



309876

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

The Committee on Rules (Passidomo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 43 - 60

and insert:

Section 2. Section 744.441, Florida Statutes, is amended to read:

744.441 Powers of guardian upon court approval.—After obtaining approval of the court pursuant to a petition for authorization to act:

(1) A plenary guardian of the property, or a limited guardian of the property within the powers granted by the order



309876

12 appointing the guardian or an approved annual or amended
13 guardianship report, may:

14 (a)~~(1)~~ Perform, compromise, or refuse performance of a
15 ward's contracts that continue as obligations of the estate, as
16 he or she may determine under the circumstances.

17 (b)~~(2)~~ Execute, exercise, or release any powers as trustee,
18 personal representative, custodian for minors, conservator, or
19 donee of any power of appointment or other power that the ward
20 might have lawfully exercised, consummated, or executed if not
21 incapacitated, if the best interest of the ward requires such
22 execution, exercise, or release.

23 (c)~~(3)~~ Make ordinary or extraordinary repairs or
24 alterations in buildings or other structures; demolish any
25 improvements; or raze existing, or erect new, party walls or
26 buildings.

27 (d)~~(4)~~ Subdivide, develop, or dedicate land to public use;
28 make or obtain the vacation of plats and adjust boundaries;
29 adjust differences in valuation on exchange or partition by
30 giving or receiving consideration; or dedicate easements to
31 public use without consideration.

32 (e)~~(5)~~ Enter into a lease as lessor or lessee for any
33 purpose, with or without option to purchase or renew, for a term
34 within, or extending beyond, the period of guardianship.

35 (f)~~(6)~~ Enter into a lease or arrangement for exploration
36 and removal of minerals or other natural resources or enter into
37 a pooling or unitization agreement.

38 (g)~~(7)~~ Abandon property when, in the opinion of the
39 guardian, it is valueless or is so encumbered or in such
40 condition that it is of no benefit to the estate.



309876

41 (h)~~(8)~~ Pay calls, assessments, and other sums chargeable or
42 accruing against, or on account of, securities.

43 (i)~~(9)~~ Borrow money, with or without security, to be repaid
44 from the property or otherwise and advance money for the
45 protection of the estate.

46 (j)~~(10)~~ Effect a fair and reasonable compromise with any
47 debtor or obligor or extend, renew, or in any manner modify the
48 terms of any obligation owing to the estate.

49 (k)~~(11)~~ Prosecute or defend claims or proceedings in any
50 jurisdiction for the protection of the estate and of the
51 guardian in the performance of his or her duties. Before
52 authorizing a guardian to bring an action described in s.
53 736.0207, the court shall first find that the action appears to
54 be in the ward's best interests during the ward's probable
55 lifetime. There shall be a rebuttable presumption that an action
56 challenging the ward's revocation of all or part of a trust is
57 not in the ward's best interests if the revocation relates
58 solely to a devise. This paragraph ~~subsection~~ does not preclude
59 a challenge after the ward's death. If the court denies a
60 request that a guardian be authorized to bring an action
61 described in s. 736.0207, the court shall review the continued
62 need for a guardian and the extent of the need for delegation of
63 the ward's rights.

64 (l)~~(12)~~ Sell, mortgage, or lease any real or personal
65 property of the estate, including homestead property, or any
66 interest therein for cash or credit, or for part cash and part
67 credit, and with or without security for unpaid balances.

68 (m)~~(13)~~ Continue any unincorporated business or venture in
69 which the ward was engaged.



70 (n) ~~(14)~~ Purchase the entire fee simple title to real estate
71 in this state in which the guardian has no interest, but the
72 purchase may be made only for a home for the ward, to protect
73 the home of the ward or the ward's interest, or as a home for
74 the ward's dependent family. If the ward is a married person and
75 the home of the ward or of the dependent family of the ward is
76 owned by the ward and spouse as an estate by the entirety and
77 the home is sold pursuant to the authority of paragraph (l)
78 ~~subsection (12)~~, the court may authorize the investment of any
79 part or all of the proceeds from the sale toward the purchase of
80 a fee simple title to real estate in this state for a home for
81 the ward or the dependent family of the ward as an estate by the
82 entirety owned by the ward and spouse. If the guardian is
83 authorized to acquire title to real estate for the ward or
84 dependent family of the ward as an estate by the entirety in
85 accordance with the preceding provisions, the conveyance shall
86 be in the name of the ward and spouse and shall be effective to
87 create an estate by the entirety in the ward and spouse.

88 (o) ~~(15)~~ Exercise any option contained in any policy of
89 insurance payable to, or inuring to the benefit of, the ward.

90 (p) ~~(16)~~ Pay reasonable funeral, interment, and grave marker
91 expenses for the ward from the ward's estate.

92 (q) ~~(17)~~ Make gifts of the ward's property to members of the
93 ward's family in estate and income tax planning procedures.

94 (r) ~~(18)~~ When the ward's will evinces an objective to obtain
95 a United States estate tax charitable deduction by use of a
96 split interest trust (as that term is defined in s. 736.1201),
97 but the maximum charitable deduction otherwise allowable will
98 not be achieved in whole or in part, execute a codicil on the



309876

99 ward's behalf amending said will to obtain the maximum
100 charitable deduction allowable without diminishing the aggregate
101 value of the benefits of any beneficiary under such will.

102 (s) ~~(19)~~ Create or amend revocable trusts or create
103 irrevocable trusts of property of the ward's estate which may
104 extend beyond the disability or life of the ward in connection
105 with estate, gift, income, or other tax planning or in
106 connection with estate planning. The court shall retain
107 oversight of the assets transferred to a trust, unless otherwise
108 ordered by the court.

109 (t) ~~(20)~~ Renounce or disclaim any interest by testate or
110 intestate succession or by inter vivos transfer.

111 (u) ~~(21)~~ Enter into contracts that are appropriate for, and
112 in the best interest of, the ward.

113 (v) ~~(22)~~ As to a minor ward, pay expenses of the ward's
114 support, health, maintenance, and education, if the ward's
115 parents, or either of them, are alive.

116 (2) A plenary guardian or a limited guardian of a ward may
117 sign an order not to resuscitate as provided in s. 401.45(3).
118 When a plenary guardian or a limited guardian of a ward seeks to
119 obtain approval of the court to sign an order not to
120 resuscitate, if required by exigent circumstances, the
121 procedures for expedited judicial intervention under rule 5.900
122 of the Florida Probate Rules apply, and the court must hold a
123 preliminary hearing within 72 hours after the petition is filed.

124
125 ===== T I T L E A M E N D M E N T =====

126 And the title is amended as follows:

127 Delete lines 4 - 9



309876

128 and insert:
129 appointing a guardian; amending s. 744.441, F.S.;
130 authorizing certain guardians to sign an order not to
131 resuscitate; requiring the court to use specified
132 procedures for expedited judicial intervention under
133 certain circumstances; amending s. 744.334,