

CHAPTER 523

POWERS OF ATTORNEY

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523.131 QUALIFICATION OF SUCCESSOR ATTORNEY-IN-FACT IN STATUTORY SHORT FORM POWER OF ATTORNEY.

If two or more attorneys-in-fact are originally appointed and one dies, resigns, or is unable to serve, a successor attorney-in-fact named in a power of attorney executed in conformity with section 523.23 or a form prepared under section 523.231 replaces the attorney-in-fact who dies, resigns, or is unable to serve. If the original attorneys-in-fact were required to act jointly, the attorneys-in-fact acting at any time must act jointly. If the original attorneys-in-fact were allowed to act individually, the attorneys-in-fact acting at any time may act individually. If attorneys-in-fact acting at any time are required to act jointly, and there is only one remaining attorney-in-fact because of the death, resignation, or inability to serve of all other original and successor attorneys-in-fact, the remaining attorney-in-fact may act alone.

History: 2009 c 94 art 4 s 5

523.16 AFFIDAVIT AS PROOF OF AUTHORITY OF ATTORNEY-IN-FACT.

Subdivision 1. **Multiple attorneys-in-fact.** If the attorney-in-fact exercising a power pursuant to a power of attorney has authority to act as a result of the death, incompetency, or resignation of one or more attorneys-in-fact named in the power of attorney, an affidavit executed by the attorney-in-fact setting forth the conditions precedent to the attorney-in-fact's authority to act under the power of attorney and stating that those conditions have occurred is conclusive proof as to any party relying on the affidavit of the occurrence of those conditions.

Subd. 2. **Attorney-in-fact for member of military.** If an attorney-in-fact is exercising a power pursuant to a power of attorney executed by a member of the military in a form prepared under section 523.231, an affidavit executed by the attorney-in-fact setting forth the conditions precedent to the authority to act and stating the existence of those conditions is conclusive proof as to any party relying on the affidavit of the existence of those conditions.

History: 2009 c 94 art 4 s 6

523.17 AFFIDAVIT OF ATTORNEY-IN-FACT AS CONCLUSIVE PROOF OF NONTERMINATION AND NONREVOICATION IN REAL PROPERTY TRANSACTIONS.

[For text of subs 1 and 2, see M.S.2008]

Subd. 3. **Real property transactions on behalf of entities.** When the principal under a power of attorney in a real property transaction is a corporation, partnership, limited liability company, or trust, the provisions of section 507.24, subdivision 2, 508.48,

or 508A.48, as appropriate, and of section 523.18 shall apply, and an affidavit under this section shall not be required.

History: 2009 c 30 art 3 s 4

523.20 LIABILITY OF PARTIES REFUSING AUTHORITY OF ATTORNEY-IN-FACT TO ACT ON PRINCIPAL'S BEHALF.

Any party refusing to accept the authority of an attorney-in-fact to exercise a power granted by a power of attorney which (1) is executed in conformity with section 523.23 or a form prepared under section 523.231; (2) contains a specimen signature of the attorney-in-fact authorized to act; (3) with regard to the execution or delivery of any recordable instrument relating to real property, is accompanied by affidavits that satisfy the provisions of section 523.17; (4) with regard to any other transaction, is signed by the attorney-in-fact in a manner conforming to section 523.18; and (5) when applicable, is accompanied by an affidavit and any other document required by section 523.16, is liable to the principal and to the principal's heirs, assigns, and representative of the estate of the principal in the same manner as the party would be liable had the party refused to accept the authority of the principal to act on the principal's own behalf unless: (1) the party has actual notice of the revocation of the power of attorney prior to the exercise of the power; (2) the duration of the power of attorney specified in the power of attorney itself has expired; or (3) the party has actual knowledge of the death of the principal or, if the power of attorney is not a durable power of attorney, actual notice of a judicial determination that the principal is legally incompetent. This provision does not negate any liability which a party would have to the principal or to the attorney-in-fact under any other form of power of attorney under the common law or otherwise.

History: 2009 c 94 art 4 s 7

523.23 STATUTORY SHORT FORM OF GENERAL POWER OF ATTORNEY; FORMAL REQUIREMENTS; JOINT AGENTS.

[For text of subd 1, see M.S.2008]

Subd. 2. **Failure to check or "X" a power.** Any of the powers of the form in subdivision 1 or a form prepared under section 523.231 which is not checked or X-ed is withheld by the principal from the attorney-in-fact unless the power of (N) of the form in subdivision 1 or a comparable provision in a form prepared under section 523.231 is checked or X-ed.

Subd. 3. **Requirements.** Except for a form prepared under section 523.231, to constitute a "statutory short form power of attorney," as this phrase is used in this chapter the wording and content of the form in subdivision 1 must be duplicated exactly and with no modifications, parts First, Second, and Third must be properly completed, and the signature of the principal must be acknowledged. Failure to name a successor attorney-in-fact, to provide an expiration date, or to complete part Fourth does not invalidate the power as a statutory short form power of attorney. A power of attorney that does not satisfy the requirements of this subdivision or a form prepared under section 523.231, but purports to be a statutory short form power of attorney, may constitute a common law power of attorney that incorporates by reference the definitions of powers contained in section 523.24; however, a party refusing to accept the authority of the common law attorney-in-fact is not liable under section 523.20.

[For text of subs 3a to 5, see M.S.2008]

History: 2009 c 94 art 4 s 8,9

523.231 ALTERNATIVE SHORT FORMS FOR GENERAL POWER OF ATTORNEY FOR MILITARY MEMBERS IN ACTIVE SERVICE.

The commissioner of military affairs may prepare alternative short forms for a general power of attorney for military members in active service, as defined in section 190.05. A form prepared by the commissioner is an alternative to the statutory short form in section 523.23.

History: *2009 c 94 art 4 s 10*