

Top 4 Benefits of a Living Trust & Title Guidelines in a Sale Transaction

What Is a Living Trust?

A Living Trust holds the assets of the creator in a trust for their benefit while they are alive. Upon death it becomes an agreement between a trustor and trustee for the trustee to hold title to and administer designated assets of the trustor for the benefit of one or more beneficiaries. A living trust is revocable which means it can be revised or cancelled at any time.

1. A Living Trust Avoids Probate which can Save Time & Money

Probate is a court-supervised process of distributing a deceased person's estate. This can be a costly and lengthy process and can delay distribution of assets and decrease the amount the heirs receive.

2. A Living Trust Protects Your Privacy

Probate is of public record. A will upon the death of the creator, must be mailed to the county clerk of the superior court in the county the estate may be administered, which makes a will of public record. Anyone can go to the court and purchase a copy of the will. A trust is a private document between the parties involved. This prevents the public from knowing details of how an estate is distributed.

3. A Living Trust Assists in the Event of Incapacitation

A trust will allow for a successor trustee to manage the affairs of a trustor that becomes incapacitated or ill. This will avoid the process of having a court-appointed conservatorship which can be expensive and very time consuming.

4. A Living Trust Provides Certainty and Peace of Mind

A properly created trust can make sure all your wishes are carried out. It will ensure all your chosen beneficiaries are included and that no one is unintentionally left out. You can also provide care into the future for loved ones with special needs. A trust will also provide your loved ones with peace of mind knowing that everything is taken care of which will decrease the pressure of decision-making during an already difficult time.

Title Requirements in a Sale Transaction

If initial trustee is able to act:

- Statement of Information
- Copy of Trust and any amendments. However, a one-page certification of said trust is acceptable if made pursuant to probate code section 18100.5 and qualified as a trust under section 82 of probate code.

Upon death of an initial trustee:

- Statement of Information completed for the deceased by surviving trustee or successor
- Copy of trust and any amendments
- Certification of Trust
- Certified copy/original of the decedent's death certificate
- Affidavit - Death of Trustee



TRUST AGREEMENT: An estate planning document that allows a property to be owned in a trust

TRUSTOR: The creator/owner of the trust

TRUSTEE: The original authorized signer on behalf of the trust

SUCCESSOR TRUSTEE: The next authorized signer when the initial trustee is no longer able or alive to sign

PROP 19: With the passing of Prop 19 in California, holding title in a trust could be one option for transferring generational wealth. An attorney should be consulted with for their insight on this matter.



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