

What is a Georgia Financial Power of Attorney?

A Power of Attorney is a legal document that allows one person, known as the principal, to authorize another person, known as the agent or attorney-in-fact, to act on the principal's behalf in financial and legal matters. Powers of attorney are commonly used in estate planning and incapacity planning to ensure that trusted individuals can manage financial affairs if a person becomes ill, incapacitated, or otherwise unable to handle their own affairs.

In Georgia, most financial powers of attorney are governed by the [Georgia Uniform Power of Attorney Act](#), which is codified at O.C.G.A. §10-6B-1 through §10-6B-80. Georgia adopted this statute to modernize the law, clarify the authority granted to agents, provide safeguards against abuse, and encourage banks and financial institutions to accept properly executed powers of attorney. The Act provides a statutory form, and it is highly recommended that this form or a substantially similar document be used.

How a Durable Power of Attorney in Georgia Protects You

To execute a valid power of attorney in Georgia, the principal must be at least eighteen years of age and have sufficient mental capacity. The agent acts as a fiduciary, meaning they must act in good faith, within their granted authority, and in the best interests of the principal. Agents are often spouses, adult children, or other trusted individuals, although professional fiduciaries or trust companies may also serve in this role.

Most powers of attorney used in estate planning are durable, meaning they continue to remain effective even if the principal later becomes incapacitated. Under Georgia law, a power of attorney is presumed to be durable unless the document specifically states otherwise.

Defining Financial Agent Authority in Georgia

A power of attorney may grant an agent authority over a wide range of financial matters, including banking, investments, real estate, taxes, and insurance. The Georgia Uniform Power of Attorney Act also recognizes that certain powers can significantly affect a person's estate plan. Therefore, the law requires that some powers must be specifically stated before an agent may exercise them. These powers are sometimes referred to as 'special' or 'hot' powers and may include the authority to make gifts, create or amend trusts, or change beneficiary designations.

Requirements for Estate Planning Powers of Attorney

The document may become effective immediately upon signing, or it may be a "springing" power of attorney that only takes effect if the principal becomes incapacitated. To be valid under Georgia law, a power of attorney must generally be signed by the principal, witnessed by at least one witness, and acknowledged before a notary public. If used for real estate transactions, it must have two witnesses, be notarized, and the original must be recorded in the county land records. A power of attorney remains effective until it is terminated by the principal's death, revocation, or a stated termination date. Importantly, authority ends at death and passes to the estate's executor.

A power of attorney is an essential component of most estate plans because it allows trusted individuals to manage matters if incapacity occurs, preventing family members from having to seek a time-consuming, expensive, and public conservatorship through the probate court. It is also important to understand that a financial power of attorney does not authorize medical decision-making; [healthcare decisions are addressed through a separate Georgia Advance Directive for Healthcare](#).

A properly drafted power of attorney can provide flexibility and ensure your wishes are met. Note that you may give your agent the authority to continue making charitable gifts, such as your pledge to your church's stewardship fund, but this authority must be stated specifically. Please remember to consider this important element in your planning documents.



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