

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1346 Session of
2007

INTRODUCED BY REICHLEY, BOYD, CALTAGIRONE, EVERETT, GIBBONS,
GODSHALL, KORTZ, HORNAMAN, MAHONEY, MOYER, PEIFER, PYLE,
RAPP, SONNEY, J. TAYLOR, THOMAS AND WALKO, MAY 24, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MAY 24, 2007

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing, in
3 provisions relating to powers of attorney, for general
4 provisions and for accounts and annual reports.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 5601(d) and (e.1)(1) and 5610 of Title
8 20 of the Pennsylvania Consolidated Statutes are amended to
9 read:

10 § 5601. General provisions.

11 * * *

12 (d) Acknowledgment executed by agent.--An agent shall have
13 no authority to act as agent under the power of attorney unless
14 the agent has first executed and affixed to the power of
15 attorney an acknowledgment in substantially the following form:

16 I, , have read the attached power of
17 attorney and am the person identified as the agent for
18 the principal. I hereby acknowledge that in the absence

1 of a specific provision to the contrary in the power of
2 attorney or in 20 Pa.C.S. when I act as agent:

3 I shall exercise the powers for the benefit of the
4 principal.

5 I shall keep the assets of the principal separate
6 from my assets.

7 I shall exercise reasonable caution and prudence.

8 I shall keep a full and accurate record of all
9 actions, receipts and disbursements on behalf of the
10 principal.

11 I shall file an annual report and a final report 90
12 days after the termination of this power of attorney with
13 the clerk of the orphans' court in _____ County.
14 These reports shall include a summary of actions taken on
15 behalf of the principal.

16
17 (Agent)

(Date)

18 * * *

19 (e.1) Limitation on applicability in commercial
20 transaction.--

21 (1) Subsections (c), (d) and (e) and section 5610(b) and
22 (c) (relating to account and annual report) do not apply to a
23 power or a power of attorney contained in an instrument used
24 in a commercial transaction which simply authorizes an agency
25 relationship. This paragraph includes the following:

26 (i) A power given to or for the benefit of a
27 creditor in connection with a loan or other credit
28 transaction.

29 (ii) A power exclusively granted to facilitate
30 transfer of stock, bonds and other assets.

1 (iii) A power contained in the governing document
2 for a corporation, partnership or limited liability
3 company or other legal entity by which a director,
4 partner or member authorizes others to do other things on
5 behalf of the entity.

6 (iv) A warrant of attorney conferring authority to
7 confess judgment.

8 (v) A power given to a dealer as defined by the act
9 of December 22, 1983 (P.L.306, No.84), known as the Board
10 of Vehicles Act, when using the power in conjunction with
11 a sale, purchase or transfer of a vehicle as authorized
12 by 75 Pa.C.S. § 1119 (relating to application for
13 certificate of title by agent).

14 * * *

15 § 5610. Account and annual report.

16 (a) Account.--An agent shall file an account of his
17 administration whenever directed to do so by the court and may
18 file an account at any other time. All accounts shall be filed
19 in the office of the clerk in the county where the principal
20 resides.

21 (b) Annual report.--An agent shall file a report at least
22 once within the first 12 months of his appointment, and at least
23 annually thereafter, attesting to the following:

24 (1) If applicable:

25 (i) Current principal and how it is invested.

26 (ii) Current income.

27 (iii) Expenditures of principal and income since the
28 last report.

29 (2) A summary of actions taken by the agent on behalf of
30 the principal since the last report.

1 (c) Final report.--Within 90 days of the termination of any
2 power of attorney, the agent shall file a final annual report as
3 provided in subsection (b).

4 (d) Place for filing.--The agent shall file the reports
5 required under subsections (b) and (c) in the office of the
6 clerk of the orphans' court in the county where the principal
7 resides.

8 Section 2. This act shall take effect in 60 days.