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POWER OF ATTORNEY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to a power of attorney.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the nomination of a conservator or a guardian in a power of attorney; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-9-108, as enacted by Laws of Utah 2016, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **75-9-108** is amended to read:

75-9-108. Nomination of conservator or guardian -- Adequacy of power of attorney -- Relation of agent to conservator or other fiduciary.

(1) In a power of attorney, a principal may nominate a conservator of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power

30 of attorney. [~~Except for good cause shown or disqualification, the court shall make its~~
31 ~~appointment in accordance with the principal's most recent nomination.~~]

32 [~~(2) If, after a principal executes a power of attorney, a court appoints a conservator of~~
33 ~~the principal's estate or other fiduciary charged with the management of some or all of the~~
34 ~~principal's property, the agent is accountable to the fiduciary as well as to the principal.~~]

35 (2) If a principal executes a power of attorney and a petition is filed to appoint a
36 conservator of the principal's estate, the court shall consider whether:

37 (a) the provisions in the power of attorney are adequate to manage and protect the
38 principal's estate without appointing a conservator; or

39 (b) the appointment of a conservator is necessary to manage and protect the principal's
40 estate.

41 (3) If the court appoints a conservator of the principal's estate or a guardian of the
42 principal's person, the court shall appoint a conservator or a guardian in accordance with the
43 principal's most recent nomination unless there is good cause shown or disqualification.

44 (4) If, after a principal executes a power of attorney, the court determines that an
45 appointment of a conservator or other fiduciary is necessary to manage and protect some or all
46 of the principal's estate:

47 (a) the agent named in the principal's power of attorney is accountable to the
48 conservator or other fiduciary as well as the principal; and

49 (b) [The] the power of attorney is not terminated and the agent's authority continues
50 unless limited, suspended, or terminated by the court.