

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 810 Department or Agency REVENUE

Rule Nos. 810-5-75-63

Rule Title: Powers of Attorney - Guidelines for Use

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

Yes

Does the proposed rule have any economic impact?

No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer

Michael E. Mason

Date

3/20/2012

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-5-75-.63

Rule Title: Powers of Attorney - Guidelines for Use

_____ New Amend _____ Repeal _____ Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND

BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE
BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC
HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH
IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Motor Vehicle Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-5-75-.66 Title Procedure-Cancellation of Manufactured Home Certificate of Origin or Certificate of Title

INTENDED ACTION: Adopt the above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above new rule to clarify the procedures for the cancellation of manufactured home certificates of origin and certificates of title in accordance with Section 32-20-20, Code of Alabama 1975.

RULE NO. & TITLE

810-5-75-.63 Powers of Attorney - Guidelines for Use

INTENDED ACTION: Amend the above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify procedures for using powers of attorney. In addition, the department proposes to amend the title of the rule.

RULE NO. & TITLE

810-5-1-.227.06 Memorandum of Understanding Between the Alabama Emergency Management Agency and the Department of Revenue

810-5-1-.488 Memorandum of Understanding Between the Finance Department and the Alabama Department of Revenue

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rules due to the fact that they are no longer necessary.

RULE NO. & TITLE

810-5-75-.40 Requirements for Names and Signatures on Title Application and Title Assignments. Reference: Sections 32-8-1 thru 32-8-88, Code of Alabama 1975, as amended

INTENDED ACTION: Amend the above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify name and signature requirements for title applications, title assignments and motor vehicle registrations.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Wednesday, May 16, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, May 16, 2012

CONTACT PERSON AT AGENCY:

Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

0869APC.INT

810-5-75-.63 Powers of Attorney - Guidelines for Use.

~~(1) The term "Department" as used in this regulation shall mean the Department of Revenue of the State of Alabama.~~

~~(2) Taxpayers may use the MVT 5-13 power of attorney form or a power of attorney form that contains the essential requirements listed below: To be acceptable by the department, a power of attorney must be an original document except as provided in paragraph (5) or (7), contain essential information, and be prepared on paper which shall meet the minimum requirements listed. In the event of multiple transactions, an original power of attorney is required for each individual transaction.~~

~~(3) Essential information which must be provided in a power of attorney form is as follows:~~

~~(a) Date document completed Name and address of taxpayer,~~

~~(b) Name and address of individual appointed as attorney-in-fact,~~

~~(c) Complete description of vehicle, including vehicle identification number (VIN), year, make, and model and body type, if applicable,~~

~~(d) Purpose(s) for which appointment is intended (owner shall initial each purpose listed on MVT 5-13 for which appointment is intended),~~

~~(e) Original eSignature of owner taxpayer (individual appointing attorney-in-fact), and his/her address, and signature of appointee,~~

~~(f) Notarization. Date document signed, and~~

~~(g) Notarization. (Note: This form may only be used for transactions which occur on or after the date(s) that the signature(s) is/are notarized. Notarization after the transaction date for ratification purposes is not acceptable.)~~

~~(4) The MVT 5-13 power of attorney is printed on 8½"x11", 20 lb. paper. All non-departmental powers of attorney shall be required to be printed on no less than 20 lb. paper with recommended dimensions of 8½"x11", but not less than 8½"x5½" dimensions (half a sheet).~~

~~(5) EXCEPTIONS: (2) Taxpayers must use the MVT 8-4 secure power of attorney form for the following purposes:~~

~~(a) Upon prior approval of the department, companies involved in the leasing of vehicles into Alabama may provide their lessee a facsimile rather than an original power of attorney provided it meets approved criteria. The facsimile~~

~~must contain essential information as listed above in paragraph (3) with the exception of original signature(s). The original document from which the facsimile is generated shall contain the notarized signature of a company official with the corporate seal affixed, and shall contain the following disclaimer:~~

~~(b) The signature of the President or other Officer of (Company Name) specifically authorized by the company to bind the company, and the seal of the company may be affixed by facsimile on this power of attorney and such facsimile signature and seal shall be valid and binding on the company to the same extent as the original signature and seal."~~

~~(c) A general power of attorney is not limited to the registration and titling of a vehicle. It grants the attorney-in-fact the authority to transact all business on behalf of the principal. Accordingly, the original must be retained by the attorney-in-fact.~~

~~(6) (a) Odometer Disclosure Requirements. The Federal Truth-in-Mileage Act of 1986 permits States to provide a power of attorney form for use by owners when transferring their motor vehicles, and their certificate of title is held by a duly recorded lienholder, or the certificate of title is lost, and a replacement certificate of title must be obtained. Such power of attorney can be used to disclose the vehicle's odometer reading in the assignment of title by the titled owner and will also permit the transferor to complete the assignment of title to the transferee. The odometer disclosure in the title assignment must be exactly as stated in the odometer disclosure made in the power of attorney.~~

~~(7) (b) The Federal Truth-in-Mileage Act of 1986 mandates that the power of attorney, utilized to transfer a vehicle under the above conditions, be printed by a secure printing process. The Final Rule issued by the National Highway Traffic Safety Administration (NHTSA) regarding such secure power of attorney, defines an original power of attorney in such a manner that allows for the use of a multiple-part page secure power of attorney form where each part page is considered to be an original when the copies are printed on secure paper. When a secure power of attorney is utilized, all signatures and hand-printed names (both seller-transferor and dealer transferee) must be original on all parts of the secure power of attorney, not just the top part.~~

~~(8) MVT Form 8-4 is to be used for the purpose described in paragraphs (6) and (7).~~

~~(3) Upon the sale of a vehicle by a dealership, or upon the declaration of a total loss by an insurance company where a MVT 8-4 secure power of attorney has been utilized, the dealer or insurance company must follow the procedures as outlined herein for the following types of transactions:~~

(a) If a vehicle is sold at retail to an Alabama resident, the original secure power-of-attorney must be submitted along with title application in the new owner's name and outstanding title to the ~~Motor Vehicle Division~~ Department with the appropriate fee and remittance advice.

(b) If a vehicle is sold at retail to a nonresident of Alabama or at wholesale to another dealer, the selling Alabama dealer must submit a photostat, carbon or other facsimile copy (page 2-file copy) of the secure power of attorney (containing all original signatures) along with a copy of the and a photostat, carbon or other facsimile copy of the certificate of title (front and back) to the ~~Motor Vehicle Division~~ Department unless the dealer is a designated agent of the Department. If the dealer is a designated agent of the Department, the dealer shall, on behalf of the Department, maintain a photostat, carbon or other facsimile copy of the secure power of attorney (containing all original signatures) and a photostat, carbon or other facsimile copy of the certificate of title (front and back) for a period of not less than five (5) years. No fee is required. The original secure power of attorney and title ~~should~~ must be given to the owner and/or lienholder, if required, for titling in the owner's resident state or to the acquiring dealer if the vehicle is sold at wholesale.

~~(c) If a vehicle is sold at wholesale to an Alabama dealer or a dealer outside of Alabama, the selling Alabama dealer must submit a copy (page 2-file copy) of the secure power of attorney (containing all original signatures) along with a copy of the title (front and back) to the Motor Vehicle Division. No fee is required. The original secure power of attorney and title shall be given to the purchasing dealer.~~

(d) If a vehicle is declared to be a total loss by an insurance company and the original certificate of title is lost or the insurance Ccompany subsequently satisfies the lienholder for the insured holding the certificate of title by the payment of such loss as a result of a total loss settlement, the insurance company may obtain a secure power of attorney from the titled owner whereby the insurance company will be the purchaser and will utilize the secure power of attorney to complete assignment by the registered owner. The original secure power of attorney must be submitted along with ~~Form MVT 41-1~~ an application for a ~~Ss~~ salvage certificate of Ttitle in the insurance company's name and the outstanding title to the ~~Motor Vehicle Division~~ Department with the appropriate fee ~~and remittance advice.~~

Author: Tyies Fleeting, Jonathan Lawrence
Authority: Sections 40-2A-7(a)(5), 40-2A-10, 32-8-3(a)(2), and Federal Truth-in-Mileage Act of 1986
History: New rule: Filed April 22, 2010, effective May 27, 2010.

APPENDIX A - CHAPTER 810-5-75

Attachment 810-5-75-.63

Author: **Tyies Fleeting**, Jonathan Lawrence
Authority: Section 32-8-1 through 32-8-88, Code of Alabama 1975
History: Form MVT 5-13 Revised 8/09 – Power of Attorney
Filed April 22, 2010, effective May 27, 2010.

