

GEORGIA ESTATE PLANNING CHECKLIST

The information provided in the guide below will assist individuals through the Georgia estate planning process to ensure that their interests are communicated as they approach the later stages of life.

Step 1 – Select a Health Care Agent

It will be necessary for the principal to appoint someone to take on the responsibility of making medical decisions on their behalf in situations where they are incapable of acting on their own. For this purpose, the principal will need to nominate a **health care agent** (a.k.a. health care proxy). The health care agent should be someone who has a close relationship with the principal such as a spouse, partner, child, or trustworthy friend.

[Advanced Directive for Health Care](#) – A power of attorney form used by the principal to legally appoint a health care agent. The document allows the principal to define the scope of authority granted to the agent as well as the specific medical situations where their authorization will be needed.

- **Signing Requirements** (§ 31-32-5) – Will need to be signed by the principal and two (2) adult witnesses.

Step 2 – Select a Financial Agent

After the principal has secured their medical interests by appointing a health care agent, they will need to do the same for their financial interests by choosing a **financial agent**. Like its title indicates, a financial agent will be responsible for looking after the principal's finances while they are incapacitated or otherwise incapable of making competent decisions.

[Durable \(Financial\) Power of Attorney](#) – A document containing the language and provisions necessary for the principal to legally nominate a financial agent.

- **Signing Requirements** (§ 10-6B-5) – Must be signed and attested by the principal in the presence of one (1) or more witnesses and a notary public.

Financial Powers Allowed

- Real property (§ 10-6B-43);
- Tangible personal property (§ 10-6B-44);
- Stocks and bonds (§ 10-6B-45);

- Commodities and options (§ 10-6B-46);
- Banks and other financial institutions (§ 10-6B-47);
- Operation of entity or business (§ 10-6B-48);
- Insurance and annuities (§ 10-6B-49);
- Estates, trusts, and other beneficial interests (§ 10-6B-50);
- Claims and litigation (§ 10-6B-51);
- Personal and family maintenance (§ 10-6B-52);
- Benefits from governmental programs or civil or military service (§ 10-6B-53);
- Retirement plans (§ 10-6B-54);
- Taxes (§ 10-6B-55);
- Gifts (§ 10-6B-56).

Step 3 – Prepare Estate Information

A list identifying the principal’s personal property, real estate, vehicles, financial accounts, and other assets should be prepared and recorded on a [Current Assets List](#). Documenting the principal’s estate in this manner is advantageous to the beneficiaries and trustees (if applicable) as it reduces the time needed to determine which assets have been designated for distribution by the principal.

Step 4 – Identify the Beneficiaries

After the principal has spent time itemizing their estate information, they should proceed by naming the individual(s) who will inherit their assets after death. Those chosen to receive the principal’s estate are known as the “beneficiaries.” Once the beneficiaries are chosen, the principal should relay the information to the individuals thus ensuring that they are fully prepared to take on the estate when the time comes.

Step 5 – Create a Living Trust and/or Last Will and Testament

A document outlining the distribution of the principal’s estate will need to be created. The main purpose of the document will be to define the beneficiaries and to describe the assets each is entitled to receive. When establishing such information, the principal will consider the execution of a living trust, a last will and testament, or a combination of the two. Both documents will serve as a guide for estate distribution, though the process of administration following the principal’s death will vary significantly depending on which forms are used.

[Last Will and Testament \(‘Will’\)](#) – This form is a legal instrument used to communicate an individual’s wishes concerning the distribution of their estate.

The document **will be subject to the probate process**, meaning that the court will examine the principal's estate before distribution can occur. Note that the probate process can greatly lengthen the time required to settle the estate and can result in costly fees.

- **Signing Requirements** (§ 53-4-20) – Must be signed by the testator and two (2) competent witnesses.

Living Trust (Revocable) – Allows the principal to create an entity which can hold their assets until they die. A trustee will be selected to manage the trust and ensure that the assets are properly maintained during the principal's lifetime (the principal often acts as trustee). The living trust **will avoid the probate court** resulting in the possible immediate distribution of the estate following the principal's death.

- **Signing Requirements** – No statutory signing requirement All parties should sign in the presence of a notary public and two (2) witnesses.

Step 6 – Store the Documents in a Safe Place

After completing the above steps, the principal's estate will be prepared and protected for all circumstances. The principal should be sure to make copies of all important paperwork before storing the documents in a secure location. It may be best to leave copies with the principal's attorney and close relatives so that there will always be someone with proof of the principal's preferences.

Georgia Estate Planning Laws

- **Advanced Directive for Health Care** – [Title 31, Chapter 32](#)
- **Durable Power of Attorney** – [Title 10, Chapter 6B](#)
- **Last Will and Testament** – [Title 53, Chapter 4](#)
- **Revocable Living Trust** – [Title 53, Chapter 12, Article 3](#)