

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

3

HOUSE BILL 96  
Committee Substitute Favorable 5/13/91  
Third Edition Engrossed 5/15/91

Short Title: Advance Directive/Health Care Decisions.

(Public)

Sponsors:

Referred to:

February 19, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE AN ADVANCE DIRECTIVE FOR HEALTH CARE MATTERS  
AN OPTIONAL PART OF THE "RIGHT TO NATURAL DEATH" LAW.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 23 of Chapter 90 reads as rewritten:

"Right to Natural ~~Death;~~ Death; Right to Advance Directive: Brain Death."

Sec. 2. G.S. 90-320 reads as rewritten:

**"§ 90-320. General purpose of Article.**

(a) The General Assembly recognizes as a matter of public policy that an individual's rights include the right to a peaceful and natural death and that a patient or his representative has the fundamental right to control the decisions relating to the rendering of his own medical care, including the decision to have extraordinary means withheld or withdrawn in instances of a terminal condition. This Article is to establish an optional and nonexclusive procedure by which a patient or his representative may exercise these ~~rights.~~ rights and to establish an optional and nonexclusive procedure by which a patient may execute an Advance Directive designating several persons, one of whom shall act as the patient's agent to make health care decisions if and when the patient is unable to make or communicate his or her own.

(b) Nothing in this Article shall be construed to authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying. Nothing in this Article shall impair or supersede any legal right or legal responsibility

1 which any person may have to effect the withholding or withdrawal of life-sustaining  
2 procedures in any lawful manner. In such respect the provisions of this Article are  
3 cumulative."

4 Sec. 3. G.S. 90-321 reads as rewritten:

5 **"§ 90-321. Right to a natural death; ~~death~~; right to Advance Directive.**

6 (a) As used in this Article the term:

7 (1) 'Advance Directive' means a document executed pursuant to  
8 subsection (c), that designates several persons of 18 years of age or  
9 more who are not actively engaged in providing health care to the  
10 declarant for remuneration, one of whom shall act as the declarant's  
11 agent to make health care decisions for the declarant if and when he or  
12 she is unable to make or communicate his or her own decisions. The  
13 designated agent has the power, as regulated by this Article, to consent  
14 to the giving, withholding, or stopping of any health care, treatment,  
15 service, or diagnostic procedure, including the withholding or  
16 discontinuing of extraordinary means, and to talk with health care  
17 personnel, get information, and sign forms necessary to carry out these  
18 decisions.

19 ~~(1.1)~~ (1.1) 'Declarant' means a person who has signed a declaration in  
20 accordance with subsection (c);

21 (2) 'Extraordinary means' is defined as any medical procedure or  
22 intervention which in the judgment of the attending physician would  
23 serve only to postpone artificially the moment of death by sustaining,  
24 restoring, or supplanting a vital ~~function~~; ~~function~~. 'Extraordinary  
25 means' do not include care necessary to provide comfort or to alleviate  
26 pain. 'Extraordinary means' do include artificial hydration and  
27 nutrition in cases in which a diagnosis of 'persistent vegetative state' as  
28 defined in subdivision (2.1) of this subsection has been made;

29 (2.1) 'Persistent vegetative state' means a medical condition whereby in  
30 the judgment of the attending physician the patient suffers from a  
31 sustained complete loss of self-aware cognition and, without the  
32 use of extraordinary means or artificial nutrition or hydration, will  
33 succumb to death within a short period of time;

34 (3) 'Physician' means any person licensed to practice medicine under  
35 Article 1 of Chapter 90 of the laws of the State of North Carolina.

36 (b) If a person has declared, in accordance with subsection (c) below, a desire  
37 that his life not be prolonged by extraordinary means; and the declaration has not been  
38 revoked in accordance with subsection (e) and

39 (1) It is determined by the attending physician that the declarant's  
40 present condition is

41 a. ~~Terminal; and~~

42 b. ~~Incurable; and~~

43 a. Terminal and incurable; or

1                   b.     Incurable with a diagnosis of 'persistent vegetative state' as  
2                         defined in subdivision (2.1) of subsection (a) of this section;  
3                         and

4                   (2)     There is confirmation of the declarant's present condition as set out  
5                         above in subdivision (b)(1) by a physician other than the attending  
6                         physician;

7 then extraordinary means may be withheld or discontinued upon the direction and under  
8 the supervision of the attending physician.

9     **(b1)** If a person has executed, in accordance with subsection (c), an Advance  
10 Directive designating several persons, one of whom shall act as agent to make health  
11 care decisions, if the designation has not been revoked in accordance with subsection  
12 (e), and if it is determined by the attending physician that the person is not able to make  
13 or communicate his or her own health care decisions, then the agent's decisions, other  
14 than those involving the withholding or discontinuing of extraordinary means, will be  
15 followed. If the determinations laid out in subsection (b) are made, then the agent's  
16 decision to withhold or discontinue extraordinary means will be followed upon the  
17 direction and under the supervision of the attending physician.

18     (c)     The attending physician may rely upon a signed, witnessed, dated and proved  
19 declaration:

20                   (1)     Which expresses a desire of the declarant that no extraordinary  
21                         means be used to prolong his life if his condition is determined to  
22                         be terminal and incurable; and

23                   (2)     Which states that the declarant is aware that the declaration  
24                         authorizes a physician to withhold or discontinue the extraordinary  
25                         means; and

26                   (3)     Which has been signed by the declarant in the presence of two  
27                         witnesses who believe the declarant to be of sound mind and who  
28                         state that they (i) are not related within the third degree to the  
29                         declarant or to the declarant's spouse, (ii) do not know or have a  
30                         reasonable expectation that they would be entitled to any portion of  
31                         the estate of the declarant upon his death under any will of the  
32                         declarant or codicil thereto then existing or under the Intestate  
33                         Succession Act as it then provides, (iii) are not the attending  
34                         physician, or an employee of the attending physician, or an  
35                         employee of a health facility in which the declarant is a patient, or  
36                         an employee of a nursing home or any group-care home in which  
37                         the declarant resides, and (iv) do not have a claim against any  
38                         portion of the estate of the declarant at the time of the declaration;  
39                         and

40                   (4)     Which has been proved before a clerk or assistant clerk of superior  
41                         court, or a notary public who certifies substantially as set out in  
42                         subsection (d) ~~below~~; below; or

43                   (5)     There is an Advance Directive designating a person to act as the  
44                         declarant's agent in making health care decisions; and

1 (6) That has been proved before a clerk or assistant clerk of superior  
2 court, or a notary public who certifies substantially as set out in  
3 subsection (d) below.

4 (d) The following form is specifically determined to meet the requirements  
5 above:

6 **'DECLARATION OF A DESIRE FOR A NATURAL**  
7 **~~DEATH-DEATH; ADVANCE DIRECTIVE (OPTIONAL)~~'**

8 'I, ....., being of sound mind, desire that my life not be prolonged by  
9 extraordinary means if my condition is determined to be ~~terminal, and incurable.~~ terminal  
10 and incurable or incurable and in a persistent vegetative state. I am aware and  
11 understand that this writing authorizes a physician to withhold or discontinue  
12 extraordinary means. I am aware and understand that if I have not made in this  
13 document or elsewhere in a writing or oral communication that constitutes my patient  
14 record any specific statement of desires concerning my health care treatment or any  
15 specific directions regarding specific treatments or limitations on treatments, that my  
16 attending physician's decisions shall be carried out, in accordance with this document.

17 Statement of desires concerning health care, treatment, services, and procedures,  
18 including life-prolonging health care, treatment, services, and procedures, and including  
19 any specific provisions and limitations, such as whether or not artificial feeding by vein  
20 or stomach tube merely to prolong life is a desired treatment:

21 .....  
22 .....  
23 .....  
24 .....  
25 .....  
26 .....  
27 .....  
28 .....

29 (Cross out the following if you do not wish to use 'Advance Directive' section and  
30 initial the crossing out.)

31 'To effect my wishes, I, ....., being of sound mind, designate ....., residing  
32 at....., (Phone #) .....  
33 or if he or she shall for any reason fail to act,....., residing at ..... (Phone #).....;  
34 or if he or she shall for any reason fail to act,....., residing at ..... (Phone #).....;  
35 or if he or she shall for any reason fail to act,....., residing at ..... (Phone #).....;  
36 as my agent to make health care decisions for me if and when I am unable to make or  
37 communicate my own health care decisions. If the priority agent is my spouse, from  
38 whom I have become legally separated or divorced, I choose the next priority agent.  
39 (Check "YES" [ ] or "NO" [ ].) This designation gives my agent the power to consent to  
40 giving, withholding, or stopping any health care, treatment, service, or diagnostic  
41 procedure, including the withholding or discontinuing of extraordinary means. My  
42 agent also has the authority to talk with health care personnel, get information, and sign  
43 forms necessary to carry out those decisions.

1 By this document I intend to create a power of attorney for health care decisions that  
2 shall take effect upon my incapacity to make my own health care decisions and shall  
3 continue during that incapacity. This power of attorney is intended to be supplemental  
4 to any power of attorney executed pursuant to G.S. 32A-2(9), except that, if the  
5 decisions of the attorney-in-fact appointed pursuant to G.S. 32A-2(9) regarding my  
6 health care contradict the decisions made by my agent designated in this form, the  
7 decisions of my agent designated in this form shall be followed.

8 My agent shall make health care decisions as I direct below or as I otherwise make  
9 known in some other way. I am aware and understand that if I have not made in this  
10 document or elsewhere in a writing or oral communication that constitutes my patient  
11 record any specific statement of desires concerning my health care treatment or any  
12 specific directions regarding specific treatments or limitations on treatments, that my  
13 agent's decisions shall be carried out, in accordance with this document.

14 If this document is in any way in conflict with a Declaration of a Desire for a  
15 Natural Death executed earlier, this document is to control.

16 Statement of desires concerning health care, treatment, services, and procedures,  
17 including life-prolonging health care, treatment, services, and procedures, and including  
18 any specific provisions and limitations such as:

19 (1) Whether methods of treatment used merely to prolong life shall be  
20 used, such as:

- 21 a. Artificial nutrition or hydration;
- 22 b. Mechanical respiration;
- 23 c. Cardiac resuscitation; or
- 24 d. Antibiotic therapy; or

25 (2) Whether drugs for the relief of pain shall be used even if these drugs  
26 might result in the shortening of life; or

27 (3) Whether the declarant wishes to die at home:

28 .....  
29 .....  
30 .....  
31 .....  
32 .....  
33 .....  
34 .....  
35 .....

36 'This the ..... day of .....

37 Signature .....

38 'I hereby state that the declarant,....., being of sound mind signed the above  
39 declaration in my presence and that I am not related to the declarant by blood or  
40 marriage and that I do not know or have a reasonable expectation that I would be  
41 entitled to any portion of the estate of the declarant under any existing will or codicil of  
42 the declarant or as an heir under the Intestate Succession Act if the declarant died on  
43 this date without a will. I also state that I am not the agent designated in the Advance  
44 Directive. I also state that I am not the declarant's attending physician or an employee of

1 the declarant's attending physician, or an employee of a health facility in which the  
2 declarant is a patient or an employee of a nursing home or any group-care home where  
3 the declarant resides. I further state that I do not now have any claim against the  
4 declarant.

5 Witness .....

6 Witness .....

7 The clerk or the assistant clerk, or a notary public may, upon proper proof, certify  
8 the declaration as follows:

9

10 **'CERTIFICATE'**

11 'I, ....., Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one  
12 as appropriate) for .....

13 County hereby certify that....., the declarant, appeared before me and swore to me  
14 and to the witnesses in my presence that this instrument is his Declaration Of A Desire  
15 For A Natural Death, including his Advance Directive (cross out and initial if not  
16 applicable) and that he had willingly and voluntarily made and executed it as his free act  
17 and deed for the purposes expressed in it.

18 'I further certify that ..... and....., witnesses, appeared before me and swore that  
19 they witnessed ....., declarant, sign the attached declaration, believing him to be of  
20 sound mind; and also swore that at the time they witnessed the declaration (i) they  
21 were not related within the third degree to the declarant or to the declarant's spouse, and  
22 (ii) they did not know or have a reasonable expectation that they would be entitled to  
23 any portion of the estate of the declarant upon the declarant's death under any will of the  
24 declarant or codicil thereto then existing or under the Intestate Succession Act as it  
25 provides at that time, and (iii) they were not the agent designated in the Advance  
26 Directive, and (iv) they were not a physician attending the declarant or an employee of  
27 an attending physician or an employee of a health facility in which the declarant was a  
28 patient or an employee of a nursing home or any group-care home in which the  
29 declarant resided, and ~~(iv)~~-(v) they did not have a claim against the declarant. I further  
30 certify that I am satisfied as to the genuineness and due execution of the declaration.

31 'This the ..... day of .....

32 Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one as  
33 appropriate) for the County of .....

34 The above declaration may be proved by the clerk or the assistant clerk, or a notary  
35 public in the following manner:

- 36 (1) Upon the testimony of the two witnesses; or
- 37 (2) If the testimony of only one witness is available, then
  - 38 a. Upon the testimony of such witness, and
  - 39 b. Upon proof of the handwriting of the witness who is dead or
  - 40 whose testimony is otherwise unavailable, and
  - 41 c. Upon proof of the handwriting of the declarant, unless he
  - 42 signed by his mark; or upon proof of such other circumstances
  - 43 as will satisfy the clerk or assistant clerk of the superior court,

1 or a notary public as to the genuineness and due execution of  
2 the declaration.

3 (3) If the testimony of none of the witnesses is available, such declaration  
4 may be proved by the clerk or assistant clerk, or a notary public

5 a. Upon proof of the handwriting of the two witnesses whose  
6 testimony is unavailable, and

7 b. Upon compliance with paragraph c of subdivision (2) above.

8 Due execution may be established, where the evidence required above is  
9 unavoidably lacking or inadequate, by testimony of other competent witnesses as to the  
10 requisite facts.

11 The testimony of a witness is unavailable within the meaning of this subsection  
12 when the witness is dead, out of the State, not to be found within the State, insane or  
13 otherwise incompetent, physically unable to testify or refuses to testify.

14 If the testimony of one or both of the witnesses is not available the clerk or the  
15 assistant clerk, or a notary public or superior court may, upon proper proof, certify the  
16 declaration as follows:

17 **'CERTIFICATE'**

18 'I ....., Clerk (Assistant Clerk) of Court for the Superior Court or Notary Public  
19 (circle one as appropriate) of..... County hereby certify that based upon the evidence  
20 before me I am satisfied as to the genuineness and due execution of the attached  
21 declaration by ....., declarant, and that the declarant's signature was witnessed by.....,  
22 and ....., who at the time of the declaration met the qualifications of G.S. 90-  
23 321(c)(3).

24 'This the .... day of ....., .....

25 .....  
26 Clerk (Assistant Clerk) of Superior Court  
27 or Notary Public (circle one as  
28 appropriate) for ..... County.'

29 (e) The above declaration may be revoked by the declarant, in any manner by which  
30 he is able to communicate his intent to revoke, without regard to his mental or physical  
31 condition. Such revocation shall become effective only upon communication to the  
32 attending physician by the declarant or by an individual acting on behalf of the  
33 declarant.

34 (f) The execution and consummation of declarations made in accordance with  
35 subsection (c) shall not constitute suicide for any purpose.

36 (g) No person shall be required to sign a declaration in accordance with  
37 subsection (c) as a condition for becoming insured under any insurance contract or for  
38 receiving any medical treatment.

39 (h) The withholding or discontinuance of extraordinary means in accordance  
40 with this section shall not be considered the cause of death for any civil or criminal  
41 purposes nor shall it be considered unprofessional conduct. Any person, institution or  
42 facility against whom criminal or civil liability is asserted because of conduct in  
43 compliance with this section may interpose this section as a defense.

1 (i) Any certificate in the form provided by this section prior to July 1, 1979, shall  
2 continue to be valid."

3 Sec. 4. G.S. 32A-9 reads as rewritten:

4 **"§ 32A-2. Powers conferred by the Statutory Short Form Power of Attorney set**  
5 **out in G.S. 32A-1.**

6 The Statutory Short Form Power of Attorney set out in G.S. 32A-1 confers the  
7 following powers on the attorney-in-fact named therein:

8 (1) Real Property Transactions. – To lease, purchase, exchange,  
9 and acquire, and to agree, bargain, and contract for the lease,  
10 purchase, exchange, and acquisition of, and to accept, take, receive,  
11 and possess any interest in real property whatsoever, on such terms  
12 and conditions, and under such covenants, as said attorney-in-fact  
13 shall deem proper; and to maintain, repair, improve, manage, insure,  
14 rent, lease, sell, convey, subject to liens, mortgage, subject to deeds  
15 of trust, and in any way or manner deal with all or any part of any  
16 interest in real property whatsoever, that the principal owns at the  
17 time of execution or may thereafter acquire, for under such terms  
18 and conditions, and under such covenants, as said attorney-in-fact  
19 shall deem proper.

20 (2) Personal Property Transactions. – To lease, purchase, exchange, and  
21 acquire, and to agree, bargain, and contract for the lease, purchase,  
22 exchange, and acquisition of, and to accept, take, receive, and possess  
23 any personal property whatsoever, tangible or intangible, or interest  
24 thereto, on such terms and conditions, and under such covenants, as  
25 said attorney-in-fact shall deem proper; and to maintain, repair,  
26 improve, manage, insure, rent, lease, sell, convey, subject to liens, and  
27 mortgages, and hypothecate, and in any way or manner deal with all or  
28 any part of any personal property whatsoever, tangible or intangible, or  
29 any interest therein, that the principal owns at the time of execution or  
30 may thereafter acquire, under such terms and conditions, and under  
31 such covenants, as said attorney-in-fact shall deem proper.

32 (3) Bond, Share and Commodity Transactions. – To request,  
33 ask, demand, sue for, recover, collect, receive, and hold and possess  
34 any bond, share, instrument of similar character, commodity interest  
35 or any instrument with respect thereto together with the interest,  
36 dividends, proceeds, or other distributions connected therewith, as  
37 now are, or shall hereafter become, owned by, or due, owing  
38 payable, or belonging to, the principal at the time of execution or in  
39 which the principal may thereafter acquire interest, to have, use, and  
40 take all lawful means and equitable and legal remedies, procedures,  
41 and writs in the name of the principal for the collection and recovery  
42 thereof, and to adjust, sell, compromise, and agree for the same, and  
43 to make, execute, and deliver for the principal, all indorsements,



1 acquittances, releases, receipts, or other sufficient discharges for the  
2 same.

3 (4) Banking Transaction. – To make, receive, sign, indorse,  
4 execute, acknowledge, deliver, and possess checks, drafts, bills of  
5 exchange, letters of credit, notes, stock certificates, withdrawal  
6 receipts and deposit instruments relating to accounts or deposits in,  
7 or certificates of deposit of, banks, savings and loan or other  
8 institutions or associations for the principal.

9 (5) Safe Deposits. – To have free access at any time or times to  
10 any safe deposit box or vault to which the principal might have  
11 access as lessee or owner.

12 (6) Business Operating Transactions. – To conduct, engage in,  
13 and transact any and all lawful business of whatever nature or kind  
14 for the principal.

15 (7) Insurance Transactions. – To exercise or perform any act,  
16 power, duty, right or obligation whatsoever in regard to any contract  
17 of life, accident, health, disability or liability insurance or any  
18 combination of such insurance procured by or on behalf of the  
19 principal prior to execution; and to procure new, different or  
20 additional contracts of insurance for the principal and to designate  
21 the beneficiary of any such contract of insurance, provided,  
22 however, that the agent himself cannot be such beneficiary unless  
23 the agent is spouse, child, grandchild, parent, brother or sister of the  
24 principal.

25 (8) Estate Transactions. – To request, ask, demand, sue for,  
26 recover, collect, receive, and hold and possess all legacies, bequests,  
27 devises, as are, owned by, or due, owing, payable, or belonging to,  
28 the principal at the time of execution or in which the principal may  
29 thereafter acquire interest, to have, use, and take all lawful means  
30 and equitable and legal remedies, procedures, and writs in the name  
31 of the principal for the collection and recovery thereof, and to adjust,  
32 sell, compromise, and agree for the same, and to make, execute, and  
33 deliver for the principal, all indorsements, acquittances, releases,  
34 receipts, or other sufficient discharges for the same.

35 (9) Personal Relationships and Affairs. – To do all acts  
36 necessary for maintaining the customary standard of living of the  
37 principal, the spouse and children, and other dependents of the  
38 principal; to provide medical, dental and surgical care,  
39 hospitalization and custodial care for the principal, the spouse, and  
40 children, and other dependents of the principal; to continue whatever  
41 provision has been made by the principal, for the principal, the  
42 spouse, and children, and other dependents of the principal, with  
43 respect to automobiles, or other means of transportation; to continue  
44 whatever charge accounts have been operated by the principal, for

1 the convenience of the principal, the spouse, and children, and other  
2 dependents of the principal, to open such new accounts as the  
3 attorney-in-fact shall think to be desirable for the accomplishment of  
4 any of the purposes enumerated in this section, and to pay the items  
5 charged on such accounts by any person authorized or permitted by  
6 the principal or the attorney-in-fact to make such charges; to  
7 continue the discharge of any services or duties assumed by the  
8 principal, to any parent, relative or friend of the principal; to  
9 continue payments incidental to the membership or affiliation of the  
10 principal in any church, club, society, order or other organization, or  
11 to continue contributions thereto. In the event the attorney-in-fact  
12 named pursuant to G.S. 32A-1 makes a decision regarding the  
13 hospitalization for the principal that is contradictory to a decision  
14 made by an agent designated in an Advance Directive executed  
15 pursuant to Article 23 of Chapter 90 of the General Statutes, the  
16 decision of the agent shall overrule the decision of the attorney-in-  
17 fact.

18 (10) Social Security and Unemployment. – To prepare, execute  
19 and file all social security, unemployment insurance and information  
20 returns required by the laws of the United States, or of any state or  
21 subdivision thereof, or of any foreign government.

22 (11) Benefits from Military Service. – To execute vouchers in the  
23 name of the principal for any and all allowances and reimbursements  
24 payable by the United States, or subdivision thereof, to the principal,  
25 arising from or based upon military service and to receive, to indorse  
26 and to collect the proceeds of any check payable to the order of the  
27 principal drawn on the treasurer or other fiscal officer or depository  
28 of the United States or subdivision thereof; to take possession and to  
29 order the removal and shipment, of any property of the principal  
30 from any post, warehouse, depot, dock or other place of storage or  
31 safekeeping, either governmental or private, to execute and to  
32 deliver any release, voucher, receipt, bill of lading, shipping ticket,  
33 certificate or other instrument which the agent shall think to be  
34 desirable or necessary for such purpose; to prepare, to file and to  
35 prosecute the claim of the principal to any benefit or assistance,  
36 financial or otherwise, to which the principal is, or claims to be,  
37 entitled, under the provisions of any statute or regulation existing at  
38 the creation of the agency or thereafter enacted by the United States  
39 or by any state or by any subdivision thereof, or by any foreign  
40 government, which benefit or assistance arises from or is based upon  
41 military service performed prior to or after execution.

42 (12) Tax. – To prepare, execute, verify and file in the name of the  
43 principal and on behalf of the principal any and all types of tax  
44 returns, amended returns, declaration of estimated tax, report,

1 protest, application for correction of assessed valuation of real or  
2 other property, appeal, brief, claim for refund, or petition, including  
3 petition to the Tax Court of the United States, in connection with any  
4 tax imposed or proposed to be imposed by any government, or  
5 claimed, levied or assessed by any government, and to pay any such  
6 tax and to obtain any extension of time for any of the foregoing; to  
7 execute waivers or consents agreeing to a later determination and  
8 assessment of taxes than is provided by any statute of limitations; to  
9 execute waivers of restriction on the assessment and collection of  
10 deficiency in any tax; to execute closing agreements and all other  
11 documents, instruments and papers relating to any tax liability of any  
12 sort; to institute and carry on through counsel any proceeding in  
13 connection with determining or contesting any such tax or to recover  
14 any tax paid or to resist any claim for additional tax on any proposed  
15 assessment or levy thereof; and to enter into any agreements or  
16 stipulations for compromise or other adjustments or disposition of  
17 any tax.

18 (13) Employment of Agents. – To employ agents such as legal  
19 counsel, accountants or other professional representation as may be  
20 appropriate and to grant such agents such powers of attorney or other  
21 appropriate authorization as may be required in connection with such  
22 representation or by the Internal Revenue Service or other  
23 governmental authority."

24 Sec. 5. This act becomes effective October 1, 1991, and applies to documents  
25 executed on and after that date.