

Florida Land Trust F.A.Q.

By Mark Warda, Attorney at Law, Author of *Land Trusts in Florida*

What is a Florida land trust? A Florida land trust is an agreement where someone else agrees to hold your property in his name for you, but leaves you in complete control of the property.

What are the benefits of a Florida land trust?

There are over 20 benefits of a Florida land trust. The most popular are:

Privacy. By using a land trust no one knows you own a property. No one knows how much a person has in the bank or what stocks or bonds you own; why should all your real property be public record? There is no public record of the properties you own in land trusts. This means creditors, ex-spouses, tax authorities, lawyers and others do not know you own the property and will be less likely to be able seize it.

Keep price secret. By using a land trust you can keep your purchase price of the property and your sales price secret.

Avoiding liens. Liens, judgments and other claims against you or your partners do not touch the property. This means you can buy and sell properties, even if you have judgments or liens against you.

Avoiding probate. When you die you can have your trust property instantly go to whomever you name. No probate, no delay, no lawyers.

Avoiding lawsuits. Lawyers are eager to sue people who own lots of property. If it doesn't look like you own much property it is less likely someone will sue you. Or if they do sue you there is a better chance they will accept settlement with your insurance company than go after property they don't know you own.

How do I set up a land trust? To set up a land trust you need a deed to the trustee using the special language required by Florida statutes and you need a Land Trust Agreement. When the deed is recorded you need to file form DR-219 and you must file IRS form 56 (or a similar form or letter) with the IRS.

Are there any drawbacks to a land trust? There are a few drawbacks which are minor compared to the benefits. The biggest drawback is that few people understand them, so you may have to educate your title agent, insurance agent, mortgage company and others.

How will a land trust affect my taxes? A land trust has absolutely no affect on taxes. It has no Taxpayer Identification Number. All finances of the property are passed through to the owners.

Does the IRS need to know about my land trust? Yes, IRS Form 56 must be filed with the IRS when a property is transferred in or out of a land trust.

Can I be my own trustee? It is not good to have the same person as both the beneficiary and the trustee or the trust may "merge" which is a legal word meaning it no longer exists.

Can I set up my own corporation to be trustee? Yes, any corporation or LLC can serve as a land trust trustee, but keep in mind that anyone can look up your company on the Internet and find out who are your registered agent, manager, officers, and directors.

Who would be the best trustee? The best trustee would be a person or company unrelated to you whom you can trust. It can be an attorney, bank, trust company or trusted friend.

Should I put my homestead in a land trust? Opinions on this differ. Some property appraisers put the name of the person with the homestead on the tax rolls along with the trustee, so you lose the secrecy. Also, creditors can take your trust property but not your homestead. The main reason to put a homestead property in a land trust is if the owner is elderly and wants to avoid probate.

How much does a land trust cost? The cost of transferring a property into a land trust is \$10.70 at the courthouse. Attorney fees for preparing a land trust can range from a few hundred to over a thousand dollars. Land Trust Service Corporation charges \$250 to set up a trust, including the first year's trustee fee. Future years are \$100. Additional trusts are \$200 each to set up including the first year fee.