

## TITLE 3 AGENCY

### CHAPTER 3-01 CREATION AND TERMINATION OF AGENCY

#### **3-01-01. Definition.**

Agency is the relationship which results when one person, called the principal, authorizes another, called the agent, to act for the principal in dealing with third persons.

#### **3-01-02. General and special agent defined.**

An agent for a particular act or transaction is called a special agent. All others are general agents.

#### **3-01-03. Actual and ostensible agency defined.**

An agency is either actual or ostensible. It is actual when the agent really is employed by the principal. It is ostensible when the principal intentionally or by want of ordinary care causes a third person to believe another to be the principal's agent, who really is not employed by the principal.

#### **3-01-04. Who may appoint an agent - Who may be agent.**

Any person having capacity to contract may appoint an agent and any person may be an agent.

#### **3-01-05. Authorization to agent.**

An agent may be authorized to do any acts which the agent's principal might do, except those to which the principal is bound to give personal attention.

#### **3-01-06. How agency created.**

An agency may be created and an authority may be conferred by a prior authorization or a subsequent ratification.

#### **3-01-07. No consideration necessary.**

The relationship of principal and agent can be created although neither party receives consideration.

#### **3-01-08. Ratification of agency - How made - Extent.**

A ratification can be made only in the manner that would have been necessary to confer an original authority for the act ratified or, when an oral authorization would suffice, by accepting or retaining the benefit of the act with notice thereof. A ratification is not valid unless at the time of ratifying the act done the principal has power to confer authority for such an act and ratification of part of an indivisible transaction is a ratification of the whole.

#### **3-01-09. Retroactive ratification limited.**

No unauthorized act can be made valid retroactively to the prejudice of third persons without their consent.

#### **3-01-10. Rescission of ratification.**

A ratification may be rescinded when made without such consent as is required in a contract or with an imperfect knowledge of the material facts of the transaction ratified, but not otherwise.

#### **3-01-11. Termination of agency.**

1. An agency is terminated as to every person having notice thereof by:
  - a. Expiration of its term;

- b. Extinction of its subject;
  - c. Death of the agent;
  - d. Renunciation by the agent; or
  - e. Incapacity of the agent to act as such.
2. Unless the power of an agent is coupled with an interest in the subject of the agency, it is terminated as to every person having notice thereof by:
- a. Its revocation by the principal;
  - b. Death of the principal; or
  - c. Incapacity of the principal to contract.