



142820

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Before line 87

insert:

Section 1. Section 709.2105, Florida Statutes, is amended to read:

709.2105 Qualifications of agent; execution of power of attorney.—

(1) The agent must be one of the following:

(a) A natural person who is 18 years of age or older. ~~or~~

(b) A financial institution that has trust powers and, ~~has~~



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12 a place of business in this state, and is authorized to conduct  
13 trust business in this state.

14 (c) A not-for-profit corporation that:

15 1. Is organized for charitable or religious purposes in  
16 this state;

17 2. Was qualified as a court-appointed guardian before  
18 January 1, 1996; and

19 3. Is a tax-exempt organization under s. 501(c)(3) of the  
20 Internal Revenue Code. However, this subparagraph applies only  
21 to a corporation that acts through an individual listed in the  
22 records of the Division of Corporations of the Department of  
23 State as a current officer of the corporation and only upon the  
24 occurrence of any of the following events:

25 a. Posting and maintenance by the corporation of a blanket  
26 fiduciary bond of at least \$250,000 with the clerk of the  
27 circuit court in the county in which the corporation's primary  
28 place of business is located. The corporation shall provide  
29 proof of the fiduciary bond to the clerk of each additional  
30 circuit court in which the corporation is serving as agent for a  
31 resident of that circuit. The bond must cover all principals for  
32 whom the corporation has been appointed as an agent at any given  
33 time. The liability of the provider of the bond is limited to  
34 the face value of the bond, regardless of the number of  
35 principals for whom the corporation is acting as an agent. The  
36 terms of the bond must cover the acts or omissions of each agent  
37 or employee of the corporation who has direct contact with the  
38 principal or access to the principal's assets. The bond must be  
39 payable to the Governor and his or her successors in office and  
40 be conditioned on the faithful performance of all duties of an



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41 agent under this chapter.

42 b. Maintenance by the corporation of a liability insurance  
43 policy that covers any losses sustained by the principal caused  
44 by errors, omissions, or any intentional misconduct committed by  
45 the corporation's officers or agents. The policy must cover all  
46 principals for whom the corporation is acting as an agent for  
47 losses up to \$250,000. The terms of the policy must cover acts  
48 or omissions of each agent or employee of the corporation who  
49 has direct contact with the principal or access to the  
50 principal's assets.

51 c. Signing by the principal of a separate written  
52 instrument containing the following language in 14-point  
53 uppercase type:

54  
55 I HAVE BEEN ADVISED THAT OFFICERS OF THE NOT-FOR-PROFIT  
56 CORPORATION HAVE DECLINED TO AGREE TO BE JOINTLY AND SEVERALLY  
57 LIABLE WITH THE NOT-FOR-PROFIT CORPORATION FOR ACTS OR OMISSIONS  
58 OCCURRING IN THE EXERCISE OF THE POWER OF ATTORNEY EXECUTED  
59 UNDER CHAPTER 709, FLORIDA STATUTES.

60  
61 I HAVE ALSO BEEN ADVISED THAT THE NOT-FOR-PROFIT CORPORATION  
62 THAT I HAVE NAMED AS MY AGENT UNDER MY POWER OF ATTORNEY HAS  
63 ELECTED NOT TO POST AND MAINTAIN A FIDUCIARY BOND OR MAINTAIN  
64 INSURANCE IN ACCORDANCE WITH SECTION 709.2105(1)(c), FLORIDA  
65 STATUTES.

66  
67 I UNDERSTAND THAT THE ASSETS OF THE NOT-FOR-PROFIT CORPORATION  
68 MAY NOT BE SUFFICIENT TO COVER LIABILITY ARISING FROM AN ERROR,  
69 AN OMISSION, OR ANY INTENTIONAL MISCONDUCT COMMITTED BY AN



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70 EMPLOYEE OR AGENT OF THE CORPORATION.

71  
72 d. Designation of the corporation by a principal as an  
73 agent under a power of attorney and the corporation acts as an  
74 agent for the principal. However, each officer of the  
75 corporation is jointly and severally liable with the corporation  
76 for acts and omissions under the power of attorney and this  
77 chapter which occur when there is no fiduciary bond as provided  
78 in sub-subparagraph a., liability insurance as provided in sub-  
79 subparagraph b., or signed acknowledgement as provided in sub-  
80 subparagraph c.

81 (2) A power of attorney must be signed by the principal and  
82 by two subscribing witnesses and be acknowledged by the  
83 principal before a notary public or as otherwise provided in s.  
84 695.03.

85 (3) If the principal is physically unable to sign the power  
86 of attorney, the notary public before whom the principal's oath  
87 or acknowledgment is made may sign the principal's name on the  
88 power of attorney pursuant to s. 117.05(14).

89  
90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Between lines 2 and 3

93 insert:

94 s. 709.2105, F.S.; revising the qualifications of an  
95 agent in the execution of power of attorney to include  
96 certain not-for-profit corporations; providing  
97 criteria for such corporations; amending