

UNIFORM POWER OF ATTORNEY ACT (EXCERPT)
Act 187 of 2023

***** 556.220.new THIS NEW SECTION IS EFFECTIVE JULY 1, 2024 *****

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

Sec. 120. (1) Except as otherwise provided in subsection (3), a person shall either accept an acknowledged power of attorney or request an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4) not later than 7 business days after the power is presented for acceptance, and a person shall not require either of the following:

(a) An additional or different form of power of attorney for authority granted in the acknowledged power presented.

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

(2) Except as otherwise provided in subsection (3), if a person requests an agent's acknowledgment under section 119(3) or a certification, translation, or opinion of counsel under section 119(4), the person shall accept the power of attorney not later than 5 business days after receipt of the requested agent's acknowledgment, certification, translation, or opinion of counsel or, if more than 1 item has been timely requested in response to the same presentation, 5 business days after the requesting person has received all of the items timely requested.

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

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

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

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

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

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

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

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

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

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

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

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