

# *The Power of Attorney*



***GOVERNMENT EMPLOYEES'  
RETIREMENT SYSTEM***

This document was designed to assist you in understanding the power of attorney and the importance of having one on file with the GERS. Included is important information on the GERS *Special Power of Attorney* form, located at the back of this document that is specifically designed for GERS retirement issues. For your convenience, we have also included a quick check list to make sure you have completed the form correctly.

A GERS Special Power of Attorney allows you to designate a representative or agent, known as your attorney-in-fact, to conduct your retirement affairs. Having a GERS Special Power of Attorney on file with us ensures that your designated attorney-in-fact will be able to perform important duties concerning your GERS business such as address changes, federal territorial or state tax withholding elections, lost or stolen retirement checks, beneficiary designations, or retirement benefit elections should you become unable to act on your own behalf.

You must complete a power of attorney form while you are able to understand the powers you are granting. If you become unable to handle your affairs before completing a power of attorney, GERS may find it necessary to withhold your retirement allowance until a court appoints a conservator to handle your affairs. Since appointment of a conservator can be both expensive and time consuming, you may wish to safeguard against this possibility by completing the GERS *Special Power of Attorney* form.

- A  **durable** power of attorney contains a “durability clause,” which is a provision permitting your designated attorney-in-fact to act on your behalf in the event you are unable to handle your affairs.
- A  **general** power of attorney permits your attorney-in-fact to act on your behalf in all of your personal affairs. It automatically terminates when you become incapacitated or unable to act on your behalf unless it contains a durability clause.
- A  **special** power of attorney grants only the powers that are specifically stated in the power of attorney document. The GERS power of attorney is a special power of attorney because it only authorizes your attorney-in-fact to handle your GERS retirement affairs. Another power of attorney that you may be familiar with is a special power of attorney for health care. GERS cannot accept this type of special power of attorney for retirement issues. A special power of attorney automatically terminates when you become incapacitated or are unable to act on your own behalf unless it contains a durability clause.

The *GERS Special Power of Attorney* form is a specialized power of attorney that is specifically designed for GERS retirement issues. The main advantage in using our special power of attorney form is that it contains a durability clause that specifically shows your intent to have your attorney-in-fact conduct business with us even if you become incapacitated.

While we prefer that GERS members use the ***GERS Special Power of Attorney*** form because it contains the durability clause, GERS will also accept other power of attorney forms that grant the attorney-in-fact authority to specifically conduct business with the GERS. However, should your power of attorney form not contain a durability clause, GERS will not be able to honor it if you become incapacitated.

GERS permits your attorney-in-fact to be given the specific authority to select a payment option on your behalf. If you do not give the specific authority to initiate the retirement process and select a payment option on your behalf, and you become incapacitated, you be unable to receive an annuity until a court appoints a conservator to handle your affairs.

GERS permits your attorney-in-fact to designate a beneficiary of your retirement benefits if you so specify. If this specific authority is not granted, your attorney-in-fact cannot designate a beneficiary or change the beneficiary that you designate on your retirement application. If you have not named a beneficiary or become incapacitated before you retire, your retirement benefits will be distributed in the order specified by the Virgin Islands Code. If you do grant your attorney-in-fact authority to designate a beneficiary, you must specify whether or not your attorney-in fact may designate him or herself. Your attorney-in-fact will not be permitted to designate himself or herself as a beneficiary unless you specifically authorize it on this Power of Attorney form.

In addition, you cannot use the GERS Special Power of Attorney to appoint an administrator of your estate before your death. This form only deals with retirement matters administered by GERS. **Because of the broad power that may be granted by the GERS Special Power of Attorney, we recommend that you consult an attorney before signing this document.**

## **Handling Retirement Affairs With A Power of Attorney**

With a GERS ***Special Power of Attorney*** form on file, your attorney-in-fact can begin to take care of your retirement affairs immediately. You may also continue to act on your own behalf, but your attorney-in-fact is able to act in matters concerning your retirement even if you are not incapacitated, unless you specify that the power of attorney will not take effect until you become incapacitated or until some future date or event occurs.

If you choose not to keep a copy of the GERS ***Special Power of Attorney*** form on file, be sure that your power of attorney form is easily accessible so that your attorney-in-fact can send it to us when the need arises to transact retirement business. Planning ahead can prevent anguish for you and your family.

## Changing Your Power of Attorney

If you change your mind about your power of attorney, you must:

- complete a new power of attorney form with the changes you desire; and
- inform those who have a copy of the old power of attorney that it is no longer valid and ask that copies of the old form be returned to you so you can destroy them; and
- give copies of the new form to those people who may need to carry out your wishes.

## Terminating Your Power of Attorney

You must execute a document revoking the power of attorney, to be witnessed and acknowledged in the same manner as the first power of attorney. You can then submit a new power of attorney if you wish.

If you still have questions about your power of attorney after reading this material, you should consult an attorney.

**Complete the forms on the following pages in full, making sure that you have entered all the required information.**

*You must verify the truth of the following statements before you submit the forms to GERS.*

- I am of sound mind and acting of my own free will.
- I understand that the individual(s) I have selected as my attorney(s)-in-fact to make retirement-related decisions for me is at least 18 years old.
- I realize that my attorney-in-fact has the power and authority to transact all matters relating to the Government Employees' Retirement System.
- I have talked with the individual(s) I have selected as my attorney(s)-in-fact and they have agreed to participate.
- Two people, at least 18 years old, neither of whom are the attorney-in-fact, have signed and witnessed my signature or designation of an attorney-in-fact with powers of attorney, and a notary public has acknowledged my signature designating special power of attorney.
- My attorney(s) in fact has read the notice about their legal responsibilities and has signed the last page of the form.

- I have given a copy of the completed power of attorney to my attorney-in-fact and other family members who may need it.
- I have decided how long I wish my power of attorney to last and have filled in the appropriate blank(s).
- If I have designated more than one attorney-in-fact, I have indicated that my attorneys-in-fact are to act jointly or separately.
- I understand that I may authorize my attorney-in-fact to select any payment option available under the retirement plan even though the selected option may reduce the monthly allowance that would otherwise be paid to me during my lifetime.
- I understand that I may authorize my attorney-in-fact to designate or change my beneficiary including authorizing him or herself.
- I understand that I may not authorize my attorney-in-fact to designate him or herself as my beneficiary.
- I understand that I may authorize my attorney-in-fact to procure a personal loan.
- I understand that I may not authorize my attorney-in-fact to procure a personal loan.
- I understand that I may authorize my attorney-in-fact to procure an auto loan.
- I understand that I may not authorize my attorney-in-fact to procure an auto loan.
- I understand that I may authorize my attorney-in-fact to procure a mortgage loan.
- I understand that I may not authorize my attorney-in-fact to procure a mortgage loan.
- I and my witnesses have signed and dated the GERS Special Power of Attorney form, and my attorney-in-fact has signed the notice acknowledging their legal responsibilities.

**Section 1**

When completing this form, please be sure to print the requested information.

**Creation of Durable Power of Attorney for Retirement-Related Business**

\_\_\_\_\_|\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Name of Member or Beneficiary (First Name, Middle Initial, Last Name) Social Security Number

\_\_\_\_\_  
Address

\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_  
City State Zip Daytime Phone

By this document I intend to create a durable power of attorney by appointing the person(s) named below to make retirement-related decisions for me. This power is expressly limited to decisions relating to my benefits under the Government Employees' Retirement System (hereinafter "GERS").

**Section 2**

You have the option of designating more than one attorney-in-fact.

If you appointed more than one attorney-in-fact, and you want each attorney-in-fact to be able to act alone, check the appropriate box. If you do not check a box, or if you check "jointly," then all of your attorneys-in-fact must act or sign together. Granting joint authority to two or more attorneys-in-fact is exercisable only by their unanimous action. If you choose to have your attorneys-in-fact act jointly, and one is unavailable because of absence, illness, or other temporary incapacity, the other attorney(s)-in-fact may not exercise their authority under the power of attorney.

**Designation of Attorney-In-Fact**

\_\_\_\_\_|\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Name of Attorney-in-Fact Social Security Number

\_\_\_\_\_  
Address

\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_  
City State Zip Daytime Phone

\_\_\_\_\_|\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Name of Attorney-in-Fact Social Security Number

\_\_\_\_\_  
Address

\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_|\_\_\_\_\_  
City State Zip Daytime Phone

I have designated more than one attorney-in-fact. They are to act:

- Jointly  Separately, in the order listed above.

**Section 3****General Statement of Authority Granted**

I hereby grant to my attorney-in-fact full power and authority to transact matters on my behalf relating to GERS. I understand that this authority is granted to the attorney-in-fact designated by me even if that person is related to me by blood or marriage. By signing this Special Power of Attorney form I intend that:

**BENEFITS:**

- My attorney-in-fact is  is not  authorized to select any payment option benefit available under the retirement plan, even though it may reduce the monthly allowance that would otherwise be paid to me during my lifetime.
- My attorney-in-fact is  is not  authorized to designate or change my beneficiary.
- My attorney-in-fact is  is not  authorized to designate him or herself as my beneficiary.
- My attorney-in-fact is  is not  authorized to withdraw my contributions.
- My attorney-in-fact is  is not  authorized to change my address.
- My attorney-in-fact is  is not  authorized to sign up for direct deposit.
- My attorney-in-fact is  is not  authorized to change the designated bank account to which my annuity checks are deposited.
- My attorney-in-fact is  is not  authorized to change federal or state tax withholding elections.
- My attorney-in-fact is  is not  authorized to negotiate a lost, stolen or stale retirement check.
- My attorney-in-fact is  is not  authorized to obtain a copy of my 1099R.

**LOANS:**

- My attorney-in-fact is  is not  authorized to execute personal loan documents.
- My attorney-in-fact is  is not  authorized to execute auto loan documents.
- My attorney-in-fact is  is not  authorized to execute mortgage loan documents.
- My attorney-in-fact is  is not  authorized to enter into a loan modification agreement.
- My attorney-in-fact is  is not  authorized to handle my property tax issues.
- My attorney-in-fact is  is not  authorized to handle my loan insurance issues.





## Section 5

### Notice to Person Executing Durable Power of Attorney

The authority granted by the GERS Special Power of Attorney form is limited to matters relating to GERS. The person designated as your attorney-in-fact does not have any authority over your other real or personal property. If you wish that your attorney-in-fact have authority over your real and/or personal property, it is recommended that you seek legal counsel.

\_\_\_\_\_|\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Name of Member Social Security Number

You may notice that the language contained in the following WARNING statement refers to more extensive authority than granted by the GERS Special Power of Attorney. This WARNING statement is included in all preprinted durable power of attorney forms even though the GERS Durable Power of Attorney does not authorize your attorney-in-fact to do many of the things mentioned in the following WARNING statement. Also, if you are concerned with the WARNING statement or the extent of the authority being granted by the GERS Special Power of Attorney form, we again urge you to consult with an attorney.

### Notice to Person Executing Durable Power of Attorney

**A durable power of attorney is an important legal document. By signing a durable power of attorney, you are authorizing another person to act for you, the principal. Before you sign this durable power of attorney, you should know these important facts:**

- **Your agent (attorney-in-fact) has no duty to act unless you and your agent agree otherwise in writing.**
- **The powers you give your agent will continue to exist for your entire lifetime, unless you state that the durable power of attorney will last for a shorter period of time or unless you otherwise terminate the durable power of attorney. The powers you give your agent in this durable power of attorney will continue to exist even if you can no longer make your own decisions regarding the management of your property.**
- **You can amend or change this durable power of attorney only by executing a new durable power of attorney or by executing an amendment through the same formalities as an original. You have the right to revoke or terminate this power of attorney at any time as long as you are competent.**
- **This durable power of attorney must be dated and must be acknowledged before a notary public and signed by two witnesses.**
- **You should read this durable power of attorney carefully. When effective, this durable power of attorney will give your agent the right to deal with personal property that you now have or might acquire in the future. This durable power of attorney is important to you. If you do not understand the durable power of attorney or any provision of it, you should obtain the assistance of an attorney or other qualified person.**

\_\_\_\_\_  
Name of Member (printed) Social Security Number

**Section 6**

Member fills out this section

**Member Information**

\_\_\_\_\_  
Date Executed (mm/dd/yyyy) City State

\_\_\_\_\_  
Signature of Member County

**Section 7**

Witness(es) fills out this section.

**Witness Information**

I have witnessed the principal's signature or the principal's acknowledgment of the signature designating power of attorney. I am an adult at least 18 years old and not the attorney-in-fact. My signature certifies that the principal is known to me and is the same person who signed and dated this affidavit.

\_\_\_\_\_  
Signature of Witness 1 Name of Witness 1 (printed)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Signature of Witness 2 Name of Witness 2 (printed)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Name of Member or Beneficiary

\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Social Security Number

## **Section 8**

Notary Public fills out this section.

### **Notary Public Acknowledgement**

\_\_\_\_\_  
Signature of Member or Beneficiary

\_\_\_\_\_  
Date (mm/dd/yyyy)

#### **Notary**

\_\_\_\_\_  
State/Territory

\_\_\_\_\_  
County

On \_\_\_\_\_ before me \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/authorized capacity, and that by his/her/ signature on the instrument the person(executed the instrument.

Notary Seal

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Member

\_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
Social Security Number

## **Section 9**

The person agreeing to act as attorney-in-fact must sign this section.

### **Notice to Person Accepting the Appointment of Attorney-in-Fact**

**By acting or agreeing to act as the agent (attorney-in-fact) under this power of attorney you assume the fiduciary and other legal responsibilities of an agent. These responsibilities include:**

- The legal duty to act solely in the interest of the principal and to avoid conflicts of interest.
- The legal duty to keep the principal's property separate and distinct from any other property owned or controlled by you.

**You may not transfer the principal's property to yourself without full and adequate consideration or accept a gift of the principal's property unless this power of attorney specifically authorized you to transfer property to yourself or accept a gift of the principal's property. If you transfer the principal's**

property to yourself without specific authorization in the power of attorney, you may be prosecuted for fraud and/or embezzlement. If the principal is 65 years of age or older at the time the property is transferred to you without authority, you may also be prosecuted for elderly abuse. In addition to criminal prosecution, you may also be sued in civil court.

I have read the foregoing notice and I understand the legal and fiduciary duties that I assume by acting or agreeing to act as the agent (attorney-in-fact) under the terms of this power of attorney.

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Print Name of Agent

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Signature of Agent

Date (mm/dd/yyyy)

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Print Name of Agent

---

Signature of Agent Date (mm/dd/yyyy)

Mail to:

GERS **Benefit Services Division** • P.O. 3438 Kronprindsens Gade, Suite 1, GERS Complex, St. Thomas, V.I. 00802-5750.

**Online Information**

Visit us on the Internet at [www.usvigiers.com](http://www.usvigiers.com)

**Reaching Us by Phone**

St. Thomas: (340) 776-7703

St. Croix: (340) 718-5480

Hours: Monday thru Friday 8:00 a.m. to 5:00 p.m.

**Visit Your Nearest GERS Office**

**3438 Kronprindsens Gade**

**GERS Complex - Ste 1**

**St. Thomas, V. I. 00802-5750**

**(340) 776-7703**

**Fax: (340) 776-4499**

**#3005 Orange Grove-Lot 5**

**Christiansted**

**St. Croix, V.I. 00820-4313**

**(340) 718-5480**

**Fax: (340) 773-5497**

While reading this material, remember that we are governed by the Virgin Islands Law.

The statements in this document are general. The Retirement Law is complex and subject to change. If there is a conflict between the law and this booklet, any decisions will be based on the law and not this booklet.

February 2010