

Memorandum in Support

NYSBA #17

June 2, 2017

A. 8120

By: M. of A. Weinstein

Assembly Committee: Judiciary

Effective Date: 30th day after it shall have become a law

AN ACT to amend the general obligations law, in relation to reforming the statutory short form and other powers of attorney for purposes of financial and estate planning; and to repeal certain provisions of such law relating to statutory gift riders.

A power of attorney is an important document because it helps people, often the elderly or disabled, manage their affairs, especially their finances and health care planning. It is also often used in connection with real estate and other business dealings. Having a valid power of attorney avoids costly and time-consuming court proceedings.

Under current law, a power of attorney form is too complex, too costly, and unreasonably difficult for individuals to use.

In order to address the current problems with the form, this bill would:

- Simplify the current power of attorney form;
- Prevent third parties from improperly refusing to accept a consumer's valid power of attorney;
- Provide protection for third parties who follow the process for accepting a power of attorney; and,
- Authorize language in the power of attorney form that substantially conforms with the statutory language, in order to prevent the harsh consequence of the form being invalidated because of harmless error in the form.

In short, this bill would ease the burden on families, especially at a time when they need simple and effective solutions. Good public policy should ensure that individuals are able to create and use an effective power of attorney when they need it.

Based on the foregoing, the New York State Bar Association **SUPPORTS** this much-needed legislation -- which is based on the Association's proposal -- to improve the power of attorney form for the benefit of individuals throughout New York State.