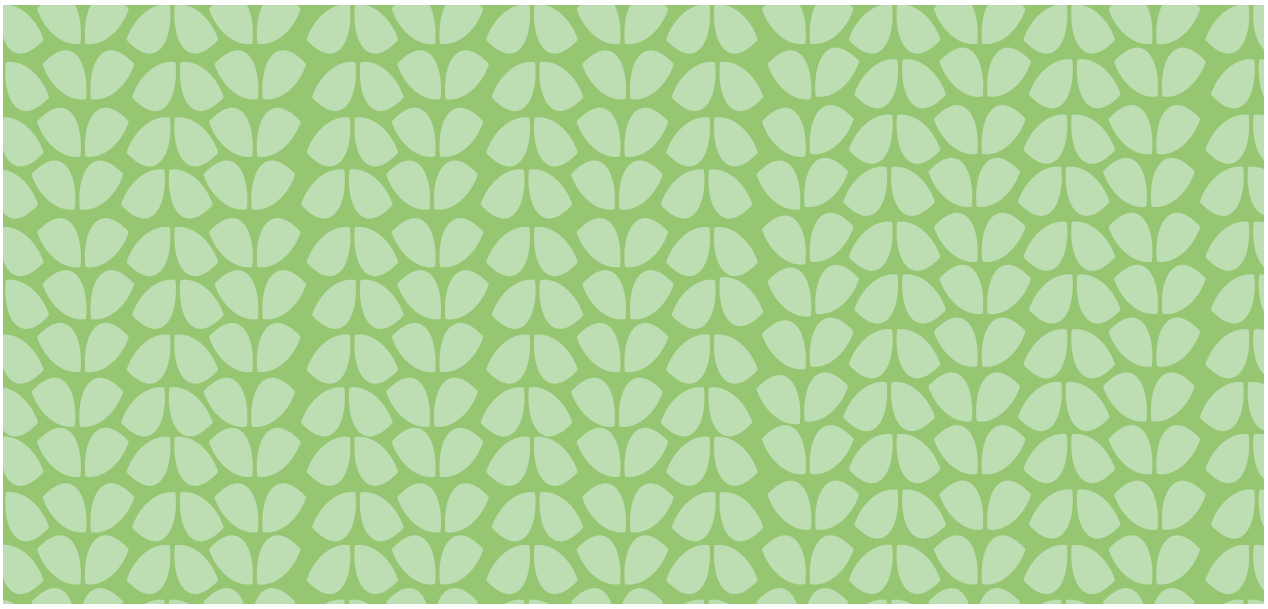
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CJE GUIDE TO POWER OF ATTORNEY FOR PROPERTY



Introduction

A Power of Attorney for Property is a written legal document that lets you (the principal) authorize another person (the agent) to take actions on your behalf regarding your property and finances if you become sick, injured, or disabled. A stroke, surgery, serious car accident, or a condition like Alzheimer's disease can leave you unable to manage your own affairs with little or no warning.

The legal definition of property includes real property, personal property, and money. Real property includes houses, land, and condos. On the other hand, personal property, sometimes called tangible personal property, includes all your things—like cars, furniture, clothing, and money. Even if you do not own a house or land, you still have money, personal property and assets that must be handled if you become unable to do so.

Talking about money can be difficult, and planning for the future may feel overwhelming. A well-drafted Power of Attorney clearly outlines how you want your money to be managed and used. By expressing your wishes now, you can help prevent future conflicts among family members and ensure your finances are handled according to your intentions. The best time to do this is now.

Unlike a Last Will and Testament, a Power of Attorney for Property is only valid during your lifetime. It is a "just in case" document that allows you to prepare for the unexpected. If you never need help making property and financial decisions, your Power of Attorney will not be used. The Power of Attorney for Property is a separate document from the Power of Attorney for Healthcare. Even if you have named a healthcare agent, you still must name a property agent to allow them to manage your money and property for you.

This step-by-step guide is an explanatory document based on the Illinois statutory Power of Attorney for Property form. It is designed to help walk you through the process of designating an agent and planning for the future of your money and assets. The goal of filling out a Power of Attorney for Property is to choose someone who can make decisions about your finances if you become unwilling or unable to do so. This guide can also help you start thinking about your choices so you can make a plan if financial and property decisions ever need to be made on your behalf.

Each section below corresponds to a section in the Power of Attorney for Property form. You might want to have this guide next to the form while you are filling it out.

SECTION 1 – YOUR AGENT AND THEIR POWER

Choosing Your Agent

When designating an agent under a Power of Attorney for Property, it is most important to choose someone you **trust**. This person will have the authority to make decisions about your property and finances if you are unable to do so. They should be reliable, organized, and most of all, willing and capable of making financial decisions that reflect your needs and best interests.

Your agent must be at least 18 years old. They do not need to be a family member or related to you or your spouse. Your agent also does not need to be a United States citizen. This person can be the same person you designate as your healthcare agent or someone else.

You should choose an agent who:

- Is responsible and can be trusted with your money
- Will follow your financial plans and work in your best interest
- Can communicate effectively with various financial institutions like banks, insurance companies, pension funds, benefit providers, and other agencies
- Is willing to act as your agent

You will need to provide the name and address of your agent to complete the Power of Attorney for Property form.

What Kinds of Decisions Can My Agent Make?

You may grant your agent as much or as little control over your property as you wish. The goal of a Power of Attorney is to be broad. Even if your financial situation seems simple and straightforward today, unforeseen situations can arise. Giving your agent broad power helps ensure that your agent can act on your behalf in a wide range of circumstances.

Your agent is **obligated** to act in your best interests in all decisions they make. See Section 11 of this guide and the Power of Attorney form for more information.

The Power of Attorney for Property includes options that describe different powers your agent may have. Each section below explains the different powers you can give your agent. You do not need to have every type of property or account listed in order for the Power of Attorney to be useful. If you do not have something listed, it simply means that authority may not be needed right now. If your situation changes in the future, your agent can help with those matters if you have granted that authority.

a. Real estate transactions
   Your agent will be able to handle matters concerning any real estate you own. This includes managing your mortgage, paying property taxes or other dues, transferring your title to someone else, and selling your house, condo, or other real estate if necessary.

b. Financial institutions transactions
   Your agent can work with banks, credit unions, and other financial institutions on your behalf. This may include opening, closing, or managing accounts, depositing or withdrawing money, writing checks, reviewing statements, paying bills, and communicating with financial institutions about your accounts.

c. Stock and bond transactions
   Your agent can manage stocks, bonds, mutual funds, brokerage accounts, and other investment accounts. This may include buying, selling, exchanging, or transferring investments, reviewing account information, communicating with financial advisors or brokerage firms, and making investment-related decisions consistent with your financial needs and wishes.

d. Tangible personal property transactions
   This includes physical items, such as vehicles, furniture, tools, electronics, jewelry, artwork, clothing, and sentimental items. Your agent can protect, store, insure, repair, sell, donate, or transfer these items if needed. For example, if you can no longer drive, your agent could sell your car or transfer the title to someone else.

e. Safe deposit box transactions
   Your agent will be able to access your safe deposit box to deposit, withdraw, and manage valuables, documents, or funds that are stored there.

f. Insurance and annuity transactions
Your agent can manage your insurance policies and annuities on your behalf, including paying premiums, updating billing information, filing claims, communicating with insurance companies, reviewing policy details, and making decisions about continuing, renewing, or changing coverage. This includes life, home, auto, disability, long-term care, and other insurance policies.

g. Retirement plan transactions
Your agent can manage retirement-related accounts and plans, such as IRAs, 401(k)s, pensions, and other retirement benefits. This may include communicating with plan administrators, reviewing account information, making elections allowed by the plan, arranging distributions, and taking steps needed to preserve or access retirement funds for your benefit.

h. Social Security, employment and military service benefits
Your agent can help manage benefits you receive or may be entitled to receive from employment or military service. This may include applying for benefits, communicating with benefit offices or employers, receiving notices, updating information, arranging direct deposit, and helping make sure benefits are used for your needs.
Although Social Security is included in this section, the Treasury Department regulations do not recognize general powers of attorney for handling recurring *federal* benefit payments, including Social Security and SSI payments. Instead, the Social Security Administration appoints a *representative payee* to receive and manage payments for incapacitated beneficiaries.

i. Tax matters
Your agent can handle tax-related matters for you. This may include gathering records, preparing or filing tax returns, paying taxes, requesting refunds, responding to tax notices, and communicating with the IRS, the Illinois Department of Revenue, or other tax authorities on your behalf.

j. Claims and litigation
If someone brings a legal claim against you, or if you need to bring a claim to protect your rights or property, your agent can retain an attorney. Your agent would be able to communicate with attorneys, courts, or other parties, sign documents related to the claim, respond to notices, settle or defend claims, and take other steps needed to protect your interests.

k. Commodity and option transactions
These are specialized investment transactions involving commodities, options, or similar financial products. Given this power, your agent can assist with these matters.

l. Business operations
This form is not a Power of Attorney for business, however, given this power your agent may be able to conduct business on your behalf in any matter that you could conduct personally.

m. Borrowing transactions
Your agent can borrow money or manage loans on your behalf if needed. This may include applying for a loan, refinancing debt, signing loan documents, making payments, or negotiating with lenders.

n. Estate transactions
Your agent can handle matters related to property or money that you inherit or are entitled to receive. For instance, your agent can communicate with the people managing an estate or trust, sign necessary paperwork, collect money or property that belongs to you, and help protect your rights to any inheritance or other assets you may receive.
This power does not allow your agent to change your own estate plan or your will. Only you have the ability to modify or implement these documents.

o. All other property transactions
This is a catch-all category that allows your agent to handle other property and financial matters not specifically listed above. It can help your agent respond to unexpected situations involving your money, property, accounts, or legal obligations.
For example, if you rent your home your agent could pay your rent and utility bills, communicate with your landlord, and sign or break a lease for you. Your agent could also help arrange and coordinate residential or long-term care services if needed. If you want your agent to have broad authority to manage your affairs, you should include this power on your Power of Attorney form.

SECTION 2 – EXCLUSIONS AND LIMITATIONS

If you do not want your agent to have a certain power, you may cross out that section before signing the form. Remember, though, it is a good idea to give your agent broad powers so that they can help you with predictable needs and things you may not have considered.

SECTION 3 – ADDITIONAL POWERS

You may choose to give your agent additional powers over your finances and property if you wish. For example, many people want their agent to be able to give money or property to family members, charities, or others. However, your agent cannot do this automatically. Since an agent may only act in the principal's best interest, gifts that benefit someone else require express permission. This power can be important for Medicaid planning, charitable donations, or continuing a pattern of gifts the principal made before becoming unable to act.

Common additional powers include:

- Making any gifts necessary for the purpose of Medicaid/Medicare asset planning
- Making gifts to family or charitable contributions

SECTION 4 – DELEGATION OF POWER

Delegation means your agent can ask another person to handle a specific task or responsibility on your behalf. This can be helpful when the task requires special knowledge, experience, or professional support.

For example, your agent may need help from an accountant, attorney, financial advisor, real estate professional, or another trusted person to complete a task properly. Delegation does not mean your agent gives up their overall responsibility to act in your best interest. Instead, it allows your agent to get appropriate help when doing so would better protect your property, money, or legal rights.

SECTION 5 – REIMBURSEMENT AND REASONABLE COMPENSATION

Your agent is entitled to be reimbursed for money they have spent on your behalf. Common reimbursable expenses include mileage or travel costs, postage and shipping, legal and accounting fees paid on your behalf, filing fees, and costs for supplies or services directly tied to managing your affairs. Your property agent should keep receipts for everything as part of regular recordkeeping.

You may choose to allow your agent to receive reasonable payment for the time and work involved in serving as your property agent. This is common in powers of attorney for property, especially when the agent may need to spend significant time managing bills, accounts, property, or other financial matters.

SECTION 6 – EFFECTIVE DATE

When will my property agent begin acting on my behalf?

There are two options for when your property agent can begin representing you: now or later, upon a specified event.

If you choose to let your agent begin acting on your behalf immediately, they can begin making decisions for you as soon as the document is signed and continue to do so if you later become unable to make decisions for yourself. This is called a durable Power of Attorney. It takes effect when signed and remains in effect if you become incapacitated. Choosing this option does not stop you from making your own decisions while you are able. Your agent cannot overrule your decisions while you can still decide for yourself.

In the second option, your agent will only be able to act for you after a specific event happens. This is called a springing Power of Attorney—it "springs" into effect when a specific event occurs. For example, if the document states that it takes effect when a doctor determines that you can longer act for yourself, your agent will have to arrange a medical examination and provide proof that you are incapacitated. This may cause delays during times of crisis.

SECTION 7 – TERMINATION OF YOUR POWER OF ATTORNEY

Your Power of Attorney automatically ends when you die. After your death, your agent no longer has authority to act for you under this document.

You may choose to list a specific date or event when your Power of Attorney will end. However, this is usually not recommended. If the document ends too early, your agent may be unable to help you at the very time you need support managing your property, money, or financial responsibilities.

If you change your mind about who you want to serve as your agent, you can always create a new Power of Attorney that replaces and overrides your previous document. The new Power of Attorney should clearly state that it **revokes, or cancels, all prior powers of attorney** so there is no confusion about which document is in effect.

It is also important to understand that revoking a Power of Attorney may involve more than simply signing a new form. Depending on your circumstances, you may also need to notify your prior agent, financial institutions, and any other organizations that were given a copy of the original document. Because of these potential legal and practical issues, it is strongly recommended that you seek legal advice before revoking or replacing a Power of Attorney to ensure the revocation is effective and properly documented.

SECTION 8 – SUCCESSOR AGENT(S)

You can select successors, or backup, agents if the first agent is unavailable to make property and money decisions. As with your first agent, this should be someone you **trust**. You will need to provide the name, address, and phone number of any successor agents to complete the Power of Attorney for Property form. You can list more than one successor agent, but only one agent can act at time.

SECTION 9 – GUARDIAN OF THE ESTATE

If a guardian is ever appointed, the court will highly consider the person you named as your agent to be your guardian.

SECTION 10 – FULLY INFORMED

By signing the Power of Attorney for Property form, you certify that you understand what you are signing. If there is anything in the form that you do not understand, you should ask a lawyer to explain it to you. Do not sign the document until you understand it.

SECTION 11 – NOTICE TO AGENT

The Notice to Agent explains the responsibilities of your agent. These include acting in your best interest, following your estate plan as much as possible, keeping clear records, and keeping your money separate from the agent's own money. It also explains how your agent should sign documents so as not to be held personally liable for your debts or obligations.

Final Steps – Signing Your Power of Attorney

Once you have chosen your property agent and listed successor agents, be sure to discuss your choices with your agent and give them a copy of this document. If you wish to make changes later, you can always create a new Power of Attorney for Property.

In Illinois, a Power of Attorney for Property must be signed by you (the principal) and properly witnessed and notarized. Successor agents are not required to sign the document.

The role of the witness is to watch you sign the Power of Attorney. The witness cannot be related to you or any of your agents. The witness need not know the content of the Power of Attorney, but should sign the document immediately after you sign, including his/her address, printed name, and date. The witness does not need to keep a copy of the Power of Attorney.

FAQs:

What will happen if I do not have a property agent?

You are not required to choose a property agent. However, if you do not name an agent and later cannot act for yourself, no one will be able to handle these matters for you. This means that no one can sign documents, manage your accounts, sell property, or make financial decisions on your behalf.

Without a Power of Attorney for Property or a designated property agent, a court may need to step in to appoint a guardian, which can be a lengthy and time-consuming process. The court may appoint someone to manage your finances who you did not choose and you will lose the ability to decide who will manage your financial affairs. Moreover, when money and property are involved, family situations can sometimes become more complex, and individuals who have not been actively involved in your life may re-emerge. Without clear legal documents in place, there may be uncertainty about who is authorized to make financial decisions for you, which can lead to confusion or disagreement.

Why would a guardian be necessary if I have designated an agent in my Power of Attorney for Property document?

It can be confusing to understand why a guardian would be necessary if you already have a Power of Attorney for Property in place. A guardianship is a legal arrangement created by a court when it determines that a person is no longer able to manage their own affairs. Unlike a Power of Attorney, where you choose your own agent in advance, the court has the final authority to appoint a guardian and define the scope of their powers.

Having a Power of Attorney for Property does not automatically prevent guardianship. A court may still appoint a guardian if the agent is unwilling or unable to serve, if the principal refuses the agent's assistance, or if there are concerns about the agent's conduct, such as misuse of funds or acting against the principal's best interests. In such situations, a family member or other interested party may petition the court to establish a guardianship for added oversight and protection.

Overall, a well-drafted Power of Attorney is designed to reduce the likelihood of guardianship. Nonetheless, guardianship remains a legal safeguard to protect people when a Power of Attorney is missing, ineffective, misused, or no longer sufficient. Courts generally prefer to honor a valid Power of Attorney and treat guardianship as a last resort.

My spouse and I own everything together. Do I need a Power of Attorney for Property if I'm married?

Even if you are married and you and your spouse own all your property together, you still need a Power of Attorney for Property. Most spouses own some assets individually like retirement accounts and pension funds. While your spouse may be listed as the beneficiary of these funds, beneficiaries cannot access these accounts while the account owner is still living, even if the account owner is unable to make decisions. Naming your spouse or another trusted person as your property agent ensures that accounts held solely in your name can be accessed if necessary.

Can I name a co-agent?

With this Power of Attorney for Property form, you may name only one agent at a time. This is recommended because naming co-agents can create confusion if the agents disagree about what to do. If co-agents cannot agree, a court may need to get involved to resolve the dispute—something a Power of Attorney document is meant to avoid.

Instead, you can name successor, or backup, agents. If your first agent is unable to act on your behalf, your successor agent can step in. We recommend you name at least one successor agent, but you may choose more if you wish.

Can my agent distribute my money after I die?

No. A Power of Attorney is only valid while you are alive and ends when you die. After your death, your agent no longer has authority to act on your behalf or distribute your money or property.

Instead, the person responsible for handling your assets after your death will be your executor if you have a will, a trustee if you have a trust, or another person authorized under state law. Those individuals are responsible for distributing your assets to your beneficiaries or heirs.

I want my agent to inherit my money after I die. Does this document establish that?

No, the Power of Attorney for Property does not determine who will inherit your money after you die. Whether or not your agent inherits your money is determined by your estate plan, which may include legal documents such as a Transfer on Death Instrument or a Last Will and Testament.

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