

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 380

An Act to amend and reenact § 11-9.1 of the Code of Virginia, relating to power of attorney; revocation, suspension, limitation.

[H 1337]

Approved April 8, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 11-9.1 of the Code of Virginia is amended and reenacted as follows:

§ 11-9.1. When power of attorney, etc., not terminated by principal's disability; exception.

A. Whenever any power of attorney or other writing, in which any principal shall vest any power or authority in an attorney-in-fact or other agent, shall contain the words "This power of attorney (or his authority) shall not terminate on disability of the principal" or other words showing the intent of the principal that such power or authority shall not terminate upon his disability, then all power and authority vested in the attorney-in-fact or agent by the power of attorney or other writing shall continue and be exercisable by the attorney-in-fact or agent on behalf of the principal notwithstanding any subsequent disability, incompetence, or incapacity of the principal at law, *except as provided in subsection B*. All acts done by the attorney-in-fact or agent, pursuant to such power or authority, during the period of any such disability, incompetence or incapacity, shall have in all respects the same effect and shall inure to the benefit of, and bind the principal as fully as if the principal were not subject to such disability, incompetence or incapacity. If any conservator, *guardian*, or committee shall thereafter be appointed for the principal, the attorney-in-fact or agent shall, during the continuance of such appointment, account to such conservator, *guardian*, or committee as he would otherwise be obligated to account to the principal.

B. The appointment of a conservator, *guardian*, or committee pursuant to Title 37.1 shall not of itself revoke or limit the authority of the attorney-in-fact or other agent. However, in a proceeding in which the attorney-in-fact or other agent is made a party, the court which appointed the conservator, *guardian*, or committee may revoke, suspend, or otherwise limit ~~such~~ *the authority of the attorney-in-fact or other agent at the request of, and based upon information provided by, the conservator, guardian, committee, or other interested parties for an incapacitated individual*. Furthermore, where no conservator, *guardian*, or committee has been appointed, the circuit court of the city or county where the principal resides or is located, in a proceeding brought by a person interested in the welfare of the principal as defined in § 37.1-134.22, and in which the attorney-in-fact or other agent and the principal are made parties, may terminate, suspend, or otherwise limit the authority of the attorney-in-fact or other agent upon a finding that such termination, suspension or limitation is in the best interests of the principal or his estate.