

Key Elements of a Michigan Financial Power of Attorney

- **Principal:** This is you, the person creating the document, sometimes also referred to as the "grantor" or "donor."
- **Agent (or Attorney-in-Fact):** This is the person you appoint to act on your behalf regarding your financial affairs. You should choose someone you trust implicitly, is responsible, and capable of managing financial matters. You can also name one or more successor agents in case your primary agent is unable or unwilling to serve.
- **Effective Date:** You can specify when the Financial POA becomes effective. It can be:
 - **Immediately:** Effective as soon as it's signed.
 - **Springing:** Becomes effective only upon the occurrence of a specific event, usually your incapacity. If you choose a springing power, you'll need to define how your incapacity will be determined (typically by a physician's written statement).
- **Scope of Authority (Powers Granted):** This is the most critical section, as it clearly defines the specific financial powers you are granting to your agent. You can grant broad authority or limit it to specific tasks. Common powers include the authority to:
 - **Real Property Transactions:** Buy, sell, lease, mortgage, and manage real estate.
 - **Tangible Personal Property Transactions:** Buy, sell, lease, and manage personal belongings.
 - **Stock and Bond Transactions:** Buy, sell, and manage securities.
 - **Banking and Other Financial Institution Transactions:** Open, close, and manage bank accounts, safe deposit boxes, and other financial accounts.
 - **Business Operating Transactions:** If you own a business, you can grant authority to manage its operations.
 - **Insurance and Annuity Transactions:** Manage insurance policies and annuities.
 - **Estate, Trust, and Other Beneficiary Transactions:** Deal with your interests in estates and trusts.
 - **Claims and Litigation:** Pursue or defend legal claims on your behalf.
 - **Tax Matters:** File tax returns and represent you before tax authorities.
 - **Government Benefits:** Act on your behalf regarding government benefits like Social Security or Medicare.

- **Retirement Plan Transactions:** Manage your retirement accounts (this often requires specific language).
- **Gifting:** You can grant your agent the power to make gifts on your behalf, often with limitations to avoid estate tax issues or self-dealing.
- **Borrowing Money:** Authorize your agent to borrow money on your behalf.
- **Creating, Amending, or Terminating Trusts (Limited):** In some cases, with very specific language, you can grant limited authority related to trusts.
- **Special Instructions and Limitations:** This section allows you to include any specific instructions or limitations on the powers you grant to your agent. For example, you might specify that your agent cannot sell a particular piece of property or can only make gifts to certain individuals and up to a certain amount.
- **Nomination of Guardian (Optional):** Similar to the Medical POA, you can nominate a person to serve as your guardian if a court determines that one is needed for your financial affairs.
- **Reliance by Third Parties:** This clause typically states that third parties (like banks or financial institutions) are protected if they act in good faith reliance on the POA.
- **Agent's Acceptance:** Your named agent(s) will usually need to sign a statement acknowledging their acceptance of the responsibilities and their agreement to act in your best interest.
- **Termination/Revocation:** You have the right to revoke your Financial POA at any time by providing written notice to your agent and any relevant third parties. The POA also typically terminates upon your death or if a court appoints a guardian for your estate.
- **Witness and Notary Requirements:** In Michigan, a Financial Power of Attorney must be signed by the principal and acknowledged before a notary public. While witnesses are not strictly required for validity under the Estates and Protected Individuals Code (EPIC), having witnesses can provide additional legal security and may be advisable in certain situations.

Important Considerations:

- **Choosing Your Agent:** This is a critical decision. Ensure the person you choose is trustworthy, competent, and understands the responsibilities involved. Discuss your wishes and expectations with them.
- **Understanding the Scope of Powers:** Carefully consider the powers you grant. Think about your current and future financial needs and who is best suited to handle them.

- **Springing vs. Immediate Power:** Weigh the pros and cons of each. A springing power protects you until you need help, but it can sometimes be cumbersome to prove incapacity. An immediate power allows your agent to act right away but requires a high degree of trust.
- **Specific Instructions:** Be as clear and specific as possible in your instructions and limitations to avoid misunderstandings.
- **Notarization:** Ensure the document is properly notarized according to Michigan law.
- **Storing and Distributing Copies:** Keep the original document in a safe but accessible place. Provide certified copies to your agent and any financial institutions you regularly deal with.
- **Review and Update:** Review your Financial POA periodically, especially after significant life events, to ensure it still meets your needs and reflects your wishes.