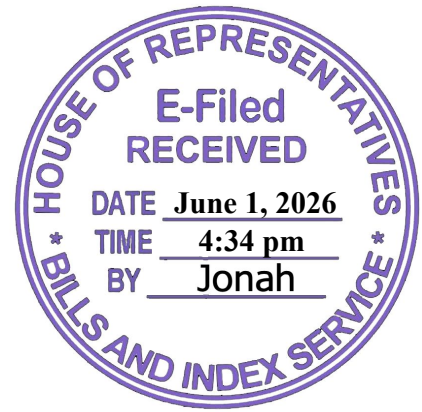


Republic of the Philippines
HOUSE OF REPRESENTATIVES
TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9602



INTRODUCED BY CONGRESSMAN STEVE CHIONGBIAN SOLON

EXPLANATORY NOTE

The 1987 Constitution, under Article XV, Section 1, recognizes the Filipino family as the foundation of the nation and mandates the State to strengthen its solidarity and actively promote its total development. Furthermore, Article XIII, Section 11 requires the State to adopt an integrated and comprehensive approach to health development.

However, our current civil laws fail to protect families during one of their most vulnerable moments: the mental incapacitation of a family member due to advanced age, dementia, Alzheimer's disease, coma, severe stroke and the like.

While a Power of Attorney (POA) is commonly used to authorize another person to act on one's behalf, under the New Civil Code of the Philippines, a contract of agency (such as a Power of Attorney) is strictly and automatically extinguished upon the insanity or incapacity of the principal. In effect, families who need continuing POA after a family member's incapacity often have no option but to resort to special proceedings. One such proceeding is a judicial guardianship under Rule 93 of Rules of Court, which involves court processes, time, expense, and documentary requirements that can be difficult and time consuming during emergencies.

This creates a harsh legal paradox: at the moment a person becomes incapacitated and desperately needs their trusted agent to manage their medical bills, bank accounts, and properties, the law strips the agent of all authority.

Meanwhile in countries such as Singapore, continuing legal authority over a family member's finances after incapacity are still honored. In Singapore, this legal tool is referred to as a "Lasting Power of Attorney" or LPA. This tool does not give the trustee full control over the principal's finances, but rather, allows the principal to give specific directions and financial access during incapacity for the principal's medical care and financial family obligations. The LPA will only enforce the directives explicitly listed by the principal so as to avoid abuse and exploitation during incapacity.

This tool allows the family more financial security and decision-making power in times of crisis, especially in cases where the incapacitated individual is the patriarch, matriarch, spouse or breadwinner of the family. The Philippines has no equivalent

national framework that is specifically designed to keep authority legally effective upon incapacity, while also ensuring safeguards against abuse towards the principal.

This bill seeks to introduce the "**Lasting Power of Attorney**" (**LPA**) into Philippine jurisprudence. Patterned after the successful legal frameworks in Singapore and the United Kingdom, this measure will allow any person of legal age and sound mind to proactively appoint a trusted person (an Agent) to make decisions on their behalf concerning their Personal Welfare and/or Property and Affairs, should they lose mental capacity in the future.

By amending Article 1919 of the Civil Code and creating a secure National LPA Registry under the Department of Justice, this bill empowers Filipinos to plan for their future, protects incapacitated individuals from exploitation, and spares their families from unnecessary emotional and financial distress.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



STEVE CHIONGBIAN SOLON
Representative
Lone District of Sarangani

Republic of the Philippines
HOUSE OF REPRESENTATIVES
TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9602

INTRODUCED BY CONGRESSMAN STEVE CHIONGBIAN SOLON

AN ACT INSTITUTING THE LASTING POWER OF ATTORNEY, AMENDING FOR THE PURPOSE ARTICLE 1919 OF REPUBLIC ACT NO. 386, OTHERWISE KNOWN AS THE CIVIL CODE OF THE PHILIPPINES, PROVIDING FOR ITS REGISTRATION, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the *"Lasting Power of Attorney (LPA) Act."*

SECTION 2. Declaration of Policy. – It is the policy of the State to protect the dignity, autonomy, and welfare of individuals who may suffer from mental incapacity. Towards this end, the State shall establish a legal mechanism allowing individuals to proactively appoint trusted representatives to manage their personal welfare, healthcare, and property affairs in the event of their subsequent cognitive or mental incapacitation, while simultaneously ensuring robust protections against fraud, coercion, and financial abuse.

SECTION 3. Definition of Terms. – As used in this Act:

(a) *Agent* or *Donee* refers to a person of legal age and sound mind, or a duly registered trust corporation, appointed by the Grantor to exercise the powers granted under a Lasting Power of Attorney.

(b) *Grantor* or *Donor* refers to a person of legal age and sound mind who executes a Lasting Power of Attorney.

(c) *Lasting Power of Attorney (LPA)* refers to a legal instrument executed in accordance with this Act wherein a Grantor appoints an Agent to make decisions on their behalf regarding their personal welfare, property, or affairs, which survives the Grantor's subsequent loss of mental capacity.

(d) *Mental Incapacity* refers to the inability of a person to make a specific decision for themselves due to an impairment of, or a disturbance in the functioning of, the mind or brain, whether permanent or temporary, as legally declared by a competent medical panel.

SECTION 4. Scope of Authority. – A Grantor may authorize an Agent to make decisions regarding either or both of the following:

- (a) **Personal Welfare:** Including healthcare decisions, consent to medical treatment, living arrangements, and daily care.
- (b) **Property and Affairs:** Including access to bank accounts, payment of expenses and taxes, and the administration, lease, or sale of real and personal properties. *Provided*, that an Agent cannot make decisions regarding life-sustaining treatment unless expressly and explicitly authorized in the LPA. *Provided, further*, that the Agent shall at all times act in the absolute best interests of the Grantor.

SECTION 5. Execution and Formalities. – To be valid and immune from collateral attack, a Lasting Power of Attorney must strictly comply with the following solemnities:

- (a) It must be in writing, using the highly secure, serialized form issued by the Department of Justice (DOJ);
- (b) It must be voluntarily signed by the Grantor, or by another person in their presence and by their express direction, while the Grantor still possesses full mental capacity;
- (c) It must be attested and subscribed by three (3) or more credible witnesses in the presence of the Grantor and of one another. The witnesses must not be the appointed Agent, nor the spouse or consanguineous relative of the Agent within the fourth civil degree;
- (d) It must be signed by the appointed Agent(s) signifying their acceptance of the fiduciary duty;
- (e) It must be accompanied by a contemporaneous Medical Certificate from a licensed psychiatrist or neurologist confirming the Grantor is of sound mind and acting free from undue influence at the exact time of execution; and
- (f) It must be acknowledged before a Notary Public, who shall personally examine the Grantor, the Agent, and the three witnesses.

SECTION 6. National LPA Registry. – There is hereby created a National LPA Registry under the Office of the Secretary of the Department of Justice (DOJ). No LPA shall be effective and binding against third parties, including banks, financial institutions, and medical facilities, unless it is duly registered with the National LPA Registry prior to the Grantor's loss of mental capacity.

SECTION 7. Activation of the LPA and the Medical Panel. – The powers granted under the LPA shall remain dormant and shall only be exercised upon the Grantor's formal loss of mental capacity.

To activate the LPA for presentation to third parties, banks, and institutions, the Agent must secure a **Declaration of Incapacity**. This Declaration shall only be valid if issued unanimously by a **Medical Panel** consisting of:

- (1) The Grantor's attending physician; AND
- (2) An independent neurologist, psychiatrist, or geriatric specialist accredited by the Department of Health (DOH). *Provided*, that in case of conflicting medical findings, the

National LPA Registry shall refer the matter to a DOH Medical Board whose finding shall be final and incontestable, barring a court order to the contrary.

SECTION 8. Amendatory Clause. – Article 1919 of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, is hereby amended to read as follows:

"Art. 1919. Agency is extinguished:

- (1) By its revocation;
- (2) By the withdrawal of the agent;
- (3) By the death, civil interdiction, insanity or insolvency of the principal or of the agent; **PROVIDED, THAT THE INSANITY OR MENTAL INCAPACITY OF THE PRINCIPAL SHALL NOT EXTINGUISH THE AGENCY IF A LASTING POWER OF ATTORNEY HAS BEEN EXECUTED AND REGISTERED IN ACCORDANCE WITH THE LASTING POWER OF ATTORNEY ACT;**
- (4) By the dissolution of the firm or corporation which entrusted or accepted the agency;
- (5) By the accomplishment of the object or purpose of the agency;
- (6) By the expiration of the period for which the agency was constituted."

SECTION 9. Strict Safeguards, Annual Accounting, and Revocation. – To prevent financial abuse and exploitation of the incapacitated Grantor, the following safeguards are instituted:

(a) **The Named Protector:** Upon execution of the LPA, the Grantor must designate at least one (1) "Named Protector"—a trusted relative or individual who is *not* the Agent. The Agent is legally required to notify the Protector within five (5) days of activating the LPA.

(b) **Mandatory Annual Accounting:** The Agent handling the Property and Affairs of the Grantor must submit a sworn Annual Financial Report and Inventory of Assets to the Named Protector and the National LPA Registry. Failure to submit this report for two (2) consecutive years shall result in the automatic suspension of the LPA.

(c) **Judicial Revocation:** The Grantor (if they regain capacity), the Named Protector, any family member, or the DOJ may petition the Regional Trial Court to suspend or revoke the LPA if there is probable cause to believe the Agent is committing fraud, mismanaging assets, or acting contrary to the Grantor's best interests.

SECTION 10. Penal Provisions. – Any person who, through fraud, coercion, or undue influence, causes a person to execute an LPA, or any Agent who willfully misappropriates the assets of the Grantor or acts with gross negligence resulting in harm to the Grantor, shall suffer the penalty of *prision mayor* and a fine ranging from Five Hundred Thousand Pesos (P500,000.00) to Two Million Pesos (P2,000,000.00), without prejudice to other civil and criminal liabilities under existing laws.

SECTION 11. Implementing Rules and Regulations (IRR). – Within sixty (60) days from the effectivity of this Act, the Secretary of Justice, in coordination with the Department of Health (DOH) and the Bangko Sentral ng Pilipinas (BSP), shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SECTION 12. Separability Clause. – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SECTION 13. Repealing Clause. – All laws, presidential decrees, executive orders, rules, and regulations, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 14. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,