Reverse Your Thinking ®

EDUCATIONAL RESOURCE SERIES
Collaborate. Educate. Problem-Solve.

POWER OF ATTORNEY (POA)

Understanding Power of Attorney requirements and their role in reverse mortgage transactions.



WHAT IS A POWER OF ATTORNEY?

Commonly known as a POA. A POA grants one person the legal authority to perform certain acts on behalf of another person.

Principal: Person granting authority.
Attorney in Fact: Person accepting authority.

The Principal or Attorney in Fact can be any individual who is legally capable of contracting. It is a fiduciary relationship founded upon trust. The Principal is entrusting the Attorney in Fact to act in their best interest.

REASONS TO USE A POA

The need for a POA depends on the Principal's situation.
1. Estate planning in the event the Principal becomes incompetent.
2. The Principal is too busy to handle their medical or financial affairs.
3. The Principal is mentally competent but physically incapable of handling their medical or financial affairs.
4. The Principal is unavailable and directs the Attorney in Fact to handle a certain act on their behalf.

DIFFERENT TYPES OF POAs

There are many types of POAs, and they can vary by state. Unfortunately, not all POAs are created equal, which can be an issue if the Principal is incompetent.

All POAs must have the power to deal with real property, be properly executed, and be notarized.

The most common POA in the reverse mortgage industry is the Durable POA.

IS THE ORIGINAL POA REQUIRED?

Yes! Unless the POA has been previously recorded in the county where the subject property is located, the original POA may be required for recording.

It is recommended that the borrower record the POA prior to closing, subject to lender and title company requirements.

DOES A POA NEED TO BE APPROVED?

Yes! All POAs must be reviewed and approved by the lender's legal counsel and the title company.

We recommend submitting the POA as early in the loan process as possible to allow sufficient time for review.

ARE DOCTOR LETTERS REQUIRED?

Only when the Principal is mentally incompetent or physically unable to execute documents. The number of letters required is specified in the POA or by the lender. All letters must be executed by a licensed physician on official letterhead, dated, and specify the date of incompetency, where applicable.

Additionally, we prefer a physician's letter confirming that the Principal was mentally competent at the time the Power of Attorney was executed.

MOST IMPORTANT THINGS TO REMEMBER

1. Not all POAs are acceptable for reverse mortgages.
2. POAs must be approved by the lender's legal counsel and the title company.
3. POAs must be recorded in the county where the property is located.
4. Requirements will vary based on the Principal's mental or physical status.
5. Proper execution of all documents is crucial.
6. A competent Principal must attend HUD Counseling and sign the initial loan application. The Principal must execute and notarize the Principal's Affidavit as required by the lender.
7. The Attorney in Fact must attend HUD Counseling and execute the initial application if the Principal is incompetent.
8. If not yet recorded, the ORIGINAL Power of Attorney MUST be submitted to title to be recorded at closing.

HOW DO YOU SIGN USING A POA?

Jon Smith, by Jane Smith as his attorney in fact.

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