

- SUBJECT:** Accounting records under durable power of attorney
- COMMITTEE:** Civil Practices — favorable, without amendment
- VOTE:** 7 ayes — T. Hunter, Alvarado, Culberson, Hartnett, Moffat, Tillery, Zbranek
- 0 nays
- 2 absent — Hilbert, Sadler
- SENATE VOTE:** On final passage, February 15 — 30-0
- WITNESSES:** None
- BACKGROUND:** A durable power of attorney is established when a person (the principal) gives an agent powers over the principal's property and financial transactions in a written document. The Durable Power of Attorney Act, Probate Code, chapter 12, was enacted by the 73rd Legislature and became effective on September 1, 1993.
- The general powers given to the agent by the principal in a durable power of attorney include the ability to receive and invest money (including that received from litigation) to enter into a contract; to execute or acknowledge a deed, lease or other instrument; to prosecute, settle or defend litigation; and generally, to carry out any other lawful act that the principal could do with respect to a transaction.
- DIGEST:** SB 172 would amend the Durable Power of Attorney Act to require an agent to maintain accounting records and make those records available to the principal upon request. The agent would be required to maintain all records until four years after the power of attorney expired or was revoked.
- The bill would take effect on September 1, 1995, and would only apply to durable powers of attorney created on or after the effective date.

**SUPPORTERS  
SAY:**

The Durable Power of Attorney Act provides no mechanism for the principal to request an accounting from the agent. This clean-up legislation simply would allow the principal to request such records.

Agents who are given powers of attorney would not be burdened by these requirements, which would require nothing more than prudent persons would be expected to do in their own affairs. Most people keep their receipts and records for up to five years for tax purposes. When handling the finances of another, an agent should be held to a similar standard.

**OPPONENTS  
SAY:**

No apparent opposition.