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329

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 348

PUBLISH DATE: 5/5/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Claims by victims of crime
arising from criminal conduct
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 |
|------------------------|----------|----------|----------|----------|----------|----------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LANDS & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |

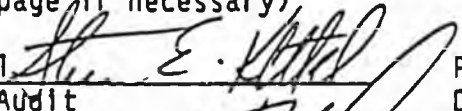
FUNDING: (Thousands of Dollars)

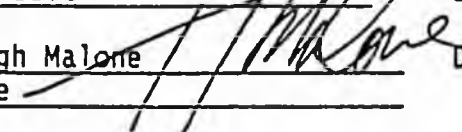
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|---------------|----------|----------|----------|----------|----------|----------|
| GENERAL FUND | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page, if necessary)

Prepared By: Steven E. Kettel  Phone: (907) 465-2320
Division: Income and Excise Audit Date: December 4, 1989

Approved by Commissioner: Hugh Malone  Date: December 4, 1989
Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 348
Analysis
Prepared by:
Steven E. Kettel
Income and Excise Audit Division
December 4, 1989

Analysis:

Although this legislation is intended to provide direct benefit to victims (prsons) of a crime against their property, the amendment will strengthen the state's ability to collect taxes which were fraudently understate or reported.

Fiscal Impact:

We do not anticipate that this legislation will markedly increase revenue collections. It will require no additional appropriation to this division.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to powers of attorney."
Sponsor: Repr. Taylor
Requestor: House Judiciary

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

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|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

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|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 9, 1990
 Approved by Commissioner: Douglas B. Bailly, Attorney General Date: January 9, 1990
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 329

This bill amends AS 13.26 by providing that the state's current statutory power of attorney form, except where statutory form provisions relate to a durable power of attorney, does not prevent a person from using another form or other language that under common law would create a valid and binding grant of a power of attorney. Because the bill deals with transactions between private parties, there will not be a fiscal impact on the Department of Law. The department does note that there has been an increasing number of occasions where individuals have attempted by a power of attorney to "sell" permanent fund dividends. Likewise, there has been a recent increase in attempts to use a power of attorney to overcome the two-year prohibition for paying a finder's fee under the state's escheated property act. The propriety of granting a power of attorney for these purposes is, however, a matter of substance and not form.



Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEER STRANDBERG
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

December 21, 1989

Representative Peter Goll
Representative Max Gruenberg
Representative Dave Donley
3111 C Street
Anchorage, AK 99503

Re: HB 348 An Act relating to claims by victims of crime arising from criminal conduct.

Dear Representatives Goll, Gruenberg and Donley:

This bill provides that creditors may levy against exempt property of a debtor to enforce claims arising from criminal conduct of the debtor that results in a felony conviction. Although the purpose of the bill is to allow creditors of these debtors to reach exempt property, the first section of the bill grants these debtors most of the exemptions listed in AS 09.38.020 (omitting only the jewelry, pets and motor vehicle exemptions). This unduly complicates the exemption procedure for the creditors as well as the work of court clerks. Also the court system will need to change its forms and handbooks for creditors and debtors.

Section 2 of the bill requires creditors of these debtors to use the procedures of AS 09.38.075 on those items (jewelry, pets and motor vehicles) that are not made exempt by Section 1. This is inconsistent with the purpose of AS 09.38.065(c) that allows creditors simply to serve the debtor with a notice of levy stating the basis of the creditor's right to levy on exempt property without having to give the debtor notice and opportunity to apply for exemptions.

Although Section 2 of the bill requires the creditor to use the execution procedures of AS 09.38.075(a), Section 3 of the bill also requires creditors to follow the regular execution procedures.

Representatives Goll, Gruenberg & Donley
December 21, 1989
Page 2

The effect of AS 09.38.065(3) is to deny the debtor his exemption. By doing so, this section gives the creditor a relatively straightforward levy procedure to follow. However, this bill gives the debtor of criminal conduct claims most, but not all, of the statutory exemptions and makes it difficult, if not impossible, for the creditor to follow the existing levy procedures.

Sincerely,



Jan Strandberg
Staff Counsel

JS:gah

HB329

Alaska State Legislature

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(907) 874-2316

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JUNEAU, ALASKA 99811
(907) 465-4905



COMMITTEES:
MEMBER
RULES
COMMITTEE ON COMMITTEES
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
FINANCE SUBCOMMITTEE
DEC

House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

March 29, 1989

Representative Gruenberg, Co Chair
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Max,

I am enclosing a copy of Chuck Cloudy's request on amending the law on general power of attorney. Please take a look at it and give it serious consideration. I would be more than happy to co-sponser legislation that you come up with to take care of this matter.

Thank you very much for your prompt attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Taylor".

Robin L. Taylor
RLT/sjw

enclosure

LAW OFFICES OF
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1918-1972 (DECEASED)
A. M. ZIEGLER
RETIRED
ROBERT M. ZIEGLER SR.

RECEIVED MAR 20 1989

March 9, 1989

Robin L. Taylor, Esq.
Post Office Box 1441
Wrangell, Alaska 99929

Re: AS 13.26.332 et seq. General Power of Attorney

Dear Robin:

As discussed with you on the telephone Friday March 3, 1989, I do not feel at all comfortable with the statutory form power of attorney.

To me, over the past 36½ years of practice, and to my clients as well (educated and otherwise), a general power is one which grants the grantee a power to do whatever the grantor could do in person. Anything less than that is a special power. Over the years, I have yet to deal with a client who did not fully understand the distinction and the difference. Insofar as the form itself is concerned, it creates more problems than it solves per my marginal notes. I am enclosing particular portions of the statute with which I have a problem. Overall, the form addressed by the statute is actually a special power rather than a general (unless 344 can be said to be a finite list of all that a grantor could do on his or her own).

My more particularized concern, however, is that the statute does not clearly save the common law as to powers generally, so that we can continue to follow the simple concepts. Aside from the statutory language set out for proof of disability for durable powers, and related third party reliance, I do not find anything in the entire statute which I would be comfortable in using.

I am not a legislative draftsman; however, per your suggestion, I am enclosing an attempt which I believe solves the problem.

ZIEGLER, CLOUDY, KING & PETERSON

Robin L. Taylor, Esq.
March 9, 1989
Page 2

Thanks for your interest in this matter.

Sincerely,

ZIEGLER, CLOUDY, KING & PETERSON

By 
C. L. Cloudy

CLC:tlg

Enclosure:

Extract of AS 13.26.332 et seq.

Statutory Power not exclusive. Save for the language prescribed in Section 13.26.350(a), the medical proofs called for in AS 13.26.353, and the affidavit called for in AS 13.26.356(b), all with reference to what is commonly known as a "durable power" and related considerations, and without reservation or limitation as to all other non-durable grants of a power or powers, neither the statutory form set forth herein nor the statutory language employed herein is intended to exclude the use of any other format or any other language, the use of which under the common law would constitute a valid and binding grant of a power or powers with third party reliance protection as to the exercise by the grantee of said power or powers.

Section
 350 When statutory form power of attorney is not affected by disability or incompetence of principal
 353 Provisions applicable to statutory form power of attorney

Section
 356 Powers of attorney not revoked until notice of death or disability

Editor's notes. — Section 2, ch. 109, SLA 1988 provides

"(a) A general power of attorney created before September 4, 1988 shall be construed to grant to the attorney-in-fact the powers set out under AS 13.26.344

"(b) A special power of attorney created before September 4, 1988 shall be construed to grant the attorney-in-fact the powers set out in that special power of attorney

"(c) The provisions of AS 13.26.336,

13.26.341, 13.26.347, 13.26.353 b), 13.26.353 c), and 13.26.356 apply

"1) to a general power of attorney in effect on September 4, 1988, and

"2) to a special power of attorney in effect on September 4, 1988

"(d) The provisions of AS 13.26.338, 13.26.341, 13.26.347, 13.26.350, 13.26.353, and 13.26.356 apply to a durable power of attorney, whether general or specific, in effect on September 4, 1988."

Secs. 13.26.325, 13.26.330. Death or disability. [Repealed, § 3 ch 109 SLA 1988.]

Sec. 13.26.332. Statutory form power of attorney. A person who wishes to designate another as attorney-in-fact or agent by a power of attorney may execute a statutory power of attorney set out in substantially the following form:

GENERAL POWER OF ATTORNEY

THE POWERS GRANTED FROM THE PRINCIPAL TO THE AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE VERY BROAD. THEY MAY INCLUDE THE POWER TO DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND PERSONAL PROPERTY, AND THE POWER TO MAKE YOUR HEALTH CARE DECISIONS. ACCORDINGLY, THE FOLLOWING DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS DOCUMENT, YOU SHOULD SEEK COMPETENT ADVICE.

YOU MAY REVOKE THIS POWER OF ATTORNEY AT ANY TIME.

Pursuant to AS 13.26.338 — 13.26.353, I, Name of principal, of (Address of principal), do hereby appoint (Name and address of agent or agents), my attorney(s)-in-fact to act as I have checked below in my name, place, and stead in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is

DOES THIS
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to a practice?*

defined in AS 13.26.344, to the full extent that I am permitted by law to act through an agent:

THE AGENT OR AGENTS YOU HAVE APPOINTED WILL HAVE ALL THE POWERS LISTED BELOW UNLESS YOU

DRAW A LINE THROUGH A CATEGORY; AND INITIAL THE BOX OPPOSITE THAT CATEGORY

- (A) real estate transactions ()
- (B) transactions involving tangible personal property, chattels, and goods ()
- (C) bonds, shares, and commodities transactions ()
- (D) banking transactions ()
- (E) business operating transactions ()
- (F) insurance transactions ()
- (G) estate transactions ()
- (H) gift transactions ()
- (I) claims and litigation ()
- (J) personal relationships and affairs ()
- (K) benefits from government programs and military service ()
- (L) health care services ()
- (M) records, reports, and statements ()
- (N) delegation ()
- (O) all other matters, including those specified as follows: ()

Lack of Notary Initial & Date NG

Lack of Initial, Date & Initial or Date NG

IF YOU HAVE APPOINTED MORE THAN ONE AGENT, CHECK ONE OF THE FOLLOWING:

- () Each agent may exercise the powers conferred separately, without the consent of any other agent.
- () All agents shall exercise the powers conferred jointly, with the consent of all other agents.

TO INDICATE WHEN THIS DOCUMENT SHALL BECOME EFFECTIVE, CHECK ONE OF THE FOLLOWING:

- () This document shall become effective upon the date of my signature.
- () This document shall become effective upon the date of my disability and shall not otherwise be affected by my disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE ON THE DATE OF YOUR SIGNATURE, CHECK ONE OF THE FOLLOWING:

- () This document shall not be affected by my subsequent disability.
- () This document shall be revoked by my subsequent disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR SIGNATURE

AND WANT TO LIMIT THE TERM OF THIS DOCUMENT, COMPLETE THE FOLLOWING:

This document shall only continue in effect for _____ () years from the date of my signature.

NOTICE OF REVOCATION OF THE POWERS GRANTED IN THIS DOCUMENT

You may revoke one or more of the powers granted in this document. Unless otherwise provided in this document, you may revoke a specific power granted in this power of attorney by completing a special power of attorney that includes the specific power in this document that you want to revoke. Unless otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney.

NOTICE TO THIRD PARTIES

A third party who relies on the reasonable representations of an attorney-in-fact as to a matter relating to a power granted by a properly executed statutory power of attorney does not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the attorney-in-fact, the principal's heirs, assigns, or estate for a civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the disability of the principal, the disability of the principal is established by an affidavit, as required by law.

IN WITNESS WHEREOF, I have hereunto signed my name this _____ day of _____, _____.

Signature of Principal

Subscribed and sworn to or affirmed before me at _____
on _____

Signature of Officer or Notary

(§ 1 ch 109 SLA 1988)

Sec. 13.26.335. Additional optional provisions to statutory form power of attorney. Each of the following provisions may be included in a statutory form power of attorney:

(1) IF YOU HAVE GIVEN THE AGENT AUTHORITY REGARDING HEALTH CARE SERVICES UNDER SUBDIVISION (L), COMPLETE THE FOLLOWING:

() I have executed a separate declaration under AS 18.12, known as a "Living Will."

Suggests that result would be otherwise if didn't use Statutory Power

Is the Statutory Power Recordable without Acknowledgment?

Ditto to amendment P 333

*Draft
to client
P 333*

() I have not executed a "Living Will."

(2) YOU MAY DESIGNATE AN ALTERNATE ATTORNEY-IN-FACT. ANY ALTERNATE YOU DESIGNATE WILL BE ABLE TO EXERCISE THE SAME POWERS AS THE AGENT(S) YOU NAMED AT THE BEGINNING OF THIS DOCUMENT. IF YOU WISH TO DESIGNATE AN ALTERNATE OR ALTERNATES, COMPLETE THE FOLLOWING:

If the agent(s) named at the beginning of this document is unable or unwilling to serve or continue to serve, then I appoint the following agent to serve with the same powers:

First alternate or successor attorney-in-fact

(Name and address of alternate)

Second alternate or successor attorney-in-fact

(Name and address of alternate)

(3) YOU MAY NOMINATE A GUARDIAN OR CONSERVATOR. IF YOU WISH TO NOMINATE A GUARDIAN OR CONSERVATOR, COMPLETE THE FOLLOWING:

In the event that a court decides that it is necessary to appoint a guardian or conservator for me, I hereby nominate _____ (Name and address of person nominated) _____ to be considered by the court for appointment to serve as my guardian or conservator, or in a similar representative capacity. (§ 1 ch 109 SLA 1988)

Sec. 13.26.338. Completion of statutory form power of attorney. (a) In the instrument set out in AS 13.26.332 — 13.26.335, the principal must draw a line through the text of any category for which the principal does not desire to give the agent authority.

(b) Special provisions and limitations may be imposed on the statutory form power of attorney only if they conform to the requirements of AS 13.26.347. (§ 1 ch 109 SLA 1988)

Sec. 13.26.341. Applicability of provisions of statutory form power of attorney. In the instrument set out in AS 13.26.332 — 13.26.335,

(1) if the principal has appointed more than one person to act as attorney-in-fact or agent and failed to check whether the agents may act "jointly" or "severally," the agents are required to act jointly;

(2) if the principal has failed to indicate when the instrument shall become effective, the instrument shall become effective upon the date of the principal's signature;

(3) if the principal has indicated that the instrument shall become effective upon the date of the principal's signature or has failed to indicate when the instrument shall become effective and has failed to indicate the effect of the principal's subsequent disability on the instrument, the instrument shall be revoked by the subsequent disability of the principal;

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mean that the principal gives the agent full and unqualified authority to delegate a power set out in AS 13.26.332 — 13.26.356 to a person whom the agent may select.

(c) In a statutory form power of attorney, the language conferring general authority with respect to all other matters shall be construed to mean that the principal authorizes the person designated in the power of attorney to act as an agent of the principal with respect to

- (1) matters specifically described as other matters in the statutory form power of attorney; and
- (2) any other matter that is not enumerated in or excluded by this section and that the principal can lawfully do through an agent. (§ 1 ch 109 SLA 1988)

Sec. 13.26.347. Validity of modified statutory form power of attorney. A power of attorney that satisfies the requirements of AS 13.26.332 — 13.26.344 is not prevented from being a statutory form power of attorney by the fact that it also contains additional language that

- (1) eliminates from the power of attorney one or more of the powers enumerated in one or more of the subsections of AS 13.26.344 with respect to a section of the statutory form power of attorney that is not eliminated by the principal;
- (2) supplements one or more of the powers enumerated in one or more of the subsections of AS 13.26.344 with respect to a section of the statutory form power of attorney that is not eliminated by the principal by specifically listing additional powers of the agent; or
- (3) makes an additional provisor, that is not substantially inconsistent with the other provisions of the statutory form power of attorney. (§ 1 ch 109 SLA 1988)

Sec. 13.26.350. When statutory form power of attorney is not affected by disability or incompetence of principal. (a) The subsequent disability or incompetence of a principal does not revoke or terminate the authority of an attorney-in-fact who acts under a power of attorney in a writing executed by a principal if the writing contains the words "This power of attorney shall become effective upon the disability of the principal," or contain the words "This power of attorney shall not be affected by the subsequent disability of the principal," or words substantially similar showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability, incompetence, or uncertainty as to whether the principal is dead or alive.

(b) An act done by an attorney-in-fact under a power granted in a power of attorney under AS 13.26.332 — 13.26.344 during a period of disability, incompetence, or uncertainty as to whether the principal is dead or alive has the same effect and enures to the benefit of and binds

Does this mean only a Statutory P/A can be DURABLE?

a principal and the principal's distributees, devisees, legatees, and personal representatives as if the principal were competent and not disabled. If a conservator is later appointed for the principal, during the continuance of the appointment the attorney-in-fact shall account to the conservator rather than to the principal. The conservator has the same power the principal would have if the principal were not disabled or incompetent to revoke, suspend, or terminate the power of attorney. (§ 1 ch 109 SLA 1988)

Again -
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Sec. 13.26.353. Provisions applicable to statutory form power of attorney. a) For purposes of AS 13.26.332 - 13.26.344,

(1) the disability of a principal shall be established by affidavit stating that the principal's ability to receive and evaluate information, or to communicate decisions, is impaired as a result of mental illness, mental deficiency, physical illness, physical disability, advanced age, use of drugs, chronic intoxication, or other similar medical or psychological reason, to such an extent that the principal is unable to manage the principal's property or affairs;

(2) the affidavit shall be signed by two physicians or similarly qualified medical professionals who have personally examined the principal; however, the affidavit may be signed by only one physician or similarly qualified medical professional if only one physician or similarly qualified medical professional is available and the affidavit executed by the person so states.

(b) A third party who relies on the reasonable representations of an attorney-in-fact designated under AS 13.26.332 - 13.26.344 as to a matter relating to a power granted by a properly executed statutory form power of attorney does not incur a liability to the principal or the principal's heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney.

(c) A third party shall honor the terms of a properly executed statutory form power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable in a civil action to the principal, the attorney-in-fact, or the principal's heirs, assigns, or estate for a civil penalty not to exceed \$1,000, plus the actual damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. The civil action shall be the exclusive remedy at law for damages. (§ 1 ch 109 SLA 1988)

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Sec. 13.26.356. Powers of attorney not revoked until notice of death or disability. (a) The death, disability or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency as to the attorney-in-fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Action so taken, unless otherwise invalid or unen-

354
ANY power OR only statutory?

forceable represen (b) An that the act under terminat tence, is, or nonte power re- able. the able.

(c) A s shall be that spec

Chap

- Section
- 10. No su ship
- 20. Surviv
- 30. Joint t urety
- 40. Comm

Editor's 1987 provi apply to the

Sec. 13 as otherw devolutior sufficient neously, t person ha

Sec. 13. eficiaries a under ano cient evid- neously, th portions as distributec ciary had

forceable, binds the principal and the heirs, devisees, and personal representatives of the principal.

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

(c) A special power of attorney created before September 4, 1988 shall be construed to grant the attorney-in-fact the powers set out in that special power of attorney. (§ 1 ch 109 SLA 1988)

Chapter 43. Uniform Simultaneous Death Act.

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Section 10. No sufficient evidence of survivorship 20. Survival of beneficiaries 30. Joint tenants or tenants by the entirety 40. Community property</p> | <p>Section 50. Insurance policies 60. Inapplicable sections if decedent provides otherwise 70. Uniformity of interpretation 80. Short title</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Editor's notes. — Section 3, ch. 1, SLA 1987 provides that this chapter does "not apply to the distribution of the property of the person who died before June 15, 1987."

Sec. 13.43.010. No sufficient evidence of survivorship. Except as otherwise provided in this chapter, when the title to property or the devolution of property depends upon priority of death and there is no sufficient evidence that the persons have died other than simultaneously, the property of each person shall be disposed of as if that person had survived. (§ 2 ch 1 SLA 1987)

Sec. 13.43.020. Survival of beneficiaries. When two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that the beneficiaries died otherwise than simultaneously, the property disposed of shall be divided into as many equal portions as there are successive beneficiaries and the portions shall be distributed to those who would have taken if each designated beneficiary had survived. (§ 2 ch 1 SLA 1987)