

Title

FREQUENTLY ASKED ^ QUESTIONS

October 2013

Q Title is vested in a Limited Liability Company. The Managing Member has died and the sellers are proposing that the deed be executed by the Managing Member's personal representative. Is that acceptable?

A Yes, but only if the LLC members officially agree to give the personal representative that authority.

If the deceased member was the Managing Member, that Managing Member's personal representative (executor, administrator) does not automatically "step into the shoes" of the decedent and become the managing member unless the Operating Agreement for the LLC specifically so provides.

The personal representative does have the right to exercise whatever membership rights the decedent has in the LLC whether under an Operating Agreement or otherwise unless the Operating Agreement curtails or limits the rights of a member's personal representative.

If the Operating Agreement does not appoint a successor managing member in the event of the Managing Member's death, the best practice is to require all LLC members to sign the deed or in the alternative to require that all members appoint a new or successor manager to sign.

As always, feel free to address any questions to a member of our underwriting staff.