

Article 2A.

Authority of Attorney-In-Fact to Make Gifts and to Renounce.

§ 32A-14.1. Gifts under power of attorney.

(a) Except as provided in subsection (b) of this section, if any power of attorney authorizes an attorney-in-fact to do, execute, or perform any act that the principal might or could do or evidences the principal's intent to give the attorney-in-fact full power to handle the principal's affairs or deal with the principal's property, the attorney-in-fact shall have the power and authority to make gifts in any amount of any of the principal's property to any individual or to any organization described in sections 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. As used in this subsection, "Internal Revenue Code" means the "Code" as defined in G.S. 105-228.90.

(b) Except as provided in subsection (c) of this section, or unless gifts are expressly authorized by the power of attorney, a power described in subsection (a) of this section may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of the estate of the attorney-in-fact.

(c) If the power of attorney described in subsection (a) of this section is conferred upon two or more attorneys-in-fact, it may be exercised by the attorney-in-fact or attorneys-in-fact who are not disqualified by subsection (b) of this section from exercising the power of appointment as if they were the only attorney-in-fact or attorneys-in-fact. If the power of attorney described in subsection (a) of this section is conferred upon one attorney-in-fact, the power of attorney may be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of the estate of the attorney-in-fact pursuant to an order issued by the clerk in accordance with the procedures and provisions of Article 2B of this Chapter.

(d) Subsection (a) of this section shall not in any way impair the right, power, or ability of any principal, by express terms in the power of attorney, to authorize or limit the authority of any attorney-in-fact to make gifts of the principal's property.

(e) An attorney-in-fact expressly authorized by this section to make gifts of the principal's property may elect to request that the clerk of the superior court issue an order approving a gift or gifts of the property of the principal.

(f) This section shall apply to all powers of attorney executed prior to, on, or after October 1, 1995. (1995, c. 331, s. 5; 1999-456, s. 2; 2001-413, s. 5.2.)