



FLORIDA LAND TRUSTS

When Privacy Matters

Holding legal title to real property in the name of a Florida land trust can be an effective estate planning strategy for clients who prioritize asset protection and privacy. Any individual can create a Florida land trust, including non-residents. In fact, Florida land trusts may be most advantageous to non-residents.

Overview of Florida Land Trusts

- A Florida land trust is created by two documents - a Deed of Trust and Trust Agreement.
- The Trust Agreement appoints a Trustee to hold legal title on behalf of a beneficiary(ies).
- Beneficiary maintains full control of the property and the Trustee only acts upon direction from the beneficiary.
- The Deed of Trust names the Trustee as owner of the real property and is recorded in the public records where the property lies.

Advantages of Florida Land Trusts

- Privacy.** The beneficiary of a Florida land trust is not publicly known. Unlike the Deed of Trust, the Trust Agreement is a private document and will not be recorded in the public records. Official property records would reflect “John Doe, as Trustee of the XYZ Land Trust” as owner.
- Asset Protection.** Potential litigants and creditors cannot discover the beneficiary of a land trust through a public records search and may be disincentivized from filing suit as a result. In addition, should a lawsuit be filed against the named Trustee of the land trust, only the real property(ies) owned by that specific land trust are at risk.
- Tax Advantages.** Real property held in a Florida land trust can qualify for the Florida homestead tax exemption, reducing the amount of property tax owed. The Florida Land Trust Act, found in section 689.071 of the Florida Statutes, was amended in 2006 to reflect this and now explicitly states that “the principal residence of a beneficiary shall be entitled to the homestead tax exemption even if the homestead is held by a trustee in a land trust,” provided that the beneficiary otherwise qualifies for the exemption under Florida law.
- Probate Avoidance.** Florida land trusts avoid the necessity of probate following the death of a beneficiary. This may be especially important to a non-resident, whose estate would be required to file an ancillary probate in Florida if title was held in the name of the deceased.
- Efficient Transfer of Interest.** Upon death of a beneficiary, a Trustee can immediately transfer the real property pursuant to the beneficiary’s direction in the Trust Agreement. If the property were held solely in the name of the beneficiary, a transfer could not take place until a probate case is filed and a personal representative is appointed.