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SENATE FILE 0219,

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AN ACT to create W.S. 34-9-111 and 34-9-112; and to repeal W.S. 34-9-101 through 34-9-110 relating to powers of attorney; adopting provisions of the Uniform Probate Code providing for powers of attorney which remain valid even if the principal becomes disabled; providing for revocation; repealing inconsistent laws; and providing for an effective date.

Mr. James Trux

[illegible]

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House of Intro
 _____ To Com No. _____
 _____ Stand Report Do _____ Amd _____ Not _____
 _____ Com Whole Do _____ Amd _____ Not _____
 _____ 2nd Reading Amd _____
 _____ 3rd Reading Amd _____ Pass _____ Fail _____

Second House
 _____ To Com No. _____
 _____ Stand Report Do _____ Amd _____ Not _____
 _____ Com Whole Do _____ Amd _____ Not _____
 _____ 2nd Reading Amd _____
 _____ 3rd Reading Amd _____ Pass _____ Fail _____

INTRODUCED

1983

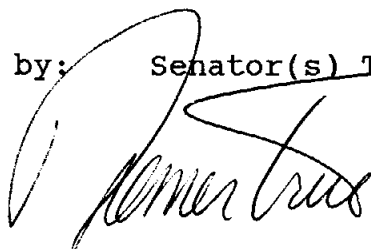
STATE OF WYOMING

83LSO-0042.01

SENATE FILE NO. 0219

Durable power of attorney.

Sponsored by: Senator(s) ~~TRUE~~



A BILL

for

1 AN ACT to create W.S. 34-9-111 and 34-9-112; and to repeal
 2 W.S. 34-9-101 through 34-9-110 relating to powers of
 3 attorney; adopting provisions of the Uniform Probate Code
 4 providing for powers of attorney which remain valid even
 5 if the principal becomes disabled; providing for revoca-
 6 tion; repealing inconsistent laws; and providing for an
 7 effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. W.S. 34-9-111 and 34-9-112 are created to
 10 read:

1 34-9-111. When power of attorney not affected by
2 disability. Whenever a principal designates another his
3 attorney in fact or agent by a power of attorney in writ-
4 ing and the writing contains the words "this power of
5 attorney shall not be affected by disability of the prin-
6 cipal", or "this power of attorney shall become effective
7 upon the disability of the principal", or similar words
8 showing the intent of the principal that the authority
9 conferred shall be exercisable notwithstanding his dis-
10 ability, the authority of the attorney in fact or agent is
11 exercisable by him as provided in the power on behalf of
12 the principal notwithstanding later disability or incapac-
13 ity of the principal at law or later uncertainty as to
14 whether the principal is dead or alive. All acts done by
15 the attorney in fact or agent pursuant to the power during
16 any period of disability or incompetence or uncertainty as
17 to whether the principal is dead or alive have the same
18 effect and inure to the benefit of and bind the principal
19 or his heirs, devisees and personal representative as if
20 the principal were alive, competent and not disabled. If
21 a conservator thereafter is appointed for the principal,
22 the attorney in fact or agent, during the continuance of
23 the appointment, shall account to the conservator rather
24 than the principal. The conservator has the same power

1 the principal would have had if he were not disabled or
2 incompetent to revoke, suspend or terminate all or any
3 part of the power of attorney or agency.

4 34-9-112. Other powers of attorney not revoked until
5 notice of death or disability.

6 (a) The death, disability or incompetence of any
7 principal who has executed a power of attorney in writing
8 other than a power as described by W.S. 34-9-111, does not
9 revoke or terminate the agency as to the attorney in fact,
10 agent or other person who, without actual knowledge of the
11 death, disability or incompetence of the principal, acts
12 in good faith under the power of attorney or agency. Any
13 action so taken, unless otherwise invalid or unenforce-
14 able, binds the principal and his heirs, devisees and per-
15 sonal representatives.

16 (b) An affidavit, executed by the attorney in fact
17 or agent stating that he did not have, at the time of
18 doing an act pursuant to the power of attorney, actual
19 knowledge of the revocation or termination of the power of
20 attorney by death, disability or incompetence, is, in the
21 absence of fraud, conclusive proof of the nonrevocation or
22 nontermination of the power at that time. If the exercise
23 of the power requires execution and delivery of any

1 instrument which is recordable, the affidavit when authen-
2 ticated for record is likewise recordable.

3 (c) This section shall not be construed to alter or
4 affect any provision for revocation or termination con-
5 tained in the power of attorney.

6 Section 2. W.S. 34-9-101 through 34-9-110 are
7 repealed.

8 Section 3. This act is effective May 27, 1983.

9 (END)

Durable power of attorney.

83LSO- 0042.L1

FISCAL NOTE

Anticipated REVENUE to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED REVENUE		
Anticipated COST to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED COST		

No apparent fiscal or personnel impact.

SF 2 19

THE LEGISLATURE OF THE STATE OF WYOMING

Senate

Cheyenne, February 10, 1983

Mr. President:

Your Committee No. 1 on Judiciary to whom was referred Senate File 0219 respectfully reports same back to the Senate with the recommendation that it DO PASS with the following amendments:

SF0219SS1

Page 1-line 1 After "34-9-112" delete the balance of the line.

Page 1-line 2 Delete the line through "34-9-110".

Page 1-line 3 After "," delete the balance of the line.

Page 1-line 5 After "," delete the balance of the line.

Page 1-line 6 Delete the line through "laws" and insert "providing for affidavits".

Page 2-line 2 After "disability." insert "(a)".

Page 3-After line 3 insert:

(b) An affidavit executed by the attorney-in-fact or agent stating that he did not at the time of doing an act pursuant to the power of attorney, have actual knowledge of the termination of the power of attorney by death is, in the absence of fraud, conclusive proof of the nontermination of the power at the time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

Page 4-lines 6 and 7 Delete entirely.

Page 4-line 8 Delete "3" and insert "2". -ARNEY

AYES: Senators Arney, Vinich, Norris and Scott.

NOES: Senator Nicholas.

Stored: SF0219SS1:0

Chairman