

## **BILL ANALYSIS**

C.S.H.B. 2918  
By: Thompson, Senfronia  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that the power of attorney form promulgated by the National Conference of Commissioners on Uniform State Laws is an "opt-in" form, meaning that if the principal wants to provide for a power to be exercised by a designated agent, the party must affirmatively grant that power. However, the power of attorney form used in Texas is an "opt-out" form, which means that a person signing the form grants the designated agent general power of attorney unless the principal specifically restricts the powers given to the agent. Interested parties contend that Texas is the only state that utilizes an opt-out form for such purposes.

Some consumer groups have suggested that the opt-out form is an anti-consumer approach to power of attorney forms because people are often led to believe that certain parts of their property will be maintained by the agent operating under the power of attorney and do not realize that by signing the power of attorney, they are granting the agent the power not to do so. Observers note that in the past, Texas used an opt-in form, but the form was changed to an opt-out form by subsequent legislation. C.S.H.B. 2918 seeks to rectify this situation by, among other provisions, changing the power of attorney form used in Texas.

### **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. 2918 amends the Estates Code, as effective January 1, 2014, to change the form for a statutory durable power of attorney. The bill provides for the principal of the form to initial the powers that the principal wants to grant to the agent, rather than providing for the person to cross out the general powers that the person wants to withhold from the agent and specifying that if no power is crossed out, the document acts as a general power of attorney.

C.S.H.B. 2918 adds language to the form informing the principal that the principal should select someone the principal trusts to serve as agent. The bill provides for the form to specify that unless otherwise specified, the agent's authority will continue until the principal dies or revokes the power of attorney, the agent resigns or is unable to act for the principal, or a guardian is appointed for the person's estate. The bill revises form provisions authorizing the principal to grant the agent the power to apply the principal's property to make gifts by adding the specification that such power applies to gifts made outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by the principal. The bill sets out as part of the form certain important information for an agent relating to the agent's duties, termination of the agent's authority, and the liability of the agent.

### **EFFECTIVE DATE**

January 1, 2014.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2918 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Section 752.051 of the Texas Estates Code is amended to read as follows:  
SUBCHAPTER B. FORM OF STATUTORY DURABLE POWER OF ATTORNEY

Text of section effective on January 01, 2014

Sec. 752.051. FORM. The following form is known as a "statutory durable power of attorney":

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

DESIGNATION OF AGENT

I  
name the following  
(Name of Principal) person as my agent:  
Name of Agent:

Agent's Address:

Agent's Telephone Number:

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 752.051, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 752.051. FORM. The following form is known as a "statutory durable power of attorney":

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

You should select someone you trust to serve as your agent (attorney in fact). Unless you specify otherwise, generally the agent's (attorney in fact's) authority will continue until:  
(1) you die or revoke the power of attorney;  
(2) your agent (attorney in fact) resigns or is unable to act for you; or  
(3) a guardian is appointed for your estate.

Substantially the same as introduced version. (See below.)

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

Substantially the same as introduced version. (See below.)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:

Successor Agent's Address:

Successor Agent's Telephone Number:

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent:

Second Successor Agent's Address:

Second Successor Agent's Telephone Number:

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in Subtitle P, Title 2, Estates Code:

(INITIAL each subject you want to include in the agent's general authority.

If you wish to grant general authority over all of the subjects you may initial "ALL OF THE POWERS LISTED IN (A)-(M)" instead of initialing each subject.)

I, \_\_\_\_\_ (insert your name and address), appoint \_\_\_\_\_ (insert the name and address of the person appointed) as my agent (attorney in fact) to act for me in any lawful way with respect to all of the following powers that I have initialed below.

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS LISTED IN (A) THROUGH (M).

TO GRANT A POWER, YOU MUST INITIAL THE LINE IN FRONT OF THE POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF THE POWER. YOU MAY, BUT DO NOT NEED TO, CROSS OUT EACH POWER WITHHELD [except for a power that I have crossed out below.

[TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD].

- (A) real property transactions;
- (B) tangible personal property transactions;
- (C) stock and bond transactions;
- (D) commodity and option transactions;
- (E) banking and other financial institution transactions;
- (F) business operating transactions;
- (G) insurance and annuity transactions;

- \_\_\_\_ (A) Real property transactions;
- \_\_\_\_ (B) Tangible personal property transactions;
- \_\_\_\_ (C) Stock and bond transactions;
- \_\_\_\_ (D) Commodity and option transactions;
- \_\_\_\_ (E) Banking and other financial institution transactions;
- \_\_\_\_ (F) Business operating transactions;
- \_\_\_\_ (G) Insurance and annuity

(H) estate, trust, and other beneficiary transactions;  
(I) claims and litigation;  
(J) personal and family maintenance;  
(K) benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;  
(L) retirement plan transactions;  
(M) tax matters;  
(N) ALL OF THE POWERS LISTED IN (A) THROUGH (M). YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.

INITIAL ONLY the specific authority you WANT to give your agent.)

(A) Create, amend, revoke, or terminate an inter vivos trust

(B) Make a gift, (1) outright or for the benefit of, a person, of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. Section 2503(b), [as amended,] without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. 2513, [as

transactions;

(H) Estate, trust, and other beneficiary transactions;

(I) Claims and litigation;

(J) Personal and family maintenance;

(K) Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;

(L) Retirement plan transactions;

(M) Tax matters;

(N) ALL OF THE POWERS LISTED IN (A) THROUGH (M). YOU DO NOT HAVE TO INITIAL THE LINE IN FRONT OF ANY OTHER POWER IF YOU INITIAL LINE (N).

~~[IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY AND MY AGENT (ATTORNEY IN FACT) SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.]~~

SPECIAL INSTRUCTIONS:

Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

\_\_\_\_\_ I grant my agent (attorney in fact) the power to apply my property to make gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by me, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

amended,] in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and (2) consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. Section 2513, [as amended,] to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses. Additionally, this power of attorney may contain other special special instructions.

(C) Create or change rights of survivorship

(D) Create or change a beneficiary designation

(E) Authorize another person to exercise the authority granted under this power of attorney

(F) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(G) Exercise fiduciary powers that the principal has authority to delegate

(H) Disclaim or refuse an interest in property, including a power of appointment

**LIMITATION ON AGENT'S AUTHORITY**

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

**SPECIAL INSTRUCTIONS (OPTIONAL)**  
You may give special instructions on the following lines:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EFFECTIVE DATE**

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:

- (A) This power of attorney is not affected by my subsequent disability or incapacity.
- (B) This power of attorney becomes

effective upon my disability or incapacity. YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED. IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A). If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

NOMINATION OF [CONSERVATOR OR GUARDIAN] (OPTIONAL)

If it becomes necessary for a court to appoint a [conservator or guardian] of my estate or [guardian] of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

Nominee's Address:

Nominee's Telephone Number:

Name of Nominee for [guardian] of my person:

Nominee's Address:

Nominee's Telephone Number:

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third

party for any claims that arise against the third party because of reliance on this power of attorney.

If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: \_\_\_\_\_.

SIGNATURE \_\_\_\_\_ AND  
ACKNOWLEDGMENT

Your Signature Date

Your Name Printed

Your Address

Your Telephone Number

State of

[County] of

This document was acknowledged before me on

\_\_\_\_\_,  
(Date) by \_\_\_\_\_.

(Name of Principal)

(Seal)

Signature of Notary

My commission expires:

[This document prepared by:

]

Signed this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_

(your signature)

State of \_\_\_\_\_

County of \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_(date) by

\_\_\_\_\_  
(name of principal)

\_\_\_\_\_

(signature of notarial officer)

(Seal, if any, of notary)

\_\_\_\_\_

(printed name)

My commission expires: \_\_\_\_\_

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney; and

IMPORTANT INFORMATION FOR AGENT (ATTORNEY IN FACT)

Agent's Duties

When you accept the authority granted under this power of attorney, you establish a "fiduciary" relationship with the principal. This is a special legal relationship that imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked by the principal or by operation of law. A fiduciary duty generally includes the duty to:

(1) act in good faith;

(2) do nothing beyond the authority granted in this power of attorney;

(3) act loyally for the principal's benefit;

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) act loyally for the principal's benefit;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) act with care, competence, and diligence;
- (4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

(4) avoid conflicts that would impair your ability to act in the principal's best interest; and

(5) disclose your identity as an agent or attorney in fact when you act for the principal by writing or printing the name of the principal and signing your own name as "agent" or "attorney in fact" in the following manner:

(Principal's Name) by (Your Signature) as Agent (or as Attorney in Fact)

In addition, the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code) requires you to:

- (1) maintain records of each action taken or decision made on behalf of the principal;
- (2) maintain all records until delivered to the principal, released by the principal, or discharged by a court; and
- (3) if requested by the principal, provide an accounting to the principal that, unless otherwise directed by the principal or otherwise provided in the Special Instructions, must include:
  - (A) the property belonging to the principal that has come to your knowledge or into your possession;
  - (B) each action taken or decision made by you as agent or attorney in fact;
  - (C) a complete account of receipts, disbursements, and other actions of you as agent or attorney in fact that includes the source and nature of each receipt, disbursement, or action, with receipts of



principal and income shown separately;  
(D) a listing of all property over which you have exercised control that includes an adequate description of each asset and the asset's current value, if known to you;  
(E) the cash balance on hand and the name and location of the depository at which the cash balance is kept;  
(F) each known liability;  
(G) any other information and facts known to you as necessary for a full and definite understanding of the exact condition of the property belonging to the principal; and  
(H) all documentation regarding the principal's property.

### TERMINATION OF AGENT'S AUTHORITY

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

### Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act [insert citation]. If you violate the Uniform Power of Attorney Act [insert citation] or act outside the authority granted, you may be liable for any damages caused by your violation.

### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. An event that terminates this power of attorney or your authority to act under this power of attorney includes:

- (1) the principal's death;
- (2) the principal's revocation of this power of attorney or your authority;
- (3) the occurrence of a termination event stated in this power of attorney;
- (4) if you are married to the principal, the dissolution of your marriage by court decree of divorce or annulment;

(5) the appointment and qualification of a permanent guardian of the principal's estate; or

(6) if ordered by a court, the suspension of this power of attorney on the appointment and qualification of a temporary guardian until the date the term of the temporary guardian expires.

### Liability of Agent

The authority granted to you under this power of attorney is specified in the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code). If you violate the Durable Power of Attorney Act or act beyond the authority granted, you may be liable for any damages caused by the violation or subject

to prosecution for misapplication of property by a fiduciary under Chapter 32 of the Texas Penal Code.

THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

(See above.)

[I, \_\_\_\_\_ (insert your name and address), appoint \_\_\_\_\_ (insert the name and address of the person appointed) as my agent (attorney in fact) to act for me in any lawful way with respect to all of the following powers except for a power that I have crossed out below:

~~[ TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD.~~

[Real property transactions;

[Tangible personal property transactions;

[Stock and bond transactions;

[Commodity and option transactions;

[Banking and other financial institution transactions;

[Business operating transactions;

[Insurance and annuity transactions;

[Estate, trust, and other beneficiary transactions;

[Claims and litigation;

[Personal and family maintenance;

[Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;

[Retirement plan transactions;

[Tax matters.

~~[IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY AND MY AGENT (ATTORNEY IN FACT) SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.~~

[SPECIAL INSTRUCTIONS:

[Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

[I grant my agent (attorney in fact) the power to apply my property to make gifts, except that the amount of a gift to an individual may not exceed the amount of

annual exclusions allowed from the federal gift tax for the calendar year of the gift.

~~[ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.~~

[Redacted area containing multiple horizontal lines for special instructions.]

~~[UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.]~~

~~[CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:]~~

~~[(A) This power of attorney is not affected by my subsequent disability or incapacity.]~~

~~[(B) This power of attorney becomes effective upon my disability or incapacity.]~~

~~[YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.]~~

~~[IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).]~~

~~[If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or~~

~~mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.~~

~~[I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.~~

~~[If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: \_\_\_\_\_,~~

~~[Signed this \_\_\_\_\_ day of \_\_\_\_\_,~~

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No equivalent provision.

SECTION 2. Section 752.002, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 752.002. VALIDITY NOT AFFECTED. A power of attorney is valid with respect to meeting the requirements for a statutory durable power of attorney regardless of the fact that:

- (1) one or more of the categories of optional powers listed in the form prescribed

by Section 752.051 are not initialed ~~[struck]~~;  
or  
(2) the form includes specific limitations on, or additions to, the powers of the attorney in fact or agent.

SECTION 2. The change in law made by this Act to the Estates Code applies only to a proceeding brought on or after the effective date of this Act. An action brought before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect January 1, 2014.

SECTION 3. The changes in law made by this Act apply only to a power of attorney executed on or after the effective date of this Act. A power of attorney executed before the effective date of this Act is governed by the law in effect on the date the power of attorney was executed, and that law is continued in effect for that purpose.

SECTION 4. Same as introduced version.