

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/SB 670 — Powers of Attorney

by Judiciary Committee and Senator Joyner

The bill seeks to conform Florida's power of attorney law under ch. 709, F.S., to the Uniform Power of Attorney Act adopted by the National Conference of Commissioners on Uniform State Laws, with some modifications to achieve greater consistency among state laws.

The bill creates ch. 709, part I, F.S., consisting of ss. 709.02-709.07, F.S., titled "Powers of Appointment." The bill creates ch. 709, part II, F.S., consisting of ss. 709.2101-709.2402, F.S., titled "Powers of Attorney."

The revised power of attorney law applies only to powers of attorney created by an individual. Powers of attorney validly executed under Florida law before the effective date of this bill will remain valid. If the power of attorney is durable (a power of attorney that is not terminated by the principal's incapacity) or springing (a power of attorney that does not take effect until the principal loses capacity), it will remain durable or springing under the new law. To be effective in Florida, powers created on or after the effective date of this bill must be exercisable as of the time they are executed. The meaning and effectiveness of a power of attorney are governed by ch. 709, part II, F.S. A power of attorney executed in another state that does not comply with the execution requirement of this part (ch. 709, part II, F.S.) is valid in Florida only if the execution of the power of attorney complied with the law of the state of execution.

Powers of attorney that are executed after the effective date of ch. 709, part II, F.S., may not create springing powers, with an exception for military powers. Qualified agents as defined in the bill are entitled to reasonable compensation. The revised power of attorney law provides requirements for written notice with special notice for financial institutions, and special rules for banking and investment transactions; provides default duties for the agent; creates co-agents and successor agents; prohibits blanket or default powers granted to an agent; prescribes requirements for the rejection by a third person of a power of attorney; prescribes requirements for an agent's liability under a power of attorney; and provides grounds for judicial relief and dealing with conflicts of interest.

If approved by the Governor, these provisions take effect October 1, 2011.

Vote: Senate 39-0; House 115-0