

# First American Title Insurance Company of New York

# Current Developments

## SPECIAL EDITION

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New York's Statutory Short Form Power of Attorney ("SSF Power"), and a form identified as the Statutory Major Gifts Rider ("SMGR"), are in Title 15 ("Statutory short form and other powers of attorney for financial and estate planning") of Article 5 of New York's General Obligations Law ("GOL"), which has been amended by Chapter 644 of the Laws of 2008 ("Chapter 644") effective September 1, 2009. Chapter 340 of the Laws of 2010 ("Chapter 340"), effective September 12, 2010, further amends Title 15, including the form of the SSF Power and the SMGR, now identified as a Statutory Gifts Rider ("SGR"). This Bulletin sets forth changes made by Chapter 340. Section references in the text are to the General Obligations Law.

According to the Memoranda of Support accompanying the Bills enacted as Chapter 340, "[a]fter the effective date of [Chapter 644], it became apparent that there was a need to clarify the application of the Statutory Gifts Rider and limit the types of transactions subject to this law". More particularly, Chapter 644 has been interpreted as requiring an SMGR even on the transfer of a real property interest for consideration and questions have been raised as to whether Chapter 644 requires a SSF Power for transactions for which the statutory form has not been typically used, such as the execution by an Agent of a condominium unit owner's power of attorney to a Board of Managers.

The amendments made by Chapter 340 are deemed to have been in full force and effect on and after September 1, 2009. However, any SSF Power and SMGR executed between September 1, 2009 and September 11, 2010 as required by Chapter 644 remains valid.

### OTHER TRANSFERS

Chapter 644 has been interpreted as requiring execution of a SMGR on the transfer of any property interest by an Agent acting under a SSF Power. Under Chapter 644, an SMGR is defined in Subdivision 14 of Section 5-1501 ("Definitions") as "a document by which the principal may supplement a statutory short form power of attorney to authorize major gift transactions and other transfers..." Under Subdivision 2 of Section 5-1501B ("Creation of a valid power of attorney; when effective") "...to be valid for the purpose of authorizing the agent to make any gift or other transfer...a statutory short form power of attorney must... be accompanied by a valid statutory major gifts rider". Section "(h)" of the SSF Power states that "[i]n order to authorize your agent to make major gifts and other transfers of your property, you must...execute a Statutory Major Gifts Rider at the same time as this instrument".

With one exception, each reference to executing a SMGR for "other transfers" has been removed. The "Modifications: (Optional)" section of the SSF Power, as amended by Chapter 340, continues to include the following text:

"However, you cannot use this Modifications section to grant your agent authority to make gifts or changes to interests in your property. If you wish to grant your agent such authority, you must complete the Statutory Gifts Rider".

It is believed that retention of “changes to interests in your property” in this Section “(g)” of the SSF Power was an oversight; the legislative intention is otherwise clear. Under Title 15 as amended by Chapter 340, a SGR must be executed concurrently with a SSF Power when the total amount of gifts made by the Agent under a Power in any one calendar year exceeds five hundred dollars.

## EXCLUDED TRANSACTIONS

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Title 15, as amended by Chapter 644, has been interpreted as requiring the use of a SSF Power, or a non-statutory power complying with the requirements of that Chapter, for transactions in which a SSF Power has not typically been used. For example, certain recording offices have rejected condominium unit owner powers of attorney to Boards of Managers for non-compliance with the requirements of Title 15.

Chapter 340 amends the definition of “Power of attorney” in Section 5-1501 to exclude the powers of attorney listed in new Section 1501C (“Powers of attorney excluded from this title”). The following are among the types of transactions excluded from the application of Title 15:

“A power to the extent it is coupled with an interest in the subject of the power”

“A power given to or for the benefit of a creditor in connection with a loan or other credit transaction”

“A power given to facilitate [the] transfer or disposition of one or more specific stocks, bonds or other assets, whether real, personal or intangible”.

“A power authorizing a third party to prepare, execute, deliver, submit and/or file a document or instrument with a government or governmental subdivision, agency or instrumentality or other third party”.

It is unclear when the last two of the above-listed exclusions are to be applied in real estate transactions.

“A power contained in a partnership agreement, limited liability company operating agreement, declaration of trust, declaration of condominium, condominium by-laws, condominium offering plan or other instrument or agreement or instrument governing the internal affairs of an entity authorizing a director, officer, shareholder, employee, partner, limited partner, member, unit owner, manager or other person to take lawful action relating to that entity”.

“A power given to a condominium managing agent to take action in connection with the use, management and operation of a condominium unit”

The last two provisions are intended to exclude the usual unit owner’s power of attorney to a Board of Managers from the requirements of Title 15.

However, Section 5-1501C further provides that “[n]othing in this section shall be deemed to prohibit use of a statutory short form power of attorney or a nonstatutory power of attorney in connection with any of the transactions described in this section”.

## PRINCIPALS AND AGENTS

A “Power of Attorney” is executed by a Principal, which term is defined in Section 5-1501 under Chapter 644 to mean “an individual who is eighteen years of age or older who executes a power of attorney”. Chapter 340 amends the definition of “Principal” to make it clear that the individual who is the Principal must be “acting for himself or herself and not as a fiduciary or an official of any legal, governmental or commercial entity”.

Section 5-1508 (“Co-agents and successor agents”) has been amended to resolve the question as to whether an agent must be a natural person. New subdivision 4 provides that “[a]ny person, other than an estate or trust, may act as an agent, co-agent or successor agent under a power of attorney”. A “Person” continues to be defined in Section 5-1501 as being:

“an individual, whether acting for himself or herself, or as a fiduciary or as an official of any legal, governmental or commercial entity (including, but not limited to, any such entity identified in this subdivision), corporation, business trust, estate, venture, government, governmental subdivision, government agency, government entity, government instrumentality, public corporation, or any other legal or commercial entity”.

A Power executed by a Principal under Section 5-1501B is valid notwithstanding that it is later executed by the Agent, even when the Principal becomes incapacitated during the interim period. Chapter 340 amends Subdivision 1(c) of Section 5-1501B to clarify that a power of attorney is valid if any Agent and, if applicable, any Successor Agent later executes the Power.

Further, new Subdivision 7 of Section 5-1504 (“Acceptance of statutory short form power of attorney”) provides that a SSF Power or a non-statutory power of attorney (“Power”) shall be accepted for recording when there is more than one Agent if signed by only one Agent, unless the Agents are required to act jointly, in which case all agents with joint authority must execute the Power for it to be recorded. Signatures of agents, as well as the Principal, still must be acknowledged for the Power to be accepted for recording.

When there are multiple Agents with several authority or a Successor Agent or Successor Agents appointed, and the Power is recorded with the signature(s) of less than all of them, there has been a question as to how the Power could be later signed by the other Agent(s) or Successor Agent(s) and then recorded, particularly if the original, recorded Power was unavailable. Subdivision 7 of Section 5-1504 provides that “[w]hen a successor agent or co-agent authorized to act separately from any other agents presents a certified copy of a recorded [SSF Power] or non-statutory power of attorney with the agent’s signature acknowledged, the instrument shall be accepted for recording”.

Subdivision 2 of Section 5-1508 (“Co-agents and successor agents”), under Chapter 644, provides that successor agents can be designated to serve if “every” initial or predecessor Agent is no longer serving as an agent. As amended, the subdivision now provides, instead, that Successor Agents can be designated to serve if “any” initial or predecessor agent is no longer serving as an Agent. The SSF Power, as revised by Chapter 340, has provision for the principal to insert specific “Rules” governing the succession of agents.



## REVOCATIONS

Subdivision 6 of Section 5-1511 (“Termination or revocation of power of attorney; notice”), under Chapter 644, provides that execution of a Power revokes any Power previously executed by the Principal unless the Principal expressly provides otherwise. Under amended Subdivision 6, execution of a Power does not automatically revoke any prior Power executed by the Principal. To the same effect, Section “(e)” of the SSF Power, as revised by Chapter 340, states that “[t]his Power of Attorney does not revoke any Powers of Attorney previously executed by me unless I have stated otherwise below, under ‘Modifications’”. Section 31 of Chapter 340 provides that “any revocation of a prior power of attorney that was delivered to the agent before the effective date of this act” remains effective.

If a previous appointment of an Agent is not revoked, under Section “(e)” of the revised SSF Power, “each agent can act separately unless you indicate under “Modifications” [in the SSF Power] that the agents with the same authority are to act together”.

Subdivision 3 of Section 5-1511, under Chapter 644, provides that a Principal may revoke a Power by delivering notice of revocation to the Agent. As amended by Chapter 340, Subdivision 3 states that notice to an Agent that the Power is no longer effective can be made “in person or by sending a signed and dated revocation by mail, courier, electronic transmission or facsimile to the agent’s last known address”.

Further, under new Subdivision 5(B) of Section 5-1511, “(t)ermination of an agent’s authority or of the power of attorney is not effective as to the agent until the agent has received a revocation as required by subdivision three of this section. An agent is deemed to have received a revocation when it has been delivered to the agent in person, or within a reasonable time after it has been sent by mail, courier, electronic transmission or facsimile in accordance with subdivision three of this section”.

Amended Subdivision 4 of Section 5-1511 also states that when a Power is recorded the Principal shall also record a revocation of the Power “in the office in which the power of attorney is recorded”. The requirement in Chapter 644 that a third party have actual notice of the revocation for it to be effective has been removed.

Subdivision 2, under Chapter 644, also provides that when the Principal and the Agent are married the Agent’s authority terminates on their divorce, the annulment of the marriage, or the issuance of a “declaration of nullity”, unless stated otherwise in the Power. Chapter 340 removes reference to a “declaration of nullity”.

Subdivision 5 of Section 5-1504 (“Acceptance of statutory short form power of attorney”), under Chapter 644, authorizes a third party to require an Agent to execute an acknowledged affidavit with specific representations to confirm that the Power is in full force and effect. Chapter 340 amends that Subdivision to add a provision allowing the affidavit to state, when the Agent is the Principal’s spouse, that the agent “does not have actual notice that the marriage has been terminated by divorce or annulment” or that, notwithstanding a divorce or annulment, the Power expressly provides that divorce or annulment does not terminate the Agent’s authority.

## DOMICILE

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Section 5-1512 (“Powers of attorney executed in other jurisdictions”), under Chapter 644, provides that “a power of attorney executed in another state or jurisdiction in compliance with the law of that state or jurisdiction or the law of this state is valid in this state, regardless of whether the principal is a domiciliary of” New York State.

As amended by Chapter 340, under Section 5-1512, a Power executed, as required by Section 5-1501B (“Creation of a valid power of attorney; when effective”), by a domiciliary of New York in another state or jurisdiction is valid in New York. This does not appear to be a substantive change.

However, that Section, as amended, further states that “[a] power of attorney executed in this State by a domiciliary of another state or jurisdiction in compliance with the law of that state or jurisdiction or the law of this state is valid” in New York.

## WITNESSES-STATUTORY GIFTS RIDER

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As has been the case for a SMGR under Chapter 644, the signature of a Principal to a SGR must be “witnessed by two persons who are not named in the instrument as permissible recipients of gifts”. Chapter 340 amends Subdivision 9 of Section 5-1514 (now “Major Gifts and other transfers”) to allow the person acknowledging the signature of the Principal on the SGR to be one of the witnesses.

## GRANT OF AUTHORITY

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A Principal grants his or her Agent the authority to take certain actions by initialing in brackets next to subjects listed in the Grant of Authority Section “(f)” of the SSF Power, or by the Principal completing and initialing item “P” for “[e]ach of the matters identified by the following subjects”, which subjects are then identified by reference to the applicable letter in the list. The “subjects” listed are defined in Sections 5-1502-A through 5-1502N.

Section 5-1502A (“Construction-real estate transactions”), Section 5-1502B (“Construction-chattel and goods transactions”), and Section 5-1502C (“Construction-bond, share and commodity transactions”), as amended by Chapter 340, provides that the Principal, by initialing that subject, as applicable, in the Grant of Authority section of the SSF Power (or by including that subject by reference in item “P”), authorizes the agent for such transactions to create, modify or revoke a trust, unless doing so constitutes a gift transaction for which a SGR is required. Similarly, Section 5-1502L (“Construction-retirement benefit transactions”) has been amended; initialing item “L” on the list of subjects in the Grant of Authority section of the SSF Power, or by listing “L” in item “P”, authorizes the Agent to “prepare, execute and deliver” a trust agreement for retirement benefit transactions, unless doing so constitutes a gift, for which a SGR is required.

## LAW REVISION COMMISSION (“LRC”)

Section 30 of Chapter 340 directs the LRC to study the implementation of Title 15 and, in doing so, to “consult with individuals and entities regularly engaged in the utilization of such title, and those individuals and entities affected by the provisions of such title”.

The LRC shall submit to the Governor and the Legislature, the text of Chapter 340 states by September 1, 2010, a preliminary report with recommendations regarding the SGR; a further report is to be submitted on or before January 1, 2012.

The First American form with the revised SSF Power and SGR accompanies this Bulletin.

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First American Title Insurance Company of New York

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*First American  
Title Insurance Company  
of New York*

**POWER OF ATTORNEY  
NEW YORK STATUTORY SHORT FORM**

**(a) CAUTION TO THE PRINCIPAL:** Your Power of Attorney is an important document. As the “principal,” you give the person whom you choose (your “agent”) authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. “Important Information for the Agent” at the end of this document describes your agent’s responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a “Health Care Proxy” to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, [www.senate.state.ny.us](http://www.senate.state.ny.us) or [www.assembly.state.ny.us](http://www.assembly.state.ny.us).

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.





**(f) GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

- (A) real estate transactions;
- (B) chattel and goods transactions;
- (C) bond, share, and commodity transactions;
- (D) banking transactions;
- (E) business operating transactions;
- (F) insurance transactions;
- (G) estate transactions;
- (H) claims and litigation;
- (I) personal and family maintenance. If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five hundred dollars;
- (J) benefits from governmental programs or civil or military service;
- (K) health care billing and payment matters; records, reports, and statements;
- (L) retirement benefit transactions;
- (M) tax matters;
- (N) all other matters;
- (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- (P) EACH of the matters identified by the following letters \_\_\_\_\_.  
You need not initial the other lines if you initial line (P).

**(g) MODIFICATIONS: (OPTIONAL)**

In this section, you may make additional provisions, including language to limit or supplement authority granted to your agent.

However, you cannot use this Modifications section to grant your agent authority to make gifts or changes to interests in your property. If you wish to grant your agent such authority, you **MUST** complete the Statutory Gifts Rider.

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**(h) CERTAIN GIFTS TRANSACTIONS: STATUTORY GIFTS RIDER (OPTIONAL)**

In order to authorize your agent to make gifts in excess of an annual total of \$500 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), you must initial the statement below and execute a Statutory Gifts Rider at the same time as this instrument. Initialing the statement below by itself does not authorize your agent to make gifts. The preparation of the Statutory Gifts Rider should be supervised by a lawyer.

(SGR) I grant my agent authority to make gifts in accordance with the terms and conditions of the Statutory Gifts Rider that supplements this statutory Power of Attorney.

**(i) DESIGNATION OF MONITOR(S): (OPTIONAL)**

**IF YOU WISH TO APPOINT MONITOR(S), INITIAL AND FILL IN THE SECTION BELOW:**

I wish to designate \_\_\_\_\_, whose address(es)is(are)\_\_\_\_\_.

\_\_\_\_\_ as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

**(j) COMPENSATION OF AGENT(S): (OPTIONAL)** Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, initial the statement below. If you wish to define "reasonable compensation", you may do so above, under "Modifications."

My agent(s) shall be entitled to reasonable compensation for services rendered.

**(k) ACCEPTANCE BY THIRD PARTIES:** I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

**(l) TERMINATION:** This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

**(m) SIGNATURE AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_, 20\_\_.

PRINCIPAL signs here: => \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking acknowledgment

**(n) IMPORTANT INFORMATION FOR THE AGENT:**

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record of all receipts, payments, and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (Your Signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in this document, which is either a Statutory Gifts Rider attached to a statutory Short Form Power of Attorney or a non-statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

**Liability of agent:**

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

**(o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:**

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

Agent(s) sign(s) here:==> \_\_\_\_\_

==> \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking acknowledgment



**(p) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGEMENT OF APPOINTMENT:**

**It is not required that the principal and the successor agent(s), if any, sign at the same time, nor that multiple successor agents sign at the same time. Furthermore, successor agents can not use this Power of Attorney unless the agent(s) designated above is/are unable or unwilling to serve.**

**I/we, \_\_\_\_\_, have read the foregoing Power of Attorney, I am/we are the person(s) identified therein as successor agent(s) for the principal named therein.**

**Successor Agent(s) sign (s) here ==> \_\_\_\_\_  
==> \_\_\_\_\_**

**State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:**

**On the \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.**

\_\_\_\_\_  
**Signature and Office of individual taking acknowledgment**

**State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:**

**On the \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.**

\_\_\_\_\_  
**Signature and Office of individual taking acknowledgment**

**N.Y. Statutory Short Form Power of Attorney  
Effective 9/12/2010**

**Recorded at Request of First American  
Title Insurance Company of New York**

**RETURN BY MAIL TO:**

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*First American  
Title Insurance Company  
of New York*

**Affidavit**  
**Power of Attorney**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )ss:

\_\_\_\_\_, being duly sworn, deposes and says as follows:

1. This affidavit is made in connection with the (transfer)(mortgage) of property known as \_\_\_\_\_, in \_\_\_\_\_, New York to \_\_\_\_\_.

2. I am (the)(an) agent named in the Power of Attorney (hereafter "Power of Attorney") made by \_\_\_\_\_, as principal (the "Principal"), dated \_\_\_\_\_.

3. I do not have actual notice that the Power of Attorney has been modified in any way that would affect my ability to authorize or engage in the present transaction for which the Power of Attorney is being used, or notice of any facts indicating that the Power of Attorney has been so modified.

4. I do not have actual notice of the termination or revocation of the Power of Attorney, or notice of any facts indicating that the Power of Attorney has been terminated or revoked, and the Power of Attorney remains in full force and effect.

5. If the Principal has been my spouse, we are not divorced and our marriage has not been annulled.

6. If I am a successor agent, the prior agent is no longer able or willing to serve.

Sworn to before me this \_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

**NOTE: If multiple agents are appointed, an affidavit is to be executed by each agent.**



*First American  
Title Insurance Company  
of New York*

**POWER OF ATTORNEY  
NEW YORK STATUTORY GIFTS RIDER  
AUTHORIZATION  
FOR CERTAIN GIFT TRANSACTIONS**

Attached to a New York Statutory Short Form Power of Attorney  
dated \_\_\_\_\_ made by \_\_\_\_\_

**CAUTION TO THE PRINCIPAL:** This optional rider allows you to authorize your agent to make gifts in excess of an annual total of \$500 for all gifts described in (I) of the grant of authority section of the statutory short form Power of Attorney (under personal and family maintenance), or certain other gift transactions during your lifetime. You do not have to execute this rider if you only want your agent to make gifts described in (I) of the grant of authority section of the statutory short form Power of Attorney and you initialed “(I)” on that section of that form. Granting any of the following authority to your agent gives your agent the authority to take actions which could significantly reduce your property or change how your property is distributed at your death. “Certain gift transactions” are described in section 5-1514 of the General Obligations Law. This Gifts Rider does not require your agent to exercise granted authority, but when he or she exercises this authority, he or she must act according to any instructions you provide, or otherwise in your best interest.

This Gifts Rider and the Power of Attorney it supplements must be read together as a single instrument.

Before signing this document authorizing your agent to make gifts, you should seek legal advice to ensure that your intentions are clearly and properly expressed.

**(a) GRANT OF LIMITED AUTHORITY TO MAKE GIFTS:**

Granting gifting authority to your agent gives your agent the authority to take actions which could significantly reduce your property.

If you wish to allow your agent to make gifts to himself or herself, you must separately grant that authority in subdivision (c) below.



To grant your agent the gifting authority provided below, initial the bracket to the left of the authority.

I grant authority to my agent to make gifts to my spouse, children and more remote descendants, and parents, not to exceed, for each donee, the annual federal gift tax exclusion amount pursuant to the Internal Revenue Code. For gifts to my children and more remote descendants, and parents, the maximum amount of the gift to each donee shall not exceed twice the gift tax exclusion amount, if my spouse agrees to split gift treatment pursuant to the Internal Revenue Code.

This authority must be exercised pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest.

**(b) MODIFICATIONS:**

Use this section if you wish to authorize gifts in amounts smaller than the gift tax exclusion amount, in amounts in excess of the gift tax exclusion amount, gifts to other beneficiaries, or other gift transactions.

Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. If you wish to authorize your agent to make gifts to himself or herself, you must separately grant that authority in subdivision (c) below.

I grant the following authority to my agent to make gifts pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest:

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**(c) GRANT OF SPECIFIC AUTHORITY FOR AN AGENT TO MAKE GIFTS TO HIMSELF OR HERSELF: (OPTIONAL)**

If you wish to authorize your agent to make gifts to himself or herself, you must grant that authority in this section, indicating to which agent(s) the authorization is granted, and any limitations and guidelines.

I grant specific authority for the following agent(s) to make the following gifts to himself or herself:

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This authority must be exercised pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest.

(d) **ACCEPTANCE BY THIRD PARTIES:** I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Statutory Gifts Rider.

(e) **SIGNATURE OF PRINCIPAL AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_ 20\_\_.

PRINCIPAL signs here: ==> \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_) ss.:

On the day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), Or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking acknowledgment

(f) **SIGNATURES OF WITNESSES:**

By signing as a witness, I acknowledge that the principal signed the Statutory Gifts Rider in my presence and the presence of the other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at his or her direction. I also acknowledge that the principal has stated that this Statutory Gifts Rider reflects his or her wishes and that he or she has signed it voluntarily. I am not named herein as a permissible recipient of gifts.

**N.Y. Statutory Short Form Power of Attorney  
N.Y. Statutory Gifts Rider  
Effective 9/12/2010**

\_\_\_\_\_  
**Signature of witness 1**

\_\_\_\_\_  
**Signature of witness 2**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Print name**

\_\_\_\_\_  
**Print name**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**City, State, Zip code**

\_\_\_\_\_  
**City, State, Zip code**

**(g) This document prepared by: \_\_\_\_\_**