Effective 5/7/2025

75A-2-102 Definitions for chapter.

As used in this chapter:

(1)

(a) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

(b) "Agent" includes an original agent, coagent, successor agent, and person to which an agent's authority is delegated.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Beneficiary designation" means the same as that term is defined in Section 75-1-201.

(4) "Child" means the same as that term is defined in Section 75-1-201.

(5) "Claims" means the same as that term is defined in Section 75-1-201.

(6) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(7) "Fiduciary" means the same as that term is defined in Section 75-1-201.

(8) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(a) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(9) "Lease" means the same as that term is defined in Section 75-1-201.

(10) "Mortgage" means the same as that term is defined in Section 75-1-201.

(11) "Organization" means the same as that term is defined in Section 75-1-201.

(12) "Power of attorney" means a writing or other record governed by this chapter that grants authority to an agent to act in the place of the principal regardless of whether the term power of attorney is used.

(13)

(a) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate.

(b) "Presently exercisable general power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period.

(c) "Presently exercisable general power of appointment" does not include a power exercisable in a fiduciary capacity or only by will.

(14) "Principal" means an individual who grants authority to an agent in a power of attorney.

(15) "Security" means the same as that term is defined in Section 75-1-201.

(16)

(a) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner.

(b) "Stocks and bonds" does not include commodity futures contracts and call or put options on stocks or stock indexes.

(17) "Trustee" means the same as that term is defined in Section 75B-1-101.

Amended by Chapter 310, 2025 General Session
Amended by Chapter 338, 2025 General Session