

Effective 5/10/2016

75-9-201 Authority that requires specific grant -- Grant of general authority.

- (1) 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;
 - (b) make a gift;
 - (c) create or change rights of survivorship;
 - (d) create or change a beneficiary designation;
 - (e) delegate authority granted under the power of attorney;
 - (f) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
 - (g) exercise fiduciary powers that the principal has authority to delegate; or
 - (h) disclaim property or otherwise exercise a power of appointment.
- (2) 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, 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.
- (3) 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 75-9-204 through 75-9-216.
- (4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to Section 75-9-217.
- (5) 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.
- (6) 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.
- (7) An act performed by an agent pursuant to a power of attorney has the same effect, inures to the benefit of, and binds the principal and the principal's successors in interest as if the principal had performed the act.

Enacted by Chapter 256, 2016 General Session