

A BILL TO BE ENTITLED

AN ACT

relating to the acceptance of durable powers of attorney by third parties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter XII, Texas Probate Code, is amended by adding Section 489C to read as follows:

Sec. 489C. ACCEPTANCE OF DURABLE POWER OF ATTORNEY BY THIRD PARTIES REQUIRED. (a) A third party located in this state may not refuse, without reasonable cause, to honor a durable power of attorney properly executed in accordance with this chapter, including a statutory durable power of attorney.

(b) Reasonable cause for a third party's refusal to honor a durable power of attorney under Subsection (a) of this section includes:

(1) the third party's:

(A) actual knowledge of the principal's death;

(B) actual notice of the termination or revocation of the power of attorney;

(C) actual knowledge of the appointment of a guardian of the estate for the principal;

(D) actual knowledge of the principal's divorce or annulment of the principal's marriage, if the principal's attorney in fact or agent was the principal's spouse; and

(E) actual knowledge that a report has been made

1 to the Department of Family and Protective Services stating a good  
2 faith belief that the principal may have been or is subject to  
3 physical or financial abuse, neglect, exploitation, or abandonment  
4 by the principal's attorney in fact or agent or a person acting for  
5 or with the attorney in fact or agent; and

6           (2) that it is apparent on the face of the durable  
7 power of attorney that the instrument is fraudulent or has been  
8 forged or altered.

9           (c) A third party may not refuse to honor a durable power of  
10 attorney under this section if the sole reason for the refusal is:

11                   (1) the power of attorney is not on a form prescribed  
12 by the third party to whom the power of attorney is presented; or

13                   (2) there has been a lapse of time since the execution  
14 of the power of attorney.

15           (d) A third party that violates this section is liable to  
16 the principal, the principal's heirs, and other successors in  
17 interest of the principal to the same extent as if the third party  
18 had refused to allow the principal to act on the principal's own  
19 behalf.

20           (e) A third party that honors a durable power of attorney as  
21 required by this section may not be held liable for damages  
22 resulting from use of the durable power of attorney to the  
23 principal, the principal's heirs, other successors in interest of  
24 the principal, or any other person.

25           SECTION 2. This Act takes effect September 1, 2009.