

HOUSE BILL NO. 5768

May 13, 2020, Introduced by Rep. Wozniak and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
(MCL 700.1101 to 700.8206) by adding section 5505a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5505a. (1) A person that in good faith accepts a power of
2 attorney without actual knowledge that the power of attorney is
3 void, invalid, or terminated, that the purported agent's authority
4 is void, invalid, or terminated, or that the agent is exceeding or
5 improperly exercising the agent's authority may rely on the power
6 of attorney as if the power of attorney were genuine, valid, and



1 still in effect, the agent's authority were genuine, valid, and
2 still in effect, and the agent had not exceeded and had properly
3 exercised the authority.

4 (2) A person that is asked to accept an acknowledged power of
5 attorney may request at the principal's expense 1 or more of the
6 following within 5 business days after presentation of the power of
7 attorney for acceptance:

8 (a) A sworn statement under section 5505.

9 (b) An English translation of the power of attorney if the
10 power of attorney contains, in whole or in part, a language other
11 than English.

12 (c) An opinion of the legal counsel for the principal, agent,
13 or person as to any matter of law concerning the power of attorney
14 if the person making the request provides in writing the question
15 or questions that the opinion of legal counsel needs to address.

16 (3) Except as otherwise provided in subsection (5), if a
17 person requests a sworn statement, a translation, or an opinion of
18 legal counsel under subsection (2), the person shall accept the
19 power of attorney no later than 5 business days after receipt of
20 the sworn statement, translation, or opinion of legal counsel.

21 (4) A person shall not require an additional or different form
22 of power of attorney for authority granted in the power of attorney
23 presented.

24 (5) A person is not required to accept an acknowledged power
25 of attorney if any of the following apply:

26 (a) The person is not otherwise required to engage in a
27 transaction with the principal in the same circumstances,
28 including, without limitation, if any of the following apply:

29 (i) The attorney in fact seeks to establish a customer



1 relationship under the power of attorney and the principal is not
2 currently a customer.

3 (ii) The principal is a customer, but the attorney in fact is
4 requesting services unrelated to the services that the principal is
5 currently receiving.

6 (iii) The attorney in fact seeks services under the power of
7 attorney that are not offered.

8 (b) Engaging in a transaction with the attorney in fact or the
9 principal in the same circumstances would be inconsistent with
10 federal law.

11 (c) The person has actual knowledge of the termination of the
12 attorney in fact's authority or of the power of attorney before
13 exercise of the power.

14 (d) A request for sworn statement, translation, or an opinion
15 of legal counsel under subsection (2) is refused.

16 (e) The person in good faith believes that the power is not
17 valid or that the attorney in fact does not have the authority to
18 perform the act requested, whether or not a sworn statement, a
19 translation, or an opinion of legal counsel under subsection (2)
20 has been requested or provided.

21 (f) The person makes, or has reason to believe that another
22 person has made, a report to police or adult protective services
23 stating a good-faith belief that the principal may be subject to
24 physical or financial abuse, neglect, exploitation, or abandonment
25 by the attorney in fact or a person acting for or with the attorney
26 in fact.

27 (6) This section does not supersede any other law applicable
28 to financial institutions or other financial entities.

29 (7) A person that refuses in violation of this section to



1 accept an acknowledged power of attorney is subject to any of the
2 following:

3 (a) A court order mandating acceptance of the power of
4 attorney.

5 (b) Liability for reasonable attorney fees and costs incurred
6 in any action or proceeding that confirms the validity of the power
7 of attorney or mandates acceptance of the power of attorney.

