

By: Wentworth

S.B. No. 1625

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 the third party's:

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

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

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

(4) 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.

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

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

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

5           (d) A third party that violates this section is liable to  
6 the principal and the principal's heirs to the same extent as if the  
7 third party had refused to allow the principal to act on the  
8 principal's own behalf.

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