



## Memorandum in Support

May 17, 2022

S. 9209  
A. 10234

By: Senator Hoylman  
By: M. of A. Weinstein  
Senate Committee: Judiciary  
Assembly Committee: Judiciary  
Effective Date: Immediately

**AN ACT** An act to amend the general obligations law to grandfather in previously executed statutory short form powers of attorney

### THE NEW YORK STATE BAR ASSOCIATION SUPPORTS THIS LEGISLATION

The New York State Bar Association (NYSBA) **SUPPORTS** S. 9209/A. 10234, which clarifies that powers of attorney that have been executed by the principal and conformed to the law in effect at the time executed by such principal remain valid and enforceable under recently enacted amendments to the General Obligations Law, even if signed by the agents at a later date.

Chapter 323 of the Laws of 2020, which became effective on June 13, 2021, specifically provides: “§ 19. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided, that any statutory short form power of attorney and any statutory gifts rider executed by a principal and valid at the time executed by such principal shall remain valid, as will any revocation of a prior power of attorney that was delivered to an agent prior to the effective date of this act.” This was intended to resolve some confusion in the 2008 and 2010 legislation which provided that grandfathered powers of attorney only had to be executed by the principal.

However, the statute both previously and as amended provides that to be valid, the power of attorney must “be signed and dated by any agent acting on behalf of the principal with the signature of the agent duly acknowledged.” General Obligations Law § 5-1501B(1)(c). This language, when read with the language of the 2020 effective date relating to being “valid at the time executed by such principal” leaves an unintentional ambiguity, given the statute's definition of what is “valid.”

The proposed amendment resolves this ambiguity by adding a new subdivision 5 to GOL §5-1501B to provide necessary clarification that powers of attorney need only to have been executed by the principal and conform to the law in effect at the time executed by such principal to remain valid and enforceable under the new law even if signed by the agents at a later date.

Based on the foregoing, the State Bar Association **SUPPORTS** the enactment of this legislation.