

Effective 5/10/2016

75-9-120 Liability for Refusal to Accept Acknowledged Power of Attorney.

- (1) Except as otherwise provided in Subsection (2):
 - (a) a person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) no later than seven business days after presentation of the power of attorney for acceptance;
 - (b) if a person requests a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4), the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and
 - (c) a person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.
- (2) A person is not required to accept an acknowledged power of attorney if:
 - (a) the person is not otherwise 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;
 - (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) a request for a certification, a translation, or an opinion of counsel under Subsection 75-9-119(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 a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) has been requested or provided; or
 - (f) the person makes, or has actual knowledge that another person has made, a report to the Division of Aging and Adult Services stating a good faith 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.
- (3) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:
 - (a) a court order mandating acceptance of the power of attorney; and
 - (b) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.
- (4) Court proceedings under this section shall be conducted pursuant to the terms in the Uniform Probate Code governing venue and procedures.

Enacted by Chapter 256, 2016 General Session