

BILL ANALYSIS

C.S.H.B. 2331
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The durable power of attorney is a document that gives a person the authority to make personal and financial decisions on another person's behalf in the event of absence or incapacity. This authority has the potential to be abused, especially in the case of elder fraud.

C.S.H.B. 2331 clarifies that a designated attorney in fact or agent assumes certain fiduciary and other legal responsibilities by executing a notice.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2331 amends the Texas Probate Code to require an attorney in fact or agent, at the time authority conferred by a durable power of attorney is exercised by the attorney in fact or agent for a transaction of \$1,000 or more, to provide to the financial institution or other person to whom the durable power of attorney is provided a specified written notice. The bill sets forth the substantial form in which the written notice is to be provided by the attorney.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2331 adds a provision requiring the attorney in fact or agent to provide to the financial institution certain notice when the conferred durable power of attorney is exercised by the attorney in fact or agent for a transaction of \$1,000. The original amends a section of existing law and adds a designated attorney in fact or agent as a signator on a durable power of attorney designating another person as attorney in fact or agent. The substitute and the original both add substantially similar forms of the notice for the attorney in fact or agent relating to assumption of fiduciary and other legal responsibilities. The substitute removes the savings provision and makes other nonsubstantive changes.