

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.7302 Representation; conflict of interest; holder of a power of revocation or amendment or power of appointment.

Sec. 7302.

(1) To the extent there is no conflict of interest between the holder of a power of appointment and the person represented with respect to a particular question or dispute, the holder of a power of appointment, including a power of appointment in the form of a power of amendment or revocation, may represent and bind a person to the extent the person's interest, as a permissible appointee, taker in default, or otherwise, is subject to the power. For the purpose, however, of granting consent or approval to modification or termination of a trust or to deviation from its terms, including consent or approval to a settlement agreement described in section 7111, only the holder of a presently exercisable or testamentary general power of appointment may represent and bind such a person.

(2) For purposes of subsection (1), both of the following apply:

(a) There is no conflict of interest between the holder of a nonfiduciary power of appointment and a person whose interest is subject to the power to the extent the subject interest is liable to be extinguished by an exercise of the power.

(b) If a power of appointment is subject to a condition precedent other than the death of the holder in the case of a testamentary power, no interest is subject to the power until the condition precedent is satisfied.

(3) As used in this section, "nonfiduciary" means, with respect to a power of appointment, that the power is not held in a fiduciary capacity.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010 ;-- Am. 2024, Act 1, Imd. Eff. Feb. 21, 2024

Popular Name: EPIC