

No. 2000-137

## AN ACT

HB 227

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for durable powers of attorney.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 5604 of Title 20 of the Pennsylvania Consolidated Statutes is amended by adding subsections to read:

§ 5604. Durable powers of attorney.

\* \* \*

***(d) Discovery of information and records regarding actions of agent.—***

***(1) If the agency acting pursuant to the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act, is denied access to records necessary for the completion of a proper investigation of a report or a client assessment and service plan or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the older adult principal reported to be in need of protective services, the agency may petition the court of common pleas for an order requiring the appropriate access when either of the following conditions applies:***

***(i) the older adult principal has provided written consent for confidential records to be disclosed and the agent denies access; or***

***(ii) the agency can demonstrate that the older adult principal has denied or directed the agent to deny access to the records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.***

***(2) This petition may be filed in the county wherein the agent resides or has his principal place of business or, if a nonresident, in the county wherein the older adult principal resides. The court, after reasonable notice to the agent and to the older adult principal, may conduct a hearing on the petition.***

***(3) Upon the failure of the agent to provide the requested information, the court may make and enforce such further orders.***

***(4) A determination to grant or deny an order, whether in whole or in part, shall not be considered a finding regarding the competence, capacity or impairment of the older adult principal, nor shall the granting or denial of an order preclude the availability of other remedies involving protection of the person or estate of the older adult principal or the rights and duties of the agent.***

*(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*“Abandonment.” As that term is defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act.*

*“Abuse.” As that term is defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act.*

*“Agency.” As that term is defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act, except that in cities of the first class the term shall mean the Department of Aging.*

*“Exploitation.” As that term is defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act.*

*“Neglect.” As that term is defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act.*

*“Older adult principal.” A principal who is 60 years of age or older.*

Section 2. This act shall take effect immediately.

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE