

# Power of Attorney

## For Your Real Estate Transaction

**Progressive Title is in the business of protection.** An element of that protection process is to verify that the conveyance of title is “*in fact*” done by the persons who have the authority to make that conveyance (based on documents of record).

A Power of Attorney is a document in which you state that you give someone else the authority to make certain decisions on your behalf.

### EIGHT HELPFUL FACTS YOU SHOULD KNOW:

**1) If a new loan is being obtained:**

- A) You should contact borrower’s/buyer’s lender to see if they will allow the use of a Power of Attorney to execute their loan documents, and determine the type of Power of Attorney, i.e. general, specific, etc., they may require.
- B) Make sure that the principal’s and attorney in fact’s names are consistent with loan documents and escrow instructions, as well as how the principal holds the record title.

**2) If a sale is involved:** Make sure that the principal’s name is consistent with the way he/she holds the record title and that the attorney in fact executes the conveyance document consistent with his/her name shown on the Power of Attorney.

**3)** A Power of Attorney must be notarized and recorded in the County Recorder’s office in which the subject property is located.

**4)** Although there are no statutes of limitation governing the term of Power of Attorney, the Power of Attorney itself may impose a deadline for its use.

**Note A:** All Powers of Attorney expire on the date of death of the principal.

**Note B:** Please consult your legal or estate planning professional when contemplating use of a California durable statutory Power of Attorney.

**Note C:** A Power of Attorney that is already of record, or is more than 12 months old, may require a title company to call for a recordable “*Affidavit confirming authority under Power of Attorney*” (California Probate Code Section 4305) to be recorded at the close of a sale or loan transaction.

**5)** Depending on whether the transaction involves a sale or refinance, the key words that a title company or lender may look for in the section that specifies the attorney in fact’s power are: to “*convey,*” “*mortgage,*” “*encumber,*” “*executed deed,*” and “*execute deed of trust.*”

**6)** The person signing for the principal is called an “*attorney in fact.*”

**7)** Be sure the attorney in fact executes the document consistent with the requirements of the County Recorder as follows:

John Doe by Jane Doe his Attorney-in-Fact (Must be in the Attorney-in-Fact’s own handwriting)  
John Doe by Jane Doe his Attorney-in-Fact

**8)** A title company will not insure an attorney in fact conveying the principal’s property to himself/herself.

**PROGRESSIVE**  
TITLE COMPANY, INC.

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