

## Land Trust and Inter-Vivos Trust Facts

### What Is a Land Trust?

A **title-holding trust** allows the property owner to anonymously maintain all rights over the property and direct the actions of the land trust. These trusts are also commonly called 'Illinois land trusts' because they were first popularized in Chicago during the 1800s. At that time, property owners were not allowed to vote on city projects in the same places they owned land. To circumvent this law, wealthy businessmen and politicians would use land trusts to purchase land anonymously, thereby protecting their voting rights. .

### Why Wealthy People and Real Estate Investors use Land Trust, and **you should to:**

- Land trusts are organizations that take legal ownership, stewardship, or partial control over property at the behest of the landowner. Owner' name is typically hidden from computer searches.
- Title-holding land trusts, also known as Illinois land trusts, protect landowner anonymity and keep property out of probate. So can pass to family without inheritance tax
- Limits exposure to liability resulting from injury due to neglect or negligence by the homeowner.
- Because Land Trust are rarely the name of the person creating the trust, the trust affords the home owner added shielding against lawsuits, it is hard to attach assets, that cannot be found.
- Allows for ease of sale, rent and borrowing money using the trust as collateral for the loan.

In a title-holding land trust, the landowner signs a document called a Deed in Trust, which transfers legal ownership of the property. When setting up the trust, the landowner (who is both the trust grantor and the beneficiary) can specify how the land is to be managed, who has control over it, and how any income it produces is distributed. This means that while the trust is the title-holder on paper, the landowner maintains complete control over the property.

Title-holding trusts are used as a way for property owners to maintain anonymity and keep valuable assets out of probate. They can also provide a number of other estate planning benefits and protect assets from judgments or liens. This can be especially useful for the very wealthy, celebrities, and large companies who may want to keep development plans under wraps.

A case in point: The famous Walt Disney World Resort in Orlando, Fla., was initially purchased in 1965 using a title-holding land trust. The original owners of the Florida swamplands upon which the resort is built had no idea that Disney, already a household name at the time, was behind the purchase. Had they been aware of the buyer's identity, they likely would have increased their asking price.

**Under the Garn-St. Germain ACT of 1982: Land Trust and Living Trust were exempted from the Due on Sales clause or Acceleration Clause of all mortgage agreements.**

At Creative Real Estate Resolutions, LLC, we use Land Trust Instruments to maintain contractual control of property especially when under a loan agreement. The purpose is to have an independent Third Party (know as a Trustee) to administer an agreement between our organization and you, the homeowner. By a contract, the Trustee works independent of all parties to insure all the criteria are met. It offers everyone protection. The Benefit for you, it can continue after the loan is repaid, or even allow you to easily sell the property if you need to walk away.

## **The Land Trust consist of the following documents and what each does in the administration of a Land Trust**

**Note:** When you transfer Title to your home into the Land Trust Instrument, your role also changes. You become the Beneficial Interest of the Land Trust. You have heard of a rich kid having a trust account, this is similar... He does now actually own the money in the Trust, but he is the only one who benefits from the Trust fund.

As Beneficiary you now tell the Trustee what you need or want done, and he does it. The form is called a Letter of Direction.

First, is to create a Land Trust

Second, it to sign a Warranty Deed conveying Title to the property into the Land Trust.

Third, is to sign Letter of Directions

1. Directing the Trustee to record the Warrantee Deed at the courthouse
2. Directing the Trustee who you want to be the next beneficiaries. Can be spouse, then children. Or whatever.
3. Directing the Trustee to notify Mortgage company and Insurance company to note the Title changes

Now that your Land Trust in place, you can do a variety of actions much easier, and be protected from probate, insuring your survivors do not go through the expensive probate process. You will enjoy the benefits of an additional layer of liability protection of your assets.

We are not lawyers, so we recommend if you have any questions consult an attorney.

### **The Cons.**

Potential disadvantage of land trust is the false belief that the trust protects property owners from all liability. Courts have ruled that the Beneficiary, not the Trustee is liable in cases dealing with the direct management of the property. It is also dangerous to think that the Land Trust offers bulletproof privacy. A court can order the Trustee to provide complete disclosure of property ownership for a number of criminal and civil complaints.

And Trust pay taxes., you will be required to file a form 1041 with your return. Consult your tax advisor for more information.

### **Uses and Benefits far outweigh the Cons. This is again why wealthy people use this form of protection**

Privacy of ownership and liens

Avoid Probate

Limit exposure of judgements and liens

Avoid marital interest in title

Insulate from the hazards of individual ownership

Transfer beneficial interest to anyone (even money)

Use beneficial interest as collateral

Prevent the partition of land

Protect acquisition of large projects

Facilitate good estate planning

Provide owners with land use protections