



309876

LEGISLATIVE ACTION

Senate

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House

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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.



309876

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,