

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT IF A POWER OF ATTORNEY IS REVOKED OR
5 MODIFIED, NOTICE MUST BE PROVIDED TO THE ATTORNEY-IN-FACT OR AGENT NAMED IN THE
6 ORIGINAL POWER OF ATTORNEY; AND AMENDING SECTION 72-5-502, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 72-5-502, MCA, is amended to read:

11 **"72-5-502. Power of attorney not revoked until notice -- notice of revocation or modification.** (1)

12 The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or
13 terminate the agency as to the attorney-in-fact, agent, or other person who, without actual knowledge of the death
14 of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise
15 invalid or unenforceable, binds the successors in interest of the principal.

16 (2) The disability or incapacity of a principal who has previously executed a power of attorney that is not
17 a durable power does not revoke or terminate the agency as to the attorney-in-fact or other person who, without
18 actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action ~~so~~
19 taken in good faith, unless otherwise invalid or unenforceable, binds the principal and ~~his~~ the principal's
20 successors in interest.

21 (3) As to acts undertaken in good faith reliance ~~thereon~~ on a power of attorney, an affidavit executed by
22 the attorney-in-fact or agent stating that ~~he~~ the attorney-in-fact or agent did not have, at the time of exercise of
23 the power, actual knowledge of the termination of the power by revocation or of the principal's death, disability,
24 or incapacity is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise
25 of the power requires execution and delivery of any instrument ~~which~~ that is recordable, the affidavit when
26 authenticated for record is likewise recordable.

27 (4) This section does not affect any provision in a power of attorney for its termination by expiration of
28 time or occurrence of an event other than express revocation or a change in the principal's capacity.

29 (5) When a principal revokes or otherwise modifies an existing written power of attorney, the principal
30 shall notify the attorney-in-fact or agent named in the original power of attorney of the revocation or modification

1 by providing to the attorney-in-fact or agent a copy of the revocation or modification. The copy must be provided
2 in a timely manner and must be either hand-delivered or sent by first-class mail, postage prepaid, to the person
3 to be notified."

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