

MEMORANDUM – LEGAL SERVICES UPDATE

To: Sutton Land Title Agency Clients
From: Scott Spinner
Date: August 12, 2009
Subject: The “New” Statutory Short Form Power of Attorney

On September 1, 2009 a “New” Statutory Short Form Power of Attorney, as set forth in Section 5-1513 of the General Obligations Law, will become effective. The “New” Statutory Short Form Power of Attorney replaces the “Old” Statutory Short Form Power of Attorney, as set forth in current section 5-1501 of the General Obligations Law.

An “Old” Statutory Short Form Power of Attorney executed before 9/1/09 will still be valid after September 1, 2009. Please note however, if a “New” form is executed, it revokes (see paragraph (e) on the “New” form) all prior Powers of Attorney unless the “Principal” indicates otherwise in “Modifications” (paragraph (g)) on the “New” form.

Important Changes on the “New” Form

The “New” form refers to the person given the authority to act on behalf of the Principal as an “Agent”. The “Old” form referred to this person as the “Attorney in fact”.

The “New” form is a durable power of attorney (paragraph (d)). It will not be affected by the subsequent incapacity of the Principal unless the Principal states otherwise in “Modifications” (paragraph (g)).

The “New” form revokes any and all prior Powers Of Attorney (paragraph (e)) unless otherwise stated in Modifications (paragraph (g)).

Modifications (Optional)(paragraph (g)): This paragraph may be used to limit or supplement the authority given to the “Agent”. The Principal may not however use this paragraph to grant the Agent the authority to grant “Major Gifts” (gifts of more than \$ 500). In order to give the Agent the authority to grant major gifts the Principal must execute a “New York Statutory Major Gifts Rider” at the same time as the execution of the Power Of Attorney.

New York Statutory Major Gifts Rider (Optional) (paragraph (h)): If the Principal wishes to grant the Agent the authority to make Major Gifts, he or she must initial the bracket in paragraph (h) and also execute the **“Power of Attorney New York Statutory Major Gifts Rider”** form **at the same time** as the execution of the Statutory Short Form Power of Attorney. The **Power of Attorney New York Statutory Major Gifts Rider** needs to be signed by the Principal, acknowledged by a notary public, signed by two witnesses and it must state who prepared it.

Designation Of Monitors (Optional) (paragraph (i)): The Principal has the option of designating a monitor or monitors to monitor the activity of the Agent or Agents.

Compensation of Agents (Optional) (paragraph (j)): The Principal has the option of indicating that the Agent shall be entitled to compensation for services rendered by initializing the bracket set forth in paragraph (j). Such compensation may be defined in **“Modifications”** (paragraph (g)).

Agents Signature and Acknowledgement of Appointment (paragraph (o)): The Agent(s) must sign the **“New”** form and have his or her signature acknowledged by a notary public in order for the power to be effective. **The Agent(s) does/do not have to sign at the same time as the Principal.**

The **“New” Statutory Short Form Power of Attorney and the Power Of Attorney New York Statutory Major Gifts Rider** forms can be found within the **“Forms”** section of our website.

Any question regarding the **“New” Statutory Short Form Power Of Attorney and the Power Of Attorney New York Statutory Major Gifts Rider** forms should be directed to the Sutton Legal Department.

Scott Spinner, President and General Counsel
Raizy Moskovits, VP and Sr. Commercial Title Officer
Ellen Petrillo, Counsel

sspinner@suttonalliance.com
rmoskovits@suttonalliance.com
epetrillo@suttonalliance.com