

— LEGAL —

Planning for the future

Life is full of the unexpected. But just because the future is unpredictable does not mean adults cannot prepare for what lies ahead. Preparing an estate plan and establishing a power of attorney can be essential to protecting your financial resources and other assets.

What is power of attorney?

A power of attorney, or “POA,” is a legal document that allows a person, the “Principal,” to appoint another person, the “Agent,” to manage his or her affairs.

What is covered?

An Agent may perform the acts specified in the POA. Several acts may be allowed by reference to the Florida Statutes governing the Agent’s authority¹, such as:

- Banking transactions;
- Buying or selling property;
- Executing a will.

Some acts require the Principal to specifically list the powers granted to the Agent², such as:

- Changing beneficiary designations;
- Creating a living trust.

A POA may be very broad or limited to a specific act depending on the language in the document. The most commonly used is a Durable

POA, which means the document will remain in effect if a person becomes mentally incompetent. There was a substantial change in Florida Law regarding powers of attorney in 2011. Prior to October 1, 2011, Florida law allowed for a “springing” POA, which do not go into effect until the Principal becomes incapacitated. The “springing” POA is no longer recognized and now, all powers of attorney are effective upon signing.³

Why is power of attorney needed?

Many people believe their family will be able to step in and handle their affairs if they are unable to do so. Unfortunately, this is not true unless a person is named as an agent or granted legal access to financial, medical and other pertinent information. Therefore it is important that the Principal have a POA in place before the unexpected happens.

If you’re considering establishing a POA or have already done so, consult with a Florida estate planning attorney to explain the powers you are granting to your agent and ensure your documents are validly executed.

¹See Florida Statutes § 709.2201 and 709.2208

²See Florida Statute § 709.2202

³See Florida Statute § 709.2108



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