

1 H.592

2 Introduced by Representative Koch of Barre Town

3 Referred to Committee on

4 Date:

5 Subject: Decedents' estates and fiduciary relations; powers of attorney;
6 authority

7 Statement of purpose: This bill proposes to clarify that: (1) a general power of
8 attorney may grant powers that are not expressly stated in the terms of the
9 power of attorney if the relevant facts and circumstances indicate that the
10 principal intended the agent to have general authority to act on the principal's
11 behalf; and (2) when it enacted Act No. 135 in 2002, revising the laws
12 governing powers of attorney, the general assembly intended the new
13 requirements to apply only to powers of attorney executed after Act No. 135's
14 July 1, 2002 effective date, and that with respect to powers of attorney
15 executed prior to July 1, 2012, the law in effect at the time of execution would
16 govern both their validity and the validity of exercises of authority under them.

17 An act relating to powers of attorney

18 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 14 V.S.A. § 3504 is amended to read:

2 § 3504. SCOPE OF AUTHORITY

3 (a) ~~The agent shall have the authority to act on the principal's behalf as to~~
4 ~~all lawful subjects and purposes, but only to~~ To the extent such authority is
5 given under the terms of the power of attorney, and subject to section 3506 of
6 this title and subsections (b) through (g) of this section:

7 (1) the agent shall have the authority to act on the principal's behalf as
8 to all lawful subjects and purposes; and

9 (2) a general power of attorney created under this subchapter shall be
10 construed to grant powers that are not expressly delineated in the terms of the
11 power of attorney if it appears from the relevant facts and circumstances that
12 the principal intended the agent to have general authority to act on the
13 principal's behalf.

14 * * *

15 Sec. 2. 14 V.S.A. § 3516 is amended to read:

16 § 3516. EFFECTIVE DATE; EFFECT ON EXISTING POWERS OF
17 ATTORNEY

18 (a) A power of attorney shall be valid if it:

19 (1) complies with the terms of this subchapter; or

20 (2) is executed before July 1, 2002 and valid under common law or
21 statute existing at the time of execution.

1 (b) If a power of attorney executed before July 1, 2002 is valid under
2 common law or statute existing at the time of execution, any exercise of
3 authority under the power of attorney, whether before or after July 1, 2002,
4 shall be deemed valid if the exercise complies with common law or statute
5 existing at the time of the power of attorney's execution.

6 Sec. 3. EFFECTIVE DATE

7 This act shall take effect on passage.