



American Fidelity Titles' Insider's Edition

American Fidelity Title

November Hot Topic Power of Attorney

Often in the course of Title Transactions we are asked to either allow, or prepare, a power of attorney. The use of a power of attorney (POA) for the execution of an instrument to convey or mortgage real property requires careful review and must be approved by the lender as well as American Fidelity Title. The following is a brief overview of the role of a POA and definitions of various types of POA.

Definition: "A power of attorney is a written instrument by which one person, as Principal, appoints another as Agent and confers upon the Agent the authority to perform certain specified acts or kinds of acts on behalf of the Principal".

How is this accomplished? The POA is the evidence of the Agent's authority to act on behalf of the Principal and establishes the agency relationship. The POA is a legal document that creates certain rights, and possible liabilities, between the parties.

Various Types of POA:

Be careful not to rely on the heading or title of the POA, but rather read the instrument to ascertain its true character.

The most common POAs that you will see are:

- General POA
- Specific POA
- Durable POA
- Military POA

General POA— Instrument appoints an Agent to act without limiting the continuity of service or acts. Unless stated, POA does not terminate until revoked by Principal, Principal dies or becomes incompetent.

Specific POA - Instrument that is specific to a transaction. Terminates after transaction has been completed.

Durable POA - The most important element that distinguishes this type of POA is the authority delegated survives the incapacity (incompetence) of the Principal.

Military POA - This POA has legal effect without regard to state law and is exempt from any requirement of form, substance, formality, or recording of state law.

The following is a breakdown of POA specific language that should be included for a Seller's POA and for a Buyer's POA:

Seller: *The POA must grant, with specificity, the following authority or similar words:*

- *To execute and deliver deeds or conveyances*
- *To transfer and convey title to real property*
- *To convey and dispose of any or all of my property, real or*

personal, including homestead where located for such prices and upon such terms of credit as my agent may deem proper, and execute and deliver to the purchase's appropriate contracts, bills of sale, deeds, land contracts, and other instruments of conveyances or transfer with or without covenants of warranty or similar covenants

Buyer: *The POA must grant, with specificity, the following authority or similar words:*

- *To execute and deliver any and all documents necessary and incident to the purchase of real property located at X, including but not limited to the HUD-1 Settlement Statement, TIL forms, affidavits, disclosures, disclaimers, purchase agreements and addenda, promissory notes, mortgages, and any other documents necessary to establish a security lien or financing...*
- *To pledge, hypothecate, encumber*
- *To execute and deliver promissory notes*
- *To execute and deliver mortgages*

While the above is a guideline, it is important to note that POAs must be evaluated on a case by case basis. Should you have a specific situation, please forward your POA to us at American Fidelity Title for review.

For additional information on POAs, please contact our office



Amy E. Stark
Chief Operating Officer
American Fidelity Title

We at American Fidelity Title wish you and yours a very Happy Thanksgiving.

Regards,

Amy

Brain Teasers

Answer the questions below to win!

Fax your entry to 954-492-4529

The first two people to send us the correct answers will win \$50.

Name: _____ Phone: _____

1. Fill in each blank with a word that has the same meaning as the words on either side but is pronounced differently in each definition.

(time segment) _____ (very small)
(rip) _____ (body fluid)
(subject matter) _____ (satisfied)

2. What can be driven, but has no wheels. And can be sliced, and still remain whole? _____

3. I have hands that wave at you,
Though I never say goodbye.
It's cool for you to be with me,
Especially when I say, "Hi."
What am I? _____

For more information, please contact your American Fidelity Title Marketing Representative at 954-492-5000

American Fidelity Title

6400 N Andrews Avenue, Suite 340
Fort Lauderdale, FL 33309
Telephone: 954-492-5000
Facsimile: 954-492-4529

The information contained herein is not intended to be legal or accounting advice.

What a wonderful time we had at the Halloween Party with our clients!



American Fidelity Title

Providing premier Closing & Title Services

Character cannot be developed in ease and quiet.

Only through experience of trial and suffering can the soul be strengthened, vision cleared, ambition inspired, and success achieved.

Helen Keller

American Fidelity Title
6400 N Andrews Avenue, Ste 340
Ft. Lauderdale, FL 33309