



TRUST PROTECTORS

Ensuring the Future of Your Trust

A key feature of revocable living trusts is the ability of a grantor (trust creator) to amend the trust after its creation. While alive and well, a grantor can make modifications to their trust to account for shifting family dynamics or changes in the law. However, upon the death of a grantor, the trust becomes irrevocable and cannot be altered. While a grantor may appreciate the fact that their trust cannot be changed after they are gone, many realize that future modifications may be necessary to carry out the intended purpose of the trust. The use of a trust protector can help to achieve this goal.

What is a Trust Protector?

- A trust protector is an individual or entity that is granted certain powers over a trust upon the death or disability of a grantor. Most commonly, trust protectors are used to ensure that a trust is administered according to the intent of the grantor.
- The appointment of a trust protector and the specific powers given to them must be spelled out by the grantor in their trust document.
- In most cases, a trust protector is an independent third party who is neither a trustee nor a beneficiary of the trust in question.

What Can a Trust Protector Do?

As mentioned above, the specific powers given to a trust protector must be clearly stated in the trust. They can include the following:

- Amend Terms of the Trust.** As mentioned previously, a grantor's original intent can be frustrated by changes in the law or changes within their family. The power to change a trust after a grantor is gone may be the most important power given to a trust protector. For example, a trust protector can be given the power to amend the trust to take advantage of new tax laws or modify trust language to account for an unanticipated special needs beneficiary.
- Remove and Appoint Trustees.** A trust protector can provide oversight of your trustees to ensure your trust is administered as intended.
- Approve or Deny Distributions.** In addition to the power to remove and appoint a trustee, a trust protector can also approve or deny discretionary distributions made by a trustee to a beneficiary.
- Mediate Disputes Between Beneficiary and Trustee.** It is not uncommon for issues to arise between a trustee and a trust beneficiary. In lieu of court proceedings and other legal battles, a trust protector can be used to try and work through any problems.