

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 604
RATIFIED BILL

AN ACT TO CLARIFY THE CIRCUMSTANCES UNDER WHICH AN
ATTORNEY-IN-FACT MAY MAKE GIFTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 32A-2(14) reads as rewritten:

"(14) Gifts to Charities, and to Individuals Other Than the Attorney-In-Fact.

- a. Except as provided in G.S. 32A-2(14)b., to make gifts of any of the principal's property to any individual other than the attorney-in-fact 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 subdivision "Internal Revenue Code" means the "Code" as defined in G.S. 105-2.1.
- b. Except as provided in G.S. 32A-2(14)c., or unless gifts are expressly authorized by the power of attorney under G.S. 32A-2(15), a power described in G.S. 32A-2(14)a. may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or creditors of the estate of the attorney-in-fact.
- c. If the power described in G.S. 32A-2(14)a. 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 G.S. 32A-2(14)b. from exercising the power of appointment as if they were the only attorney-in-fact or attorneys-in-fact.
- d. An attorney-in-fact expressly authorized by this section to make gifts of the principal's property may elect to request the clerk of the superior court to issue an order to make a gift of the property of the principal."

Section 2. G.S. 32A-2(15) reads as rewritten:

"(15) Gifts to the Named Attorney-In-Fact. – To make gifts to the attorney-in-fact named in the power of attorney or the estate, creditors, or creditors of the estate of the ~~attorney in fact.~~ attorney-in-fact, in accordance with the principal's personal history of making or joining in the making of lifetime gifts."

Section 3. Section 1 of this act applies to all powers of attorney executed on or after October 1, 1995. Section 2 of this act becomes effective October 1, 1999, and applies to all powers of attorney executed on or after that date. Section 3 of this act is effective when it becomes law. In the General Assembly read three times and ratified this the 14th day of July, 1999.

Dennis A. Wicker

President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19