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A Guide to Trusts in Georgia

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A Guide to Trusts in Georgia

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Introduction
Georgia recognizes charitable trusts, discretionary trusts, express trusts, implied trusts, life insurance trusts, marital trusts, QTIP trusts, resulting trusts, spendthrift trusts, testamentary trusts and Totten trusts. There can be differences from state to state in the requirements and treatments of trusts. This research guide points to sources of legal information about trusts in Georgia. It is meant to be used by the legal professional, law student, or any one without legal training.

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Primary Sources

Georgia Statutes
The annotated version of Georgia law gives more than just the text of the law and can be found in law libraries or through Lexis and Westlaw. The Georgia General Assembly website, www.legis.state.ga.us/ under Georgia Code, has the text of the law only but it is free. The annotated version of the Georgia Code is found through online sources such as Westlaw and Lexis and in the law library in the Official Code of Georgia Annotated volumes. Title 53 of the Georgia Code, "Wills, Trusts, and Administration of Estates” has all the trust laws for the state.

O.C.G.A. §53-12-1 (2006):
Defines Chapter 12 of Title 53 as “The Georgia Trust Act

Provides definitions

O.C.G.A. §53-12-3 (2006):
The Trust Act is controlling only if the trust itself is silent and it applies to all trusts, even those created before its enactment

Addresses jurisdiction

What to do when a trust and The Trust Act conflict.

**O.C.G.A. §53-12-6 (2006):**

A trust is not invalid due to a lack of a trustee.

**O.C.G.A. §53-12-7 (2006):**

Survival of common law and equity.

**O.C.G.A. §53-12-20 (2006):**

Defines express trust.

**O.C.G.A. §53-12-21 (2006):**

To create a trust, no formal words are necessary. And if the words show the intention to create a trust and all the elements are present, a trust is created.

**O.C.G.A. §53-12-22 (2006):**

Capacity to create a trust.

**O.C.G.A. §53-12-22.1 (2006):**

Creation of trust with initial corpus as life insurance.

**O.C.G.A. §53-12-23 (2006):**

A trust may be created for any lawful purpose.

**O.C.G.A. §53-12-24 (2006):**

Capacity of a trustee.

**O.C.G.A. §53-12-25 (2006):**

Additions to trust property.

**O.C.G.A. §53-12-26 (2006):**

Duration of trusts.

**O.C.G.A. §53-12-27 (2006):**

Parol evidence may be used.

**O.C.G.A. §53-12-28 (2006):**

Spendthrift trusts.


Addresses trusts created by deed to acquire beneficial interest.


Addresses testamentary trusts.

**O.C.G.A. §53-12-90 (2006):**

An implied trust is either a resulting trust or a constructive trust.

**O.C.G.A. §53-12-91(2006):**

Defines resulting trust.

**O.C.G.A. §53-12-92 (2006):**

Defines purchase money resulting trusts

**O.C.G.A. §53-12-93 (2006):**

Defines constructive trusts.

**O.C.G.A. §53-12-94 (2006):**

Parol evidence and implied trusts.


Charitable trusts.

Provisions relating to private foundations and trusts.

**O.C.G.A. §53-12-150 (2006)** through **O.C.G.A. §53-12-153 (2006):**
Addresses revocation, modification and termination.

Addresses trustees.

**O.C.G.A. §53-12-190 (2006)** through **O.C.G.A. §53-12-199 (2006):**
Duties and liabilities of trustees.

Addresses allocation of principal and interest.

Incorporation of fiduciary powers by reference.

**O.C.G.A. §53-12-250 (2006)** through **O.C.G.A. §53-12-265 (2006):**
Trustee powers.

Trust investments.

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**Federal Statutes**

Trusts are Subject to Federal Income Tax and Title 26 of the U.S. Code.

The Code can be found for free at [www.gpoaccess.gov](http://www.gpoaccess.gov).

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**Cases**


Hancock v. Hancock, 205 Ga. 684, 54 S.E.2d 385 (1949). Resulting trusts


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## Secondary Sources

### Treatises


### Books

- Elder Law Section of the State Bar of Georgia, *Special needs trusts : program materials / co-sponsors, Elder Law Section, State Bar of Georgia, Institute of Continuing Legal Education in Georgia*. (Institute of Continuing Legal Education in Georgia 2006). Call number: **KF137.A75 S64**.

The books in the KF730 section of the library are all about trusts.

### Georgia Jurisprudence

Georgia Jurisprudence is a legal encyclopedia with information pertaining to Georgia. It can be found in law libraries in Georgia and online through Westlaw.


### Law Reviews


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**Online Research/Other Sources**

### Online Resources

**Lexis** is a huge source of legal information that is very quick and easy to use. It is free for law students but is fairly expensive for others to use. The database is very extensive and covers all legal information.

**Westlaw** is a competitor of Lexis and is just as easy to use. It also is free to law students and costly to others.

**Loislaw** is a competitor of Lexis and is just as easy to use. It also is free to law students and costly to others. It is similar to Lexis and Westlaw but is cheaper to use. It charges a flat rate while the others charge on a per search basis. It does not have as large a database as Lexis and Westlaw.

**LexisOne** is a smaller and cheaper version of Lexis. Much of it is free and it includes free forms.

**Casemaker** is free to law students and members of the Georgia Bar Association. It has federal and state cases available.

### Other Sources

Under the Georgia Bar Webpage, [www.gabar.org](http://www.gabar.org), the Fiduciary Law Section has Developments in Georgia Fiduciary law summaries from 2000 and newsletters with Georgia Trust information.

Wills, Trusts and Estates Prof Blog is a site that has articles about trusts in Georgia. 

Findlaw for the Public has free legal information and the information about trusts can be found at [http://estate.findlaw.com/estate-planning/trusts/](http://estate.findlaw.com/estate-planning/trusts/).