

COMMITTEE AMENDMENT ANALYSIS

Bill: House Bill 1429

Printer's No.: 2006

Amendment No.: A07520

Prepared by: Gregg Warner

Summary: This amendment makes additional revisions in the execution of powers of attorney when the principal is unable to sign but specifically directs another person to sign the power of attorney. The notary public or other individual authorized by law to take acknowledgments for a power of attorney may not be the agent designated in the power of attorney. Witnesses must be 18 years of age or older.

The provision in the bill requiring an agent to keep the agent's funds separate from the principal's funds is revised. There is already an exception if the funds were not kept separate as of the date of the execution of the power of attorney. The amendment adds an exception in the case of a principal who commingles the funds after the date of the execution of the power of attorney and the agent is the principal's spouse.

A principal may specify certain powers by referring to the language in the statute. A provision is added making clear that the principal may modify the authority of an agent that is incorporated by reference.

Currently the statute states that an executed copy of the power of attorney may be filed with the clerk of the orphans' court. The amendment changes the provision to an originally executed power of attorney and allows a power of attorney executed in electronic form to be recorded. Except for the purpose of filing or recording with the clerk, a photocopy or electronically transmitted copy of an originally executed power of attorney has the same effect as the original.

The power to engage in securities transactions is clarified to include consolidations, dissolutions and liquidations.

A person who is asked to accept a power of attorney may request an English translation of or an opinion of counsel regarding a power of attorney. Generally the translation or opinion is at the principal's expense unless the request is made more than seven business days after the power of attorney is presented. The provision is expanded to include a power of attorney which was previously accepted but is presented to exercise a power not previously exercised by the agent in a transaction with that person.

The effective date is changed to January 1, 2015.