

What You Need to Know About the Maine Uniform Power of Attorney Act

By Lauren Epstein | July 14, 2010

Effective July 1, 2010, Maine has adopted the Maine Uniform Power of Attorney Act, which significantly changes the provisions that must be included in a valid Maine durable power of attorney. The new law also imposes new sanctions on banks, brokerage firms, and other financial institutions and persons who refuse to accept a power of attorney that complies with Maine law. With limited exception, the new law applies to all Maine powers of attorney that are signed after July 1, 2010.

Advisors, tax professionals, banks and other financial institutions, whether located within or outside the State of Maine, are subject to new obligations when an individual presents a Maine financial power of attorney. Under previous law, there was no express time frame in which the recipient of a power of attorney must review and accept or decline the document. However, under the new law, banks, financial institutions, and other recipients **must** act within seven business days of being presented with an acknowledged power of attorney. Such action can consist of either accepting the power of attorney or requesting some or all of the following additional information: (1) a certification from the agent of any factual matter concerning the principal, agent or power of attorney; (2) an English translation of the document if it is in a foreign language; or (3) an opinion of counsel regarding the validity of the power of attorney. The recipient has five business days after receiving the additional requested information in which to accept the document as a valid power of attorney.

If there is a suspicion that a customer or client may be vulnerable to financial exploitation by an agent named in the power of attorney, the new law allows an interested party to ask the probate court to interpret the power of attorney or review the actions of the agent. For example, a bank that is presented with a power of attorney and suspects foul play can file a petition with the probate court asking the court to look into the situation.

The new law is a significant departure from previous law. To avoid liability, it is important that banks, brokerage firms, and other financial institutions understand what actions they can or must take when presented with a power of attorney. Bernstein Shur can assist you in understanding your rights and responsibilities under the new law. For additional information on the new Maine law, please contact Attorney Lauren Epstein at Bernstein Shur, telephone 207-774-1200, or email lepstein@bernsteinshur.com.