

# House Research Act Summary

**CHAPTER:** 23

**SESSION:** 2013 Regular Session

**TOPIC:** Statutory Short Form Power of Attorney

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## Overview

This act amends the statutory short form power of attorney. The act expands the notice section to the principal and adds a notice to the attorney-in-fact. It changes what constitutes a gift to the attorney-in-fact.

### Section

- 1 **Party refusing authority.** Requires the acknowledgement of the notice for the attorney-in-fact, a requirement added by another section of the act, is needed to properly executed a power of attorney.
- 2 **Short form.** The short form is amended in the following ways:
  - *Notice.* Requires a notice to the principal and a notice to the attorney-in-fact be included with the form. The old notice that appeared at the top of the form is removed. The form indicates that the principal must initial the new notice and the attorney-in-fact acknowledges the notice by signing the power of attorney form.
  - *Health care decisions.* The form indicates that it does not allow the attorney in fact to make health care decisions.
  - *Gifts.* Sets a default that attorney-in-fact may not make gifts unless the power of attorney directly indicates the attorney-in-fact is authorized to make gifts to themselves and adds that this includes gifts to individuals the attorney-in-fact is legally obligated to support. It requires them to write in the name(s) of the attorney(s)-in-fact and check that they may make gifts to themselves and persons they are legally obligated to support.

**Section**

- *Acknowledgement.* Requires the attorney-in-fact to sign an acknowledgement indicating they have read the document and understand the attached notice.
- *Notice to the principal.* Provides a notice to the principal on the specific powers given to the attorney-in-fact and specific duties that are required of them. It also explains how the power of attorney is terminated. This section requires the principal's initials.
- *Notice to attorney-in-fact.* Provides duties and responsibilities for the attorney-in-fact including information about the liability for injury when acting under bad faith or failing to account.

**3**     **Effective Date.** The changes to the form are effective January 1, 2014, and apply only to powers of attorney signed after that date. These change do not invalidate or impair the power of attorney forms signed before January 1, 2014.

**4**     **Gifts.** Changes the cap for gifts to an attorney in fact in a calendar year from \$10,000 to the federal annual gift exclusion amount in the year of the gift, which is \$14,000 for 2013.

**5**     **Other matters.** Clarifies that this section is intended to allow the attorney-in-fact to act on any matters that are “affecting the affairs of the principal,” but this does not include medical decisions.

**6**     **Judicial relief.** Provides for a process to seek judicial relief, including a protective order, and to request an accounting as allowed by the law and as indicated in the power of attorney short form. The principal or another person to whom the attorney-in-fact was supposed to account to is entitled to recover reasonable attorney's fees and costs.

**Effective date.** This section of the act is effective August 1, 2013.