



WHY YOUR STATE SHOULD ADOPT THE UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

Powers of Attorney are widely used in every state for both financial purposes and for health care decisions. As their use has become more common in recent years, situations arise where an agent under a power of attorney must present the document in a state other than the state where the power of attorney was executed. Because state laws vary widely, a person asked to accept a power of attorney executed in another state may not be comfortable accepting the agent's authority.

Complicating the matter further, powers of attorney are sometime called by different names. They may be called "proxies" in the northeastern states, or "representation agreements" in Canadian provinces. The Uniform Recognition of Substitute Decision-Making Documents Act (URSDDA) was drafted by the ULC in conjunction with the Uniform Law Conference of Canada to encourage cross-border acceptance of these documents, by whatever name they may be called.

States should enact URSDDA because:

- ***URSDDA provides a simple system for accepting foreign powers of attorney.*** The person asked to accept a foreign POA may rely in good faith on the agent's authority unless the person has actual knowledge of invalidity. The person can also request an English translation, an agent's affidavit to affirm relevant facts, or an opinion of counsel from someone licensed to practice law in the state of the POA's execution. If any of these documents are requested they must be provided at the agent's expense.
- ***URSDDA ensures the scope of an agent's authority remains constant in any jurisdiction.*** Although POA laws vary, the scope of an agent's authority should not change when the agent crosses a state border. URSDDA protects the principal's original intent by making clear that the meaning and effect of a power of attorney is governed by the law of the state or province where it was executed.
- ***URSDDA gives third parties broad authority to reject powers of attorney in appropriate circumstances.*** A person need not accept a foreign power of attorney if the person would not be obligated to act on the principal's request, if the agent refuses to provide an affidavit, translation, or opinion of counsel, if elder abuse is suspected and a report made, or if the person has a good faith belief that the document is invalid or the agent is exceeding the authority granted.

URSDDA is a short, simple act that encourages the use and acceptance of powers of attorney in all U.S. states and Canadian provinces while protecting from liability principals, agents, and those who deal with agents. It should be enacted in every state.

For further information about URSDDA, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or borzeske@uniformlaws.org.