

One Hundred Second Legislature - Second Session - 2012

Introducer's Statement of Intent

LB1113

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: February 15, 2012

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1113 would adopt the Nebraska Uniform Power of Attorney Act ("the Act"), which is based on the Uniform Power of Attorney Act that was drafted by the National Conference of Commissioners on Uniform State Laws and approved by it in 2006.

Sections 1-23 of the Act contain all of the general provisions that pertain to creation and use of a power of attorney. Most of these provisions are default rules that can be altered by the power of attorney, but certain mandatory provisions in these sections serve as safeguards for the protection of the principal, the agent, and persons who are asked to rely on the agent's authority.

Sections 24-40 provide default definitions for the various areas of authority that can be granted to an agent. Most of these definitions come from the Uniform Statutory Form Power of Attorney Act (1988); however, the language is updated where necessary to reflect modern day transactions. Section 24 identifies certain areas of authority that must be granted with express language because of the propensity of such authority to dissipate the principal's property or alter the principal's estate plan.

Sections 41-42 contain statutory forms that are designed for use by lawyers as well as lay persons. Step-by-step prompts are given for designation of the agent, successor agents, and the grant of authority. Section 42 contains a sample agent certification form.

Sections 43-45 contain miscellaneous provisions concerning the relationship of the Act to other law and pre-existing powers of attorney.

The Act has an operative date of January 1, 2013.

Principal Introducer: _____

Senator Mike Flood