

§5-931. Authority that requires specific grant; grant of general authority

1. Specific grant of authority required. An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

A. Create, amend, revoke or terminate an inter vivos trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Make a gift; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Create or change rights of survivorship; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Create or change a beneficiary designation. The authority under this paragraph, unless otherwise expressly limited in the power of attorney, includes the authority to create, change or revoke a transfer on death deed as defined in section 6-402, subsection 6; [PL 2019, c. 598, §6 (AMD).]

E. Delegate authority granted under the power of attorney; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. Exercise fiduciary powers that the principal has authority to delegate; [PL 2019, c. 417, Pt. A, §100 (AMD).]

H. Disclaim property, including a power of appointment; and [PL 2019, c. 417, Pt. A, §100 (AMD).]

I. Exercise authority over the content of an electronic communication of the principal in accordance with the Maine Revised Uniform Fiduciary Access to Digital Assets Act. [PL 2019, c. 417, Pt. A, §101 (NEW).]

[PL 2019, c. 598, §6 (AMD).]

2. Limitation on creating interest in principal's property. Notwithstanding a grant of authority to do an act described in subsection 1, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, domestic partner or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.

[PL 2021, c. 567, §14 (AMD).]

3. General authority. Subject to subsections 1, 2, 4 and 5, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 5-934 to 5-946.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Authority to make a gift. Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 5-947.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Overlapping subjects. Subject to subsections 1, 2 and 4, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Authority with respect to principal's property. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Act pursuant to power of attorney. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§100, 101 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2019, c. 598, §6 (AMD). PL 2021, c. 567, §14 (AMD).

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