

633.705 When power of attorney not affected by disability.

1. Whenever a principal designates another the principal's attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal", or "This power of attorney shall become effective upon the disability of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal and the principal's heirs, devisees and personal representatives as if the principal were alive, competent and not disabled. If a conservator thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the conservator rather than the principal, and the conservator shall have the power to revoke the power of attorney on behalf of the principal.

2. 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 pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death or by the act of the principal, 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 any instrument which is recordable, the affidavit when properly acknowledged is also recordable.

[C77, 79, 81, § 633.705]

2000 Acts, ch 1150, §6