



Update on Uniform Power of Attorney Act – NCGS Chapter 32C
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Not too long ago, at our July 12, 2017 CLE event in Raleigh, we gave an update and overview on the proposed North Carolina Uniform Power of Attorney Act (NCUPOAA) that had been passed by the House and Senate chambers, but not yet signed by the Governor. Shortly after the CLE, on July 20, 2017, Governor Cooper signed the bill allowing it to become law effective January 1, 2018. You soon will be able to find the new Uniform Power of Attorney Act in Chapter 32C of the North Carolina General Statutes. In order to locate it now, refer to Session Law 2017-153. The enactment of this law helps bring North Carolina in line with about half of the states in the country which have enacted a Uniform Power of Attorney Act.

New Chapter 32C governs all aspects of the creation, interpretation, effectiveness, termination and use of powers of attorney in the State of North Carolina. However, it does not effect healthcare powers of attorney and several other articles of Chapter 32A which remain intact. The new chapter is comprised of four main articles: (1) Definitions and General Provisions, (2) Authority, (3) Statutory Forms and (4) Miscellaneous Provisions.

What does this mean for you, your staff and clients? Not much until January 1, 2018, and then a review and update of the power of attorney documents you use in your practice. There have been significant changes to the Statutory Short Form Power of Attorney that you should be aware of if you rely on the statutory form. The new act does apply to powers of attorney executed before the effective date unless a conflicting intent is clearly shown in the document or the application of the 32C versus 32A would substantially impair the rights of a party.

Key things to keep in mind:

- 32C-3-301 contains the new Statutory Short Form Power of Attorney which has several significant changes compared to the current version.
- Several corresponding Chapters will be amended to reflect the change, including, but not limited to, 30-3.4, 47-28, 47-43.1 and 50-22.
- Articles 1, 2A, 2B and 5 of Chapter 32A have been repealed in their entirety.
- “Attorney-in-Fact” has been replaced with the term “agent”
- Effective Date of the new act is January 1, 2018.
- Existing powers of attorney remain effective, but are subject to the new law in most cases.
- 32C-2-204 deals exclusively with real property.
- 32C-3-3-3 contains a limited power of attorney for real property.

Please feel free to reach out to any of our title counsel or offices should you have any questions about the new North Carolina Uniform Power of Attorney Act or a power of attorney for a particular transaction.