

1-1 By: Wentworth, Nelson S.B. No. 1625
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 17, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 17, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1625 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the acceptance of durable powers of attorney by third
1-11 parties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter XII, Texas Probate Code, is amended by
1-14 adding Section 489C to read as follows:

1-15 Sec. 489C. ACCEPTANCE OF DURABLE POWER OF ATTORNEY BY THIRD
1-16 PARTIES REQUIRED. (a) A third party located in this state may not
1-17 refuse, without reasonable cause, to honor a durable power of
1-18 attorney properly executed in accordance with this chapter,
1-19 including a statutory durable power of attorney.

1-20 (b) Reasonable cause for a third party's refusal to honor a
1-21 durable power of attorney under Subsection (a) of this section
1-22 includes:

1-23 (1) the third party's:

1-24 (A) actual knowledge of the principal's death;

1-25 (B) actual notice of the termination or
1-26 revocation of the power of attorney;

1-27 (C) actual knowledge of the appointment of a
1-28 guardian of the estate for the principal;

1-29 (D) actual knowledge of the principal's divorce
1-30 or annulment of the principal's marriage, if the principal's
1-31 attorney in fact or agent was the principal's spouse; and

1-32 (E) actual knowledge that a report has been made
1-33 to the Department of Family and Protective Services stating a good
1-34 faith belief that the principal may have been or is subject to
1-35 physical or financial abuse, neglect, exploitation, or abandonment
1-36 by the principal's attorney in fact or agent or a person acting for
1-37 or with the attorney in fact or agent; and

1-38 (2) that it is apparent on the face of the durable
1-39 power of attorney that the instrument is fraudulent or has been
1-40 forged or altered.

1-41 (c) A third party may not refuse to honor a durable power of
1-42 attorney under this section if the sole reason for the refusal is:

1-43 (1) the power of attorney is not on a form prescribed
1-44 by the third party to whom the power of attorney is presented; or

1-45 (2) there has been a lapse of time since the execution
1-46 of the power of attorney.

1-47 (d) A third party that violates this section is liable to
1-48 the principal, the principal's heirs, and other successors in
1-49 interest of the principal to the same extent as if the third party
1-50 had refused to allow the principal to act on the principal's own
1-51 behalf.

1-52 (e) A third party that honors a durable power of attorney as
1-53 required by this section may not be held liable for damages
1-54 resulting from use of the durable power of attorney to the
1-55 principal, the principal's heirs, other successors in interest of
1-56 the principal, or any other person.

1-57 SECTION 2. This Act takes effect September 1, 2009.

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