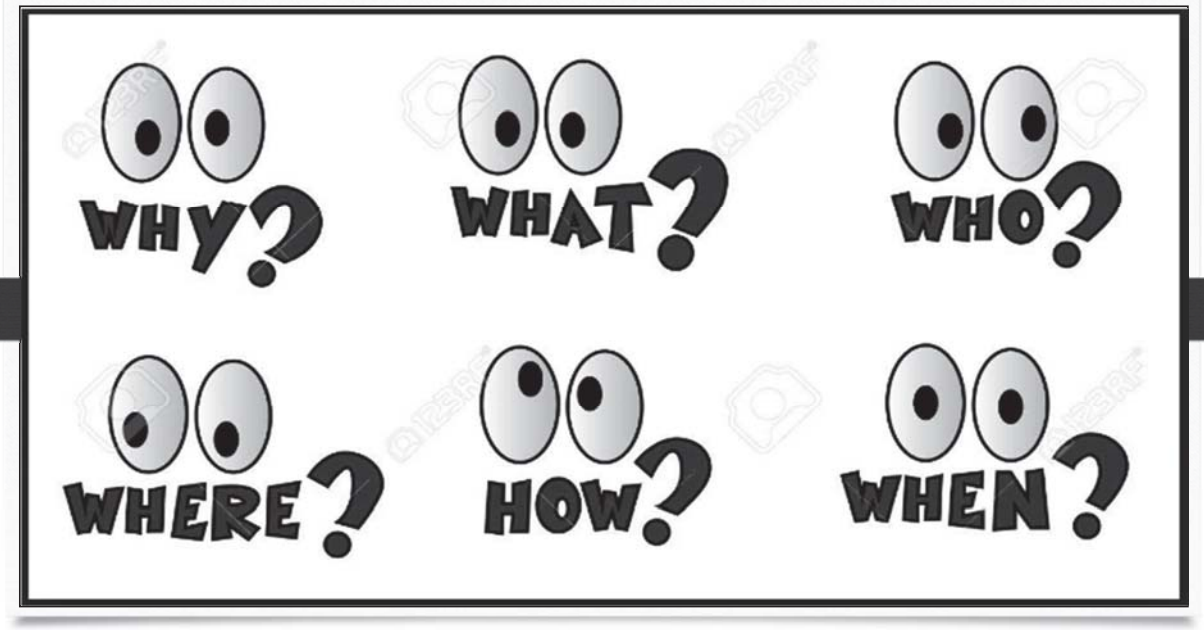
Entities and Powers of Attorney

Who are you?
What can you do?

Chicago Title CPE Seminar
2018 Keys from the Castle

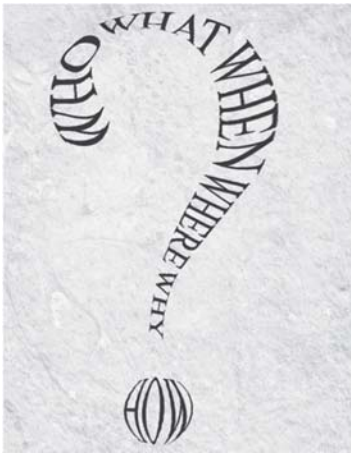
Resources

- **Title 101:** page 18; 82-84
- **Chicago Title website:**
  - POAs https://www.northcarolina.ctt.com/articles.asp#Category41
  - Entities https://www.northcarolina.ctt.com/articles.asp#Category158



Parties – Authority & Execution

- ✓ Vested owner of record *same as* grantor of new deed or deed of trust
  - ✓ Hypothecation – owner *not* borrower, but …
    - ✓ MUST still be grantor & MUST still sign the document itself, NOT just addendum or exhibit
- ✓ Parties –
  - ✓ Correct/consistent names:
    - ✓ Findable on indexing at Register of Deeds
  - ✓ Authority of individuals signing



Entity (statute)	Governing Document	Conveyances
Corporations (Ch. 55) *(Secretary of State)*	Articles of Incorp; Bylaws Annual Report with NC SOS	G.S. §47-18.3 (rev. 6/25/18) G.S. §55-12-01 and §55-12-02
Nonprofit Corporations (Ch. 55A) *(Secretary of State)*	Articles of Incorp; Bylaws *And* denomination, sect, society or group documents	G.S. §55A-12-01 and §55A-12-02, including NCAG approval G.S. §55A-12-02(g) for charitable or religious corporation
Religious Societies by trustees (Ch. 61)	Church *and* denomination, sect, society or group documents	G.S. §61-2 through § 61-5
Unincorporated Nonprofit Assoc. (Ch. 59B)	Statement of Authority	G.S. §59B-6 (former G.S. §39-24 & §39-25, prior to Jan 1, 2007)

Name change, merger, conversion, amendment changing name – Secretary of State's certificate required in Register of Deeds office, G.S. §55D-26 and G.S. §47-18.1.

G.S. §105-230: Revenue suspension Transaction may be void if entity not revived.

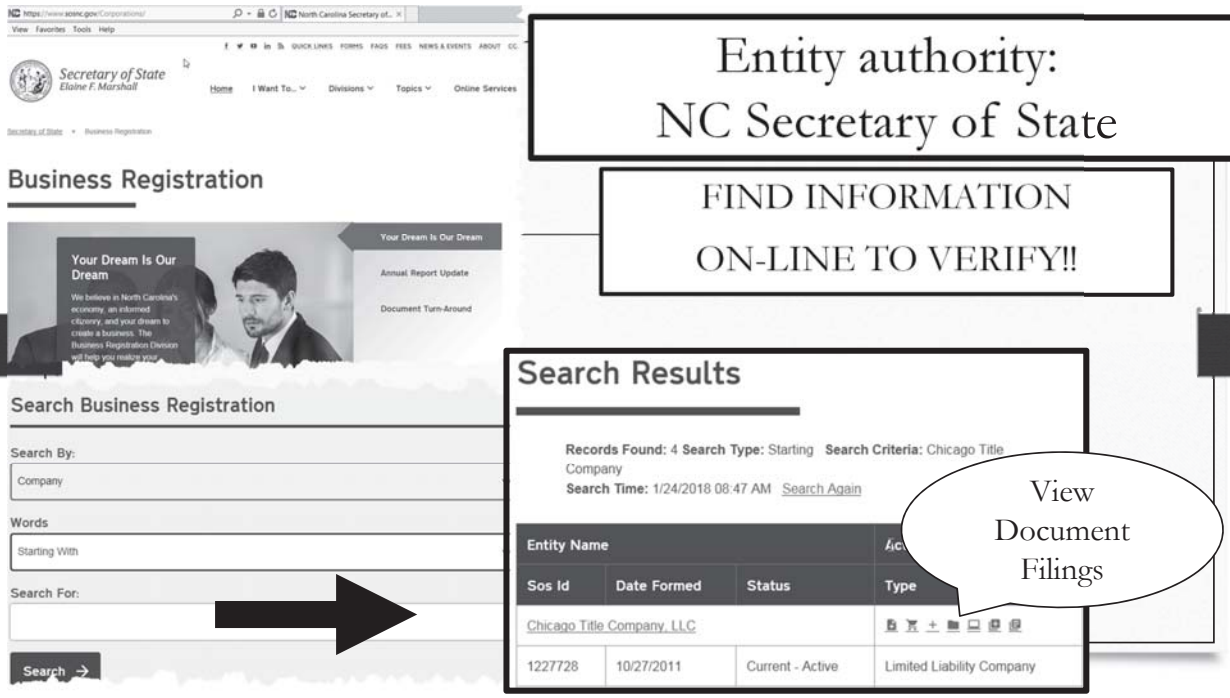
Entity (statute)	Governing Document	Conveyances
Partnerships (Ch. 59) *(Limited Partnership with Secretary of State)* *(General Partnerships = Assumed Name Cert)*	Partnership Agreement	G.S. §47-18.3 (deeds of trust, effec. 6/25/18) G.S. §59-39 and §59-40
LLC's (Ch. 57D) *(Secretary of State)*	Articles of Organization Operating Agreement Annual Report with NC SOS G.S. §57D-2-30(d)(2))	Manager or "company official" G.S. §57D-3-20 *et seq.* G.S. §47-18.3 (deeds of trust, effec. 6/25/18)
Business Trust (Ch. 39, Art. 8)	Declaration of Trust	G.S. §39-44 *et seq.;* G.S. §39-6.7
Other trusts (Ch. 36C)	Trust Agreement	G.S. §36C-8-815 *et seq.*; G.S. §39-6.7

Name change, merger, conversion, amendment changing name – Secretary of State's certificate required in Register of Deeds office, G.S. §55D-26 and G.S. §47-18.1.

G.S. §105-230: Revenue suspension Transaction may be void if entity not revived.

Entity authority: NC Secretary of State

FIND INFORMATION ON-LINE TO VERIFY!!

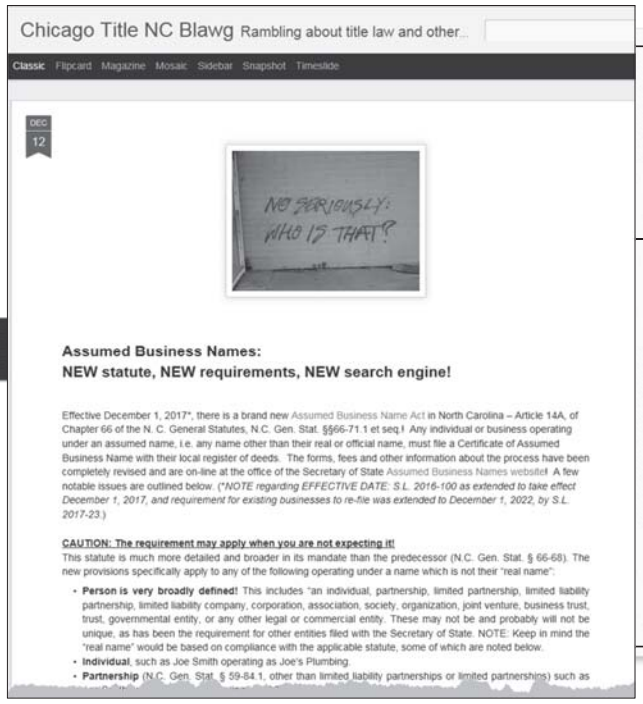


Forms forms & more forms!!

www.northcarolina.ctt.com

Legal

Bulls, Bulletins, Articles & Forms



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DEC 12

Assumed Business Names:
NEW statute, NEW requirements, NEW search engine!

Effective December 1, 2017*, there is a brand new Assumed Business Name Act in North Carolina – Article 14A, of Chapter 66 of the N. C. General Statutes, N.C. Gen. Stat. §§66-71.1 et seq.! Any individual or business operating under an assumed name, i.e. any name other than their real or official name, must file a Certificate of Assumed Business Name with their local register of deeds. The forms, fees and other information about the process have been completely revised and are on-line at the office of the Secretary of State Assumed Business Names website! A few notable issues are outlined below. (*NOTE regarding EFFECTIVE DATE: S.L. 2016-100 as extended to take effect December 1, 2017, and requirement for existing businesses to re-file was extended to December 1, 2022, by S.L. 2017-23.)

CAUTION: The requirement may apply when you are not expecting it!
This statute is much more detailed and broader in its mandate than the predecessor (N.C. Gen. Stat. § 66-68). The new provisions specifically apply to any of the following operating under a name which is not their "real name":

- **Person is very broadly defined!** This includes "an individual, partnership, limited partnership, limited liability partnership, limited liability company, corporation, association, society, organization, joint venture, business trust, trust, governmental entity, or any other legal or commercial entity. These may not be and probably will not be unique, as has been the requirement for other entities filed with the Secretary of State. NOTE: Keep in mind the "real name" would be based on compliance with the applicable statute, some of which are noted below.
- **Individual**, such as Joe Smith operating as Joe's Plumbing.
- **Partnership** (N.C. Gen. Stat. § 59-84.1, other than limited liability partnerships or limited partnerships) such as

Assumed Business Names

- ***NEW*** Statute, G.S. 66-71.1 *et seq.*
- ***NEW*** Forms, on-line at the office of the Secretary of State
- ***NEW*** entities – any person or entity operating under a name other than their legal name
- ***NEW*** centralized search with other Business Registrations at NC Secretary of State (though recorded with Register of Deeds)

Assumed Business Name Act
G.S. 66-71.1 *et seq.*, effec. 12/1/2017

"Assumed business name certificate" must be filed in the Register of Deeds of one county in which the "person" is or will be engaged in business including:

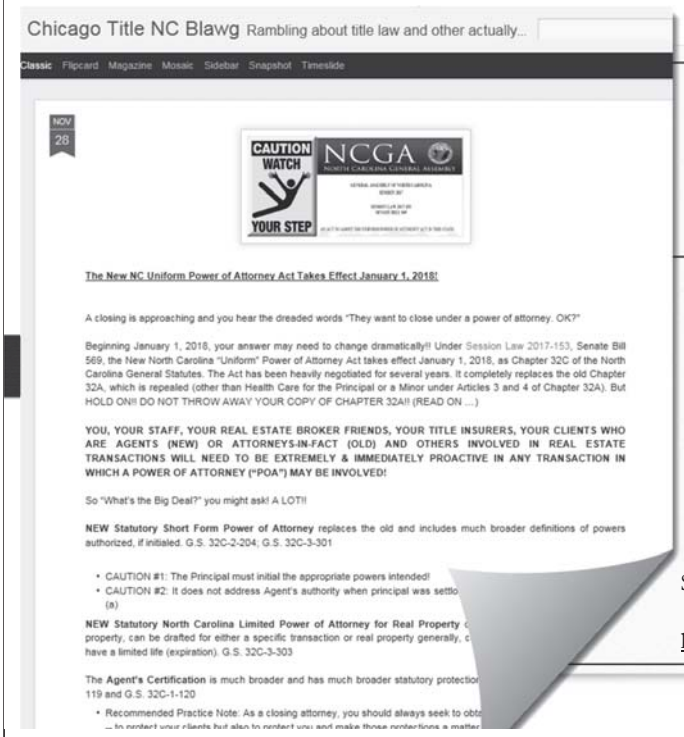
(1) The assumed business name.
(2) A real name of the person OR if a partnership (other than a limited liability partnership or limited partnership), the real name of five general partners or of each general partner, whichever is fewer.
(3) The nature of the business.
(4) The street address of the principal place of business.
(5) Each county where the person uses or will be using the assumed business name to engage in business.

Secretary of State is to maintain database
Images transmitted electronically by Registers of Deeds.
Existing assumed names must be renewed by Dec. 1, 2022.

www.sosnc.gov/
Divisions/
Business Registration/
Assumed Business Names

POWER OF ATTORNEY ACTS:

New & Old in NC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NOV 28

CAUTION WATCH YOUR STEP NCGA NORTH CAROLINA GENERAL ASSEMBLY

The New NC Uniform Power of Attorney Act Takes Effect January 1, 2018!

A closing is approaching and you hear the dreaded words "They want to close under a power of attorney. OK?"

Beginning January 1, 2018, your answer may need to change dramatically!! Under Session Law 2017-153, Senate Bill 569, the New North Carolina "Uniform" Power of Attorney Act takes effect January 1, 2018, as Chapter 32C of the North Carolina General Statutes. The Act has been heavily negotiated for several years. It completely replaces the old Chapter 32A, which is repealed (other than Health Care for the Principal or a Minor under Articles 3 and 4 of Chapter 32A). But HOLD ON!! DO NOT THROW AWAY YOUR COPY OF CHAPTER 32A!! (READ ON ...)

YOU, YOUR STAFF, YOUR REAL ESTATE BROKER FRIENDS, YOUR TITLE INSURERS, YOUR CLIENTS WHO ARE AGENTS (NEW) OR ATTORNEYS-IN-FACT (OLD) AND OTHERS INVOLVED IN REAL ESTATE TRANSACTIONS WILL NEED TO BE EXTREMELY & IMMEDIATELY PROACTIVE IN ANY TRANSACTION IN WHICH A POWER OF ATTORNEY ("POA") MAY BE INVOLVED!

So "What's the Big Deal?" you might ask! A LOT!!

NEW Statutory Short Form Power of Attorney replaces the old and includes much broader definitions of powers authorized, if initialed. G.S. 32C-2-204; G.S. 32C-3-301

- CAUTION #1: The Principal must initial the appropriate powers intended!
- CAUTION #2: It does not address Agent's authority when principal was settlo
  (a)

NEW Statutory North Carolina Limited Power of Attorney for Real Property property, can be drafted for either a specific transaction or real property generally, have a limited life (expiration). G.S. 32C-3-303

The **Agent's Certification** is much broader and has much broader statutory protection 119 and G.S. 32C-1-120

- Recommended Practice Note: As a closing attorney, you should always seek to obt

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Does the transaction *appear* to be consistent with fiduciary responsibilities?

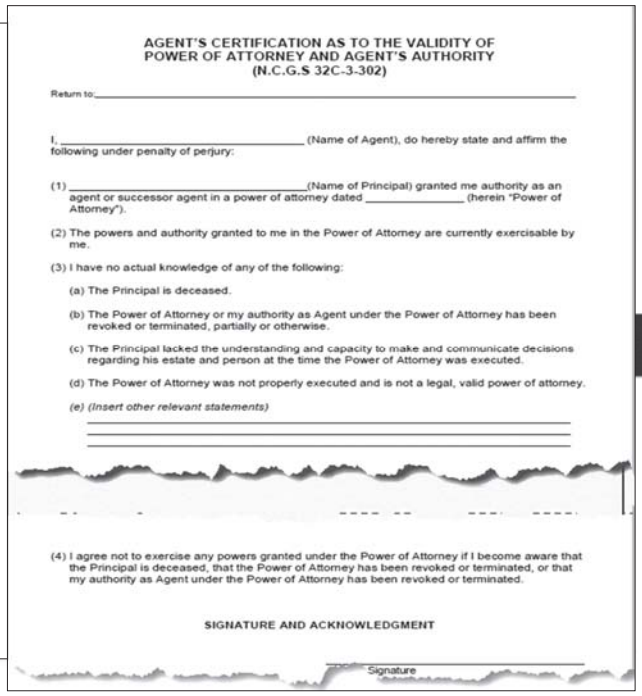
G.S. §32C-1-114

Agent must always act :

1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;
2) in good faith;
3) loyally for the principal's benefit;
4) only within the scope of authority granted in the POA; and
5) in a manner so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest.

Agent's Certification should <u>always</u> be obtained for each real estate transaction!!

G.S. §32C-3-302 (replacing G.S. §32A-40(d))



AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY
(N.C.G.S 32C-3-302)

Return to:_____

I, _____ (Name of Agent), do hereby state and affirm the following under penalty of perjury:

(1) _____(Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____ (herein "Power of Attorney").

(2) The powers and authority granted to me in the Power of Attorney are currently exercisable by me.

(3) I have no actual knowledge of any of the following:

(a) The Principal is deceased.

(b) The Power of Attorney or my authority as Agent under the Power of Attorney has been revoked or terminated, partially or otherwise.

(c) The Principal lacked the understanding and capacity to make and communicate decisions regarding his estate and person at the time the Power of Attorney was executed.

(d) The Power of Attorney was not properly executed and is not a legal, valid power of attorney.

(e) (Insert other relevant statements)

_____
_____
_____

(4) I agree not to exercise any powers granted under the Power of Attorney if I become aware that the Principal is deceased, that the Power of Attorney has been revoked or terminated, or that my authority as Agent under the Power of Attorney has been revoked or terminated.

SIGNATURE AND ACKNOWLEDGMENT

_____
Signature

Protection of third parties

G.S. §32C-1-119 & §32C-1-120
(replacing G.S. §32A-40 to §32A-43)

If without actual knowledge of issue:

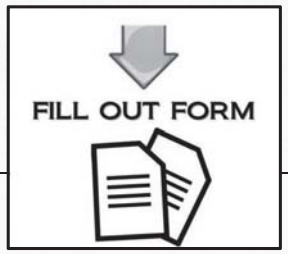
- Principal's signature is genuine
- Can rely upon the POA as being valid and still in effect, the agent's authority as being genuine, valid, and still in effect, and the agent as not having exceeded and having properly exercised the agent's authority
- Not be responsible for any breach of fiduciary duty by the agent, including any breach of loyalty, any act of self-dealing, or any misapplication of money or other property paid or transferred as directed by the agent

<u>No Certificate of Agent required, but can be requested, recorded and relied on.</u>

- When seller or borrower will be out of town at closing – PLAN AHEAD
- Who do you represent?
- Joint Forms – NCAR & RPS
- Judicial (Clerk) act to determine:
  - validity of gift, such as family distribution or for Medicaid planning §§32C-2-217, -218 and -219
  - The guardian is <u>not</u> holding property (since requires court order to sell) §32C-1-108

MORE EXAMPLES …

- POA signed last minute in rural Philippines or Nigeria or Romania? E-Notary (Virginia remote)
- POA in a foreign language – Chinese or French?
- Military POAs
- POA referencing another state's short form definitions
- Statutory Short Form, but checked rather than initialed?
- Principal is an Entity or Trust? *<u>Agency contract, not G.S. 32C power of attorney</u>*
- POA expired after document executed but before closing?
- Principal dies after document executed but before recorded?
- Estate planning conveyances … but to the Agent individually?
- Caution about POA that is *too* short (expires before closing) or specific (lender or amount changes)
- New POA without revoking old POA
- POA dated and notarized prior to deed by AIF, but not recorded until after the deed



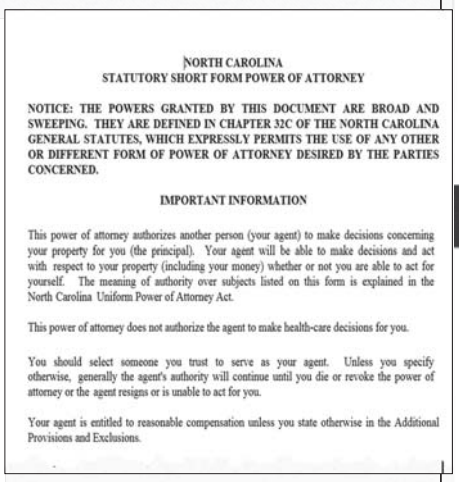
- ***NEW*** Statutory Short Form Power of Attorney
- ***NEW*** Statutory Limited Power of Attorney for Real Property
- ***NEW*** Statutory Agent's Certification as to the Validity of Power of Attorney and Agent's Authority

More forms?

- ✓ Power of Attorney for Specific Real Property Transaction
- ✓ Alive & Well Certification
- ✓ Request for Opinion of Counsel?
- ✓ Opinion of Counsel?
  - ✓ Foreign state's or country's laws applicable
  - ✓ Doubts about appropriateness, scope of authority or that principal deriving a benefit so not a breach of fiduciary duty

NEW Statutory Form: Replaces old

- "Agent" rather than Attorney-in-Fact
- Principal must initial subjects for delegation of specific categories of authority
- Form does not address:
  - whether the agent can exercise the powers of the principal as settlor of a revocable trust in accordance with G.S. 36C-6-602.1 or
  - the powers of the principal as settlor of an irrevocable trust to consent to the trust's modification or termination in accordance with G.S. 36C-4-411(a).
- Non-exclusive
- Substantial compliance



NORTH CAROLINA
STATUTORY SHORT FORM POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN CHAPTER 32C OF THE NORTH CAROLINA GENERAL STATUTES, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED.

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the North Carolina Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health-care decisions for you.

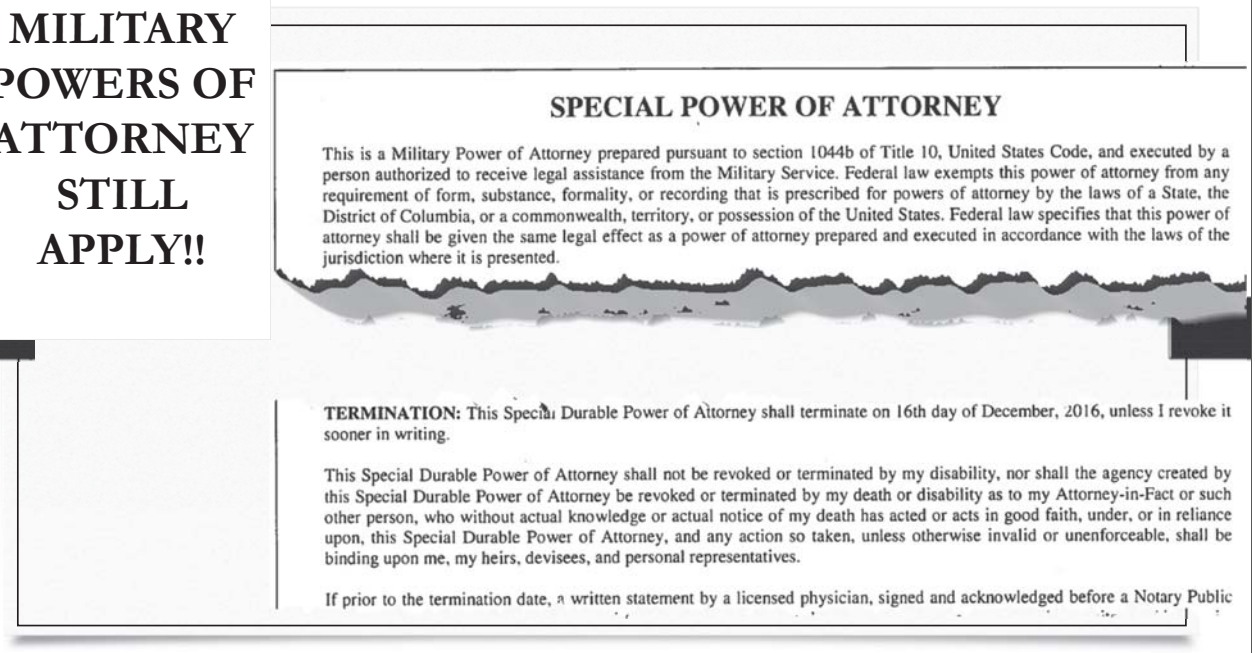
You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Additional Provisions and Exclusions.

CAUTION: INITIAL THE FORM!!!

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

MILITARY POWERS OF ATTORNEY STILL APPLY!!



SPECIAL POWER OF ATTORNEY

This is a Military Power of Attorney prepared pursuant to section 1044b of Title 10, United States Code, and executed by a person authorized to receive legal assistance from the Military Service. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney by the laws of a State, the District of Columbia, or a commonwealth, territory, or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.

TERMINATION: This Special Durable Power of Attorney shall terminate on 16th day of December, 2016, unless I revoke it sooner in writing.

This Special Durable Power of Attorney shall not be revoked or terminated by my disability, nor shall the agency created by this Special Durable Power of Attorney be revoked or terminated by my death or disability as to my Attorney-in-Fact or such other person, who without actual knowledge or actual notice of my death has acted or acts in good faith, under, or in reliance upon, this Special Durable Power of Attorney, and any action so taken, unless otherwise invalid or unenforceable, shall be binding upon me, my heirs, devisees, and personal representatives.

If prior to the termination date, a written statement by a licensed physician, signed and acknowledged before a Notary Public

General grant of authority: G.S. §32C-2-202

- Incorporate terms under G.S. §32C-2-204 through G.S. §32C-2-117
- "all the acts the principal could do" –
  - G.S. §32C-2-204 through §32C-2-216
  - NOT GIFTS under G.S. §32C-2-217

SPECIFIC GRANTS OF AUTHORITY:
G.S. Ch. 32C, Article 2

§ 32C-2-204. Real property

§ 32C-2-205. Tangible personal property

§ 32C-2-206. Stocks and bonds

§ 32C-2-207. Commodities and options

§ 32C-2-208. Banks and other financial institutions

§ 32C-2-209. Operation of entity

§ 32C-2-210. Insurance and annuities

§ 32C-2-211. Estates, trusts, and other beneficial interests

§ 32C-2-212. Claims and litigation

§ 32C-2-213. Personal and family maintenance

§ 32C-2-214. Benefits from governmental programs or civil or military service

§ 32C-2-215. Retirement plans

§ 32C-2-216. Taxes

§ 32C-2-217. Gifts - general authority

§ 32C-2-218. Gifts authorized by court order

§ 32C-2-219. Certain acts authorized by the court

G.S. 32C-2-204, Real Property Transactions:

- *Buy, lease…*
- *Sell, encumber, lease, subdivide …*
- *Mortgage for benefit of Principal*
- *Release*
- *Manage*
- *Improve, develop*
- *Reorganize interests*
- *Change form of title*
- *Dedicate or grant easements*
- *Waive inchoate marital interest in spouse's property*

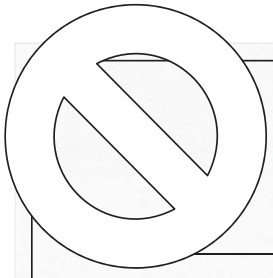
See G.S. 32C-2-217 regarding Gifts

Inchoate marital interest of non-owning spouse: G.S. 32C-2-204

Unless provided otherwise in the POA the Agent can:

(10) With respect to any real property owned or claimed to be owned by the principal's spouse and in which the principal's only interest is a marital interest, waive, release, or subordinate the principal's inchoate right pursuant to **G.S. 29-30** to claim an elective life estate in the real property, regardless of whether the waiver, release, or subordination will benefit the agent or a person to whom the agent owes an obligation of support.

Amends G.S. 30-3.4



PROHIBITIONS UNLESS *EXPRESSLY* GRANTED G.S. 32C-2-201

- Make a gift. However, even if the agent is expressly authorized to make a gift, that right is limited by § 32C-2-201(b) and (c) and by § 32C-2-217.
- Create or change rights of survivorship.
- Create or change a beneficiary designation.
- Delegate authority granted under the POA.
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.

PROHIBITIONS
UNLESS *EXPRESSLY* GRANTED (*cont'd)*
G.S. 32C-2-201

- Exercise fiduciary powers that the principal has authority to delegate.
- Renounce or disclaim property, including a power of appointment.
- Exercise authority over the content of electronic communication, as defined in 18 U.S.C. § 2510(12), sent or received by the principal.
- With regard to revocable and irrevocable trusts:
  - Exercise the powers of the principal as settlor of a revocable trust in accordance with G.S. 36C-6-602.1.
  - Exercise the powers of the principal as settlor of an irrevocable trust to consent to the trust's modification or termination in accordance with G.S. 36C-4-411(a).

Gifts – By Specific authority

- G.S. 32C-2-201(a)(1)a. requires SPECIFIC EXPRESS GRANT OF AUTHORITY
- G.S. 32C-2-201(b) requires consistent with either:
  - "***principal's objectives*** if actually known by the agent" *or*
  - "***principal's best interest*** based on all relevant factors," including:
    - (1) The value and nature of the principal's property.
    - (2) The principal's foreseeable obligations and need for maintenance.
    - (3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.
    - (4) Eligibility for a benefit, a program, or assistance under a statute or regulation.
    - (5) The principal's personal history of making or joining in making gifts.
    - (6) The principal's existing estate plan.

- G.S. 32C-2-201(c) provides: "an agent 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."
- G.S. § 32C-2-201(3): Also subject to G.S. § 32C-2-217

GENERAL AUTHORITY WITH RESPECT TO GIFTS G.S. § 32C-2-217(b), *only*:

Unless POA provides otherwise, general authority w/r/t gifts authorizes *only*:

a. To/for benefit of* an individual *if value of the gift* does not exceed:

(i) principal's history of making or joining in the making of gifts or

(ii) annual federal gift tax exclusion (IRC 2503(b) (or twice if spouse joins)

b. To any organization described in IRC §§ 170(c) and 2522(a) in accordance with the principal's history of making or joining in the making of gifts.

NOTE: Consent, splitting gift with spouse under IRC § 2513.

GIFTS – BY COURT ORDER G.S. § 32C-2-218

An agent may petition the court for an order authorizing the agent to make a gift of the principal's property that is reasonable under the circumstances, including a gift that is in addition to, or that otherwise differs from, the gifts authorized by the power of attorney.

Prohibited self-dealing:
G.S. §32C-2-201(c)

Even if the POA authorizes the agent to do any of the specific actions identified earlier, *unless the POA provides otherwise*, the agent may ***not*** exercise "general" or "specific" authority under a POA to create in the agent, or in an individual to whom the agent owes a legal obligation of support, any interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

This rule can be very important in real estate transactions.

MAY NOT BE ABLE TO CONVEY TO SIBLINGS.

COMPARE: "Gifting" authority under Whitford v. Gaskill & Gifford v. Linnell cases

Entities, possible real estate related powers
G.S. § 32C-2-209

- Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and
- Unless the power of attorney otherwise provides,
- General authority with respect to operation of an entity authorizes the agent to:

(1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest.
(2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have.
...
(7) With respect to an entity owned solely by the principal:
a. Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity before execution of the power of attorney.
…
c. Change the name or form of organization under which the entity is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity.
…
(9) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity.
(10) Sell or liquidate all or part of an entity.

Coagents or successor agents: G.S. §32C-1-111

- Unless the POA expressly requires coagents to act jointly, each coagent may exercise the coagents' authority independently without the knowledge, consent, or joinder of any other coagent or coagents.
- Unless the POA provides otherwise, if any one or more coagents resigns, dies, becomes incapacitated, or otherwise fails to act, the remaining agent or co-agents may continue to act.
- Unless the POA provides otherwise, a successor agent has the same authority as that granted to the original agent. However, a successor agent may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

Controlling law: which jurisdiction?

Does *not* have to be the jurisdiction in which executed!

UPOAA Official Comment:

The phrase, "the law of the jurisdiction indicated in the power of attorney," is intentionally broad, and includes any statement or reference in a power of attorney that indicates the principal's choice of law.

POA SAYS …:	**Governing law:**
NC Statutory Short Form POA	NC law
States "governed by X state law"	X state's laws
No mention of governing law	Law of the ***state in which signed & acknowledged***

WATCH OUT!!

Durability: Pre-2018, G.S. §32A-9

- Pre-2018:
  - Agent cannot act after Principal incapacitated or mentally incompetent *unless*:
    - Durable POA: Must be affirmatively stated
    - Must be recorded if used after Principal incapacitated or mentally incompetent
  - NO definitions of incapacitated or mentally incompetent
  - "Springing POA": Presumptive authority of Agent G.S. §32A-8

Durability: Post-2018, G.S. §32C-1-104

- POA is a durable POA unless it "expressly provides that it is terminated by the incapacity of the principal."
- Durable POA authority survives "incapacity" of principal – " The inability of an individual to manage property or business affairs because the individual has any of the following statuses:
  - An impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.
  - Is missing, detained, including incarcerated in a penal system, or outside the United States and unable to return."

G.S. §32C-1-102(6)

"SPRINGING" POA:
Takes effect on stated event/condition

- Pre-2018: "Springing POA": Presumptive authority of Agent G.S. §32A-8
- NCPOAA: G.S. §32C-1-109:
  - Principal can authorize agent or someone to provide written verification
  - If not,
    - Incapacity based on the principal's impairment may be verified by two physicians or licensed psychologists after they have personally examined the principal.
    - Incapacity based on the principal's unavailability may be verified by an attorney at law, a judge, or an appropriate governmental official (such as an officer acting under the authority of the U.S. Department of State, a military officer, or a sworn federal or state law enforcement officer).

Recording required for real estate transaction – G.S. 47-28

- Record:
  - In the county in which the property is located – original or certified copy from another registry where original was recorded

  OR

  - Reference the book, page and county of NC recording on the document relying on the POA, if only recorded in another NC county
- NOT just attach a copy – that is <u>not</u> recording and gives no legitimacy or reliability

Effective date

- POA statutes and forms after Jan. 1, 2018
- Interpretation of pre-2018 POA under new Act, *unless*:
  - Ch. 32A Statutory Short Form POA (use Ch. 32A definitions & powers),
  - POA contains a clear indication of a contrary intent, OR
  - Application of the rule of construction or presumption would substantially impair the rights of a party created under NC law in effect prior to 1/1/18,

  in which case the Act's rule of construction or presumption does not apply and the pre-2018 rule of construction or presumption applies.

WHAT IF I USE A CH. 32A POA FORM AFTER JAN 1, 2018?

- Never execute the Old 32A Short Form after January 1, 2018
- If entering into a transaction after January 1, 2018 with a 32A Short Form executed before December 31,2017, referencing 32A, then 32A powers will apply
- If entering into a transaction after January 1, 2018 with a power of attorney executed before December 31, 2017, without a statutory reference, then 32C power will apply


Thank
You...