

Power of Attorney

In California, it is common for a power of attorney “POA” to be used in a real estate transaction. Empower yourself by knowing a few POA basics.

There are generally four different types of powers of attorney documents recognized in California: A Durable Power of Attorney, a General Power of Attorney, a Limited Power of Attorney, and a Medical Power of Attorney.

A POA when used in a real estate transaction is an authorization given by a property owner or buyer in writing to another person to carry out property-related transactions on the owner’s or buyer’s behalf. The owner or buyer is referred to as the grantor, donor or principal, and the person who acts on another’s behalf is the attorney-in-fact or the agent.

A General or Limited POA can be “durable,” meaning it goes into effect when the principal signs it, and stays in effect even if the principal is incapacitated.

A basic requirement for any POA is that the principal must have the same legal capacity that is required to enter into a contract, which in general means that the person is of sound mind and at least 18 years of age.

A General or Limited POA must be signed by the principal before a notary public.

When a POA is involved in a real estate transaction the title officer as part of the transaction will have to approve each POA to be used. The original signed and notarized version, once approved, will have to be submitted to the title company to be recorded at the close of the subject transaction. Addressing issues as important as this as early as possible will contribute to a smooth closing.

Note: It is important to note that a professional such as an attorney should be consulted when preparing a Power of Attorney document.