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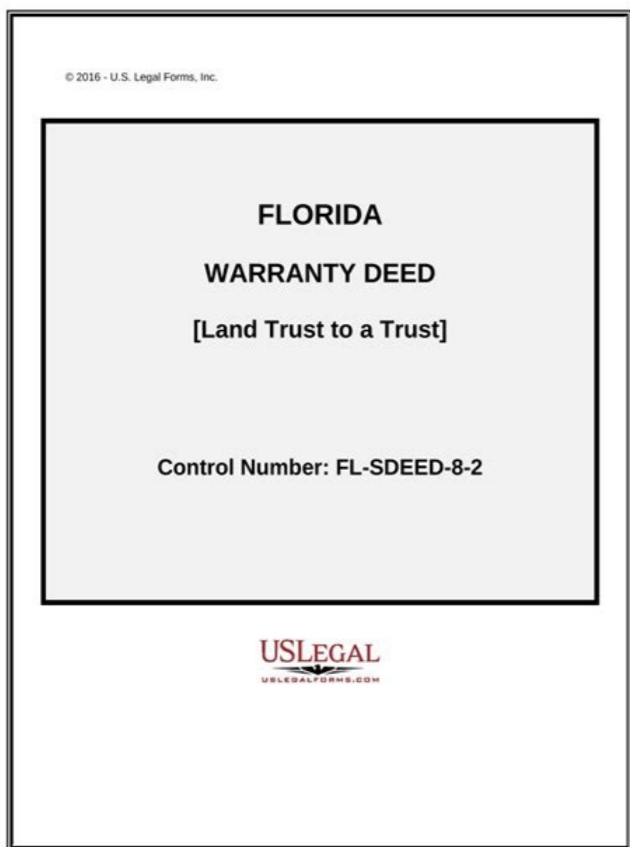
Land trust agreement florida

Land trust rules. Florida land trust agreement sample. What is the purpose of a florida land trust. Florida land trust agreement template. What is a trust agreement for property. What is a land trust agreement. Florida land trust agreement pdf.

By: Barry E. Haimo, Esq. March 7, 2019 Land trusts are legal in seven US states, including Florida, and are a desirable way to hold title to Florida real estate. In fact, the Florida legislature recently amended the Florida Land Trust Act to improve existing law and encourage the use of land trusts. But what, exactly, is a land trust, and what benefits might one hold in Florida estate planning?

This article explains how land trusts work in Florida, and discusses how they could benefit you. A land trust is essentially holding real estate by contract. The land trust document (contract) is created by the trustee, who must be a third person or entity, and holds the property for the beneficiary, who is another individual or entity. Because only the name of the land trust appears on the property's deed, the beneficiary remains anonymous. A Florida land trust is comprised of the Deed in Trust and the Trust Agreement. The Deed in Trust is the document in which the legal title of the property is transferred to the trust. The Trust Agreement outlines the abilities of the trustee to act. There are a few important terms to understand in relation to Florida land trusts: Trustee: The individual or entity who holds the legal title of the real estate placed into the trust. Beneficiary: The individual or entity identified in the trust as receiving the benefit of the trust. The beneficiary has the power to direct how the land trust is used and managed. Power of Direction: This refers to the trustee's ability to transfer, execute a mortgage, or encumber any property contained in the trust. Deed in Trust: The document in which the legal title of the property is transferred to the trust. Trustee's Deed: The document under which the trust property can be transferred to another party. A land trust agreement holds significant benefits over other means to hold legal title to real estate for your estate's beneficiaries, or as a real estate investor. Benefits of Florida land trusts include: Elimination of transfer taxes: In Florida, when encumbered properties (for example, a property with a mortgage) are transferred into a business entity (like a limited liability company), it incurs taxes.

The use of land trusts avoids these taxes by creating a land trust to hold title to the property, while assigning the beneficial interest to the business entity. Privacy of beneficiaries: In a land trust, the interests of beneficiaries are private, and details such as the sales price and terms of the transfer cannot be disclosed without a court order. Avoiding Probate by Non-Residents: If a non-resident of Florida dies, land trusts ensure that the beneficiary will avoid Florida ancillary probate administration. In this case, the probate named in the will be sufficient to pass the land trust as personal property. Security: The land in a land trust cannot be split, sold, or partitioned in any way. A Florida estate planning attorney can help evaluate whether a land trust would be beneficial for your estate, and help establish the land trust such that everything is put into place smoothly. Author: Barry E. Haimo, Esq. Haimo Law Strategic Planning With Purpose @ Email: barry@haimolaw.com LinkedIn: [BarryEHaimoLaw/posts/YouTube: YOU ARE NOT OUR CLIENT UNLESS WE EXECUTE A WRITTEN AGREEMENT TO THAT EFFECT. MOREOVER, THE INFORMATION CONTAINED HEREIN IS INTENDED FOR INFORMATIONAL PURPOSES ONLY. EACH SITUATION IS HIGHLY FACT SPECIFIC AND EXCEPTIONS OFTEN EXIST TO GENERAL RULES. DO NOT RELY ON THIS INFORMATION, AS A CONSULTATION TO UNDERSTAND THE FACTS AND THE CLIENT'S NEEDS AND GOALS IS NECESSARY. ULTIMATELY WE MUST BE RETAINED TO PROVIDE LEGAL ADVICE AND REPRESENTATION. THIS INFORMATION IS PROVIDED AS A COURTESY AND, ACCORDINGLY, DOES NOT CONSTITUTE LEGAL ADVICE.](https://www.linkedin.com/company/haimolaw/) 689.071 Florida Land Trust Act.—History.—ss. 1, 2, 3, 4, 5, 6, ch. 63-468; s. 1, ch. 84-31; s. 2, ch. 2002-233; s. 21, ch. 2006-217; s. 1, ch. 2006-274; s. 7, ch. 2007-153. Imagine being able to have all of your Florida real estate ownership/interests private from the general public. Imagine that any potential judgment creditors were unable to attach to any of your real estate interests. Imagine that in order to convey your real estate interests that you no longer had to go along with the formalities of executing and recording a deed. www.floridapublic.com These are just some of the benefits of the Florida Land Trust.



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LAND TRUST AGREEMENT Form 3

THIS TRUST AGREEMENT dated this _____ day of _____ and known as Trust No. _____ by and between _____ as Trustee, and the following beneficiaries in the percentages set opposite their names:

1. **TRUST:** The Trustee is about to take title to real estate under the provisions of Section 689.071, Florida Statutes, and he agrees to hold it and the proceeds, profits, and avails thereof, if any, which may come into his possession, in Trust for the uses and purposes and under the terms herein set forth.

2. **LAND:** The Trustee will take title to the following land located in _____ County, Florida:

3. **BENEFICIARIES' INTEREST:** The interests of the beneficiaries hereunder and of any person who becomes entitled to any interest under this Trust shall survive the death of a power of attorney holder with the title to said property and to manage and control said property as hereinafter provided and the right to receive the proceeds from rentals, mortgages, sales or other dispositions shall be deemed to be personal property and shall be treated, assigned and transferred as such. No beneficiary now has, or shall hereafter at any time have, any right, title or interest in or to any portion of said real estate as such, either legal or equitable, but only an interest in the rentals, avails and proceeds as aforesaid; it being the intention of this instrument to vest the full legal and equitable title to said premises in the Trustee.

4. **DEATH OF BENEFICIARY:** Except as herein otherwise specifically provided, the right and interest of any beneficiary hereunder shall pass at death to his Personal Representatives and not to his heirs at law. The death of any beneficiary hereunder shall not terminate the Trust or in any manner affect the powers of the Trustee hereunder.

5. **OWNERSHIP:** Upon request each beneficiary hereunder shall be issued a Trust Participation Certificate in a form approved by the Trustee, which shall indicate the beneficiary's percentage interest in the Trust and the land held by the Trustee.

6. **ASSIGNMENT:** If Trust Participation Certificates have been issued, no assignment of any beneficial interest hereunder shall be binding on the Trustee until the Trust Participation Certificate representing the assigned shares is surrendered to the Trustee with the assignment noted thereon and a new Certificate or Certificates are issued by the Trustee. If no Trust Participation Certificates have been issued, assignment shall be by an assignment form approved by the Trustee and shall not be binding until signed by the Trustee.

7. **LOST CERTIFICATES:** In the event a beneficiary's Trust Participation Certificate is lost, stolen or destroyed, the Trustee shall cancel it on the records of the Trust and issue a new Certificate after receiving an affidavit as to the circumstances of the loss.

8. **PURCHASERS:** It shall not be the duty of the purchaser of the trust property or any part thereof to see to the application of the purchase money paid therefor; nor shall anyone who may deal with the Trustee be privileged or required to inquire into the necessity or expediency of any act of the Trustee, or as to the provisions of this instrument.

9. **DUTY OF TRUSTEE:** While the Trustee is sole title holder of the real estate held by him hereunder so far as the public is concerned and has full power to deal with it, it is understood and agreed by the persons in interest hereunder, and by any persons who may hereafter become interested, that the Trustee will deal with a unit unless authorized to do so in writing and that he will, on the written direction of all of the beneficiaries hereunder at the time, make contracts or deeds for the sale of or otherwise deal with the said real estate in any part thereof. Unless so directed by the beneficiaries, the Trustee has no power to control or influence the real property or any use of it.

10. **TERMINATION BY TRUSTEE:** If the real property or any part thereof remains in the Trust for more than 20 years from this date, the Trustee shall, unless otherwise agreed by all parties in writing, convey and deliver the same to the beneficiaries in accordance with their respective interests.

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11. **RECORDING:** It is the responsibility of the Trustee to ensure that the Trust Agreement and the Trustee's Deed are properly recorded in the public records of the county where the real estate is located. The Trustee shall be responsible for the cost of recording the Trust Agreement and the Trustee's Deed. The Trustee shall also be responsible for the cost of recording any other documents required by law to perfect the Trust's interest in the real estate.

12. **REVISIONS:** The Trustee may, at any time, amend or modify this Trust Agreement by executing a written instrument signed by the Trustee and all of the beneficiaries. Any such amendments or modifications shall be binding on all parties to the Trust.

13. **ENTIRE AGREEMENT:** This Trust Agreement, together with the Trustee's Deed, shall constitute the entire agreement between the Trustee and the beneficiaries regarding the subject matter hereof. No oral agreement or understanding shall be binding on the Trustee or the beneficiaries.

14. **ASSIGNMENT:** This Trust Agreement shall be binding on the Trustee and the beneficiaries, and shall not be subject to assignment or delegation by either party.

15. **SEVERABILITY:** If any provision of this Trust Agreement is held to be unenforceable or invalid, the remaining provisions shall remain in full force and effect.

16. **GOVERNING LAW:** This Trust Agreement shall be governed by the laws of the State of Florida.

17. **FORCE MAJEURE:** In the event of a natural disaster or other event that renders the Trustee unable to perform his duties, the Trustee's powers shall be exercised by the Trustee's Personal Representative.

18. **NOTICES:** All notices to the Trustee shall be in writing and shall be sent to the Trustee at the address set forth in the Trust Agreement.

19. **WAIVER:** The Trustee shall be deemed to have waived any objection to the Trust Agreement if the Trustee has executed the Trust Agreement.

20. **ENTIRE AGREEMENT:** This Trust Agreement, together with the Trustee's Deed, shall constitute the entire agreement between the Trustee and the beneficiaries regarding the subject matter hereof. No oral agreement or understanding shall be binding on the Trustee or the beneficiaries.

any part of a real property interest. A person asserting a claim related to a particular real property is required to sue the land trust trustee or the LLC itself, but the claimant cannot sue the beneficiary or the individual holding LLC membership interest. Both the land trust and the LLC shield the economic owner from lawsuits against the person holding legal title. An LLC, however, is better than a land trust in the protection of the owner's interest against "outside liability" from claims unrelated to the real estate. If a creditor gets a judgment against the individual beneficiary or member from a debt or contract claim unrelated to the property, the creditor will seek to satisfy the judgment from the individual debtor's investment assets. The creditor's remedy against a membership interest in a multi-member LLC is limited to a charging lien against LLC distributions payable to the debtor-member, if any. There is no limit or restriction on the creditor's remedies to go after the judgment debtor's personal property interest created by a land trust. When a property is owned through a Florida land trust, a third-party trustee holds legal title to the property and is the public-facing owner. The equitable ownership of the property belongs to the beneficiaries of the land trust. The names of the land trust beneficiarites are not public information. We charge \$1,000 to set up a typical Florida land trust. Yes, Florida land trusts are revocable by the trust grantor. The grantor can direct the trustee to deed the property back into the grantor's name. Any income generated by property held by a land trust flows through to the beneficiary of the land trust. The land trust itself does not file or pay taxes. Yes, property in the land trust can qualify for the Florida homestead exemption as long as the trust and deed are drafted appropriately.