



Georgia Wills & Trusts

August 2018

(v.18.02)

Legal Developments

Changes to Georgia Law Effective July 1, 2018

A number of changes were made to the Georgia trust code, including provisions relating to minor or unborn beneficiaries, nonjudicial settlement agreements, the modification and termination of noncharitable trusts as well as other matters. See [HB 121](#). In addition, revisions were made to the Georgia Power of Attorney, including technical corrections and improvements to the GA Uniform Power of Attorney Act. See [HB 897](#).

Updated Product Features

Revisions to GA Power of Attorney

Revisions were made to the statutory Power of Attorney form, including minor language revisions and formatting changes. Also, the requirement to revoke a POA executed on or after July 1, 2017 is no longer mandatory. Some language was added to the form to specify what the Agent can *not* do; that guidance is in the statute itself, but not on the Statutory Form. It seems fair to alert the Agent. Additionally, some client-specific data was removed from the sample Agent Certification form since that form is typically used after the POA has been executed. Accordingly, the County and Date of Execution questions under Agent Info for the Agent Certification have been omitted. *Deleted old Questions 1256 and 1257.*

New Nonjudicial Settlement Option

A new option was added to either allow or prohibit the beneficiaries and trustees to adjust the terms of an irrevocable (noncharitable) trust, including a testamentary trust created within a standalone will, by a written settlement agreement without court order. Another option for this question allows the drafter to make no provision for the issue, presumably letting the statute control, but disclosing the concept in the document (either way) allows the client to review it. *New Question 1057.*

Revisions to Georgia's Rule Against Perpetuities

The RAP limits how long a trust can continue. While Georgia still recognizes the "lives in being + 21" test, there is also a simple choice of a fixed number of years. The old limit of 90 years was increased to 360 years. See [HB 122](#). Therefore, the "Statutory (90 years)" choice is replaced with a "New statutory (360 years)" choice and the text was revised accordingly. *Question 1084*

Other – Revised cite to digital assets act as 'Revised Uniform Fiduciary Access to Digital Assets Act.' See [SB 301](#).

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To view those questions that are new in this update, or where **Law & Strategy**, choices, or default answers have changed, use the "**Up_1802**" flag file. From inside Lawgic, open any existing answer file; on the **Flags** menu, click **Open Flags**, select the appropriate Title (click **OK**), and next select the "**Up_1802**" flag file (and click **OK**). To view all flagged questions, click **Expand All** on the **Answers** menu and scroll the Navigator. Flagged questions will be indicated with **blue bold** text.

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