15 financial abuse, neglect, exploitation, or abandonment by the agent or a person acting
16 for or with the agent.

17 (f) A person that refuses in violation of this section to accept an acknowledged
18 power of attorney is subject to

19 (1) a court order mandating acceptance of the power of attorney; and

20 (2) liability for reasonable attorney fees and costs incurred in any
21 action or proceeding that confirms the validity of the power of attorney or mandates
22 acceptance of the power of attorney.

23 * **Sec. 22.** AS 13.26 is amended by adding a new section to read:

24 **Sec. 13.26.355. Termination of power of attorney; agent's resignation;**
25 **notice.** (a) Except as provided in AS 13.26.356, a power of attorney terminates when

26 (1) the principal dies;

27 (2) the principal becomes incapacitated, if the power of attorney is not
28 durable;

29 (3) the principal revokes the power of attorney;

30 (4) the power of attorney provides that it terminates;

31 (5) the purpose of the power of attorney is accomplished; or

(6) 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 of attorney.

(b) Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated,

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

(2) if there is no person described in (1) of this subsection, to

(A) the principal's custodian or caregiver;

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

(C) a governmental agency having statutory authority to protect the welfare of the principal.

* **Sec. 23.** AS 13.26 is amended by adding a new section to article 5 to read:

Sec. 13.26.359. Definitions. In AS 13.26.332 - 13.26.359,

(1) "benefits from government programs or civil or military service" means a benefit, a program, or assistance provided under a statute or regulation, including Social Security, Medicare, and Medicaid;

(2) "good faith" means honesty in fact; and

(3) "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 the following sections of 26 U.S.C. (Internal Revenue Code):

(A) an individual retirement account under 26 U.S.C. 408 (Internal Revenue Code), as amended;

(B) a Roth IRA under 26 U.S.C. 408A (Internal Revenue Code), as amended;

(C) an individual retirement account under 26 U.S.C. 408(q) (Internal Revenue Code), as amended;

(D) an annuity or custodial account under 26 U.S.C. 403(b)

(Internal Revenue Code), as amended;

(E) a pension, profit-sharing, stock bonus, or other retirement plan qualified under 26 U.S.C. 401(a) (Internal Revenue Code), as amended;

(F) a plan under 26 U.S.C. 457(b) (Internal Revenue Code), as amended; and

(G) a nonqualified deferred compensation plan under 26 U.S.C. 409A (Internal Revenue Code), as amended.

* **Sec. 24.** AS 13.26.353(c) is repealed.

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act

(1) applies to a power of attorney created on or after the effective date of this Act;

(2) applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this Act;

(3) 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; and

(4) does not apply to an act done before the effective date of this Act.

* **Sec. 26.** This Act takes effect January 1, 2015.