

ENGROSSED HOUSE  
BILL NO. 1096

By: Vaughn (Ray) and  
Satterfield of the House

and

Hendrick of the Senate

An Act relating to powers of attorney; amending  
Section 6, Chapter 274, O.S.L. 1992 (58 O.S. Supp.  
1992, Section 1072.2), which relates to the  
execution of durable powers of attorney; requiring  
powers of attorney executed in accordance with the  
Uniform Durable Power of Attorney Act to be honored  
in the absence of actual or constructive knowledge  
of termination or of the principal's death; and  
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 6, Chapter 274, O.S.L.  
1992 (58 O.S. Supp. 1992, Section 1072.2), is amended to read as  
follows:

Section 1072.2 A. A durable power of attorney may be executed  
in accordance with the following provisions; provided, however,  
failure to execute a power of attorney as prescribed in this section  
shall not be construed to diminish the effect or validity of an  
otherwise properly executed durable power of attorney:

1. The principal shall sign the power of attorney at its end,  
or, if the principal is unable, some other person shall subscribe  
his name thereto in his presence and by his direction. The

principal, or such other person, shall sign in the presence of two witnesses, each of whom shall sign his name in the presence of the principal and each other;

2. The witnesses shall not be:

- a. under eighteen (18) years of age,
- b. related to the principal by blood or marriage, or
- c. the attorney-in-fact or anyone related to the attorney-in-fact by blood or marriage; and

3. The execution of the power of attorney shall be in substantially the following form:

Signed: \_\_\_\_\_

(Principal's signature)

City, County, and State of Residence

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

The principal is personally known to me and I believe the principal to be of sound mind. I am eighteen (18) years of age or older. I am not related to the principal by blood or marriage, or related to the attorney-in-fact by blood or marriage. The principal has declared to me that this instrument is his power of attorney granting to the named attorney-in-fact the power and authority specified herein, and that he has willingly made and executed it as his free and voluntary act for the purposes herein expressed.

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

STATE OF OKLAHOMA )

) SS.

COUNTY OF \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared

\_\_\_\_\_ (principal), \_\_\_\_\_  
(witness), and \_\_\_\_\_ (witness), whose names are  
subscribed to the foregoing instrument in their respective  
capacities, and all of said persons being by me duly sworn,  
the principal declared to me and to the said witnesses in  
my presence that the instrument is his or her power of  
attorney, and that the principal has willingly and  
voluntarily made and executed it as the free act and deed  
of the principal for the purposes therein expressed, and  
the witnesses declared to me that they were each eighteen  
(18) years of age or over, and that neither of them is  
related to the principal by blood or marriage, or related  
to the attorney-in-fact by blood or marriage.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

B. Execution of a durable power of attorney in substantially  
the form prescribed by this section shall create a presumption that  
the principal understands the nature and purpose of the power of  
attorney and has executed the same while being of sound mind, and of  
his free will. A person dealing with the attorney-in-fact shall not  
be required to inquire into the validity or adequacy of the  
execution of the power of attorney, nor shall any such person be  
required to inquire into the validity or propriety of any act of an  
attorney-in-fact apparently authorized by a power of attorney  
executed pursuant to this section.

C. A power of attorney executed in accordance with the  
provisions of this section shall be honored unless the person  
dealing with the attorney-in-fact has actual or constructive  
knowledge of the termination of the power by revocation or of the  
principal's death.

D. Notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, county clerks shall record any durable power of attorney executed in substantially the form prescribed in subsection A of this section.

~~D.~~ E. All powers of attorney executed prior to September 1, 1992, pursuant to the provisions of Sections 1051 through 1062 of Title 58 of the Oklahoma Statutes or the Uniform Durable Power of Attorney Act shall be valid. All durable powers of attorney established on or after September 1, 1992, shall be executed pursuant to the provisions of the Uniform Durable Power of Attorney Act.

~~E.~~ F. A power of attorney executed in another state shall be considered valid for purposes of the Uniform Durable Power of Attorney Act if the power of attorney and the execution of the power of attorney substantially comply with the requirements of the Uniform Durable Power of Attorney Act.

~~F.~~ G. Nothing in this section shall be construed to affect powers of attorney established pursuant to common law.

SECTION 2. This act shall become effective September 1, 1993.

Passed the House of Representatives the 18th day of February, 1993.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1993.

President of the Senate