

Trust Creationism

Trusts have been around since medieval times and were used to prevent the Crown from confiscating land for taxes from their wealthy citizens. The citizens would transfer the land to the Church and rent it back for a pepper-corn a year.

The Church would be the legal owner and the citizen would be the beneficial owner – that is, the citizen would keep the benefit of the use and enjoyment of the land. This concept of dual ownership was enhanced during the Crusades when a warrior's land would be held in trust for his return from battle.

2. WHAT IS A TRUST?

First, let us look at what a trust is and who are the parties involved in its creation, use, and benefits. A trust has three separate parties; the settler or grantor, the trustee and the beneficiaries.

A settler or grantor is the person who creates the trust. This is the person who takes his or her assets and funds (transfers) those assets into the trust. Once transferred, the assets are managed or held in the name of the trust by the trustee.

A trustee is the person who is responsible for the trust's affairs. In the case of a Land Trust, the trustee can be you, a family friend, trust company, or bank. The trustee's duties are to act as fiduciary for the benefit of the beneficiaries. The trustee manages or disburses funds of the trust pursuant to the wishes of the settler as spelled out in the trust document.

The beneficiaries are the people designated by the settler to receive the benefits of the trust.

In a trust, one person can be all three parties; the settler, the trustee and the beneficiary. Selection of these people will depend on the type of trust and the purpose that the trust will serve in your individual estate plan.

3. WHY DO YOU NEED A TRUST?

Your responsibility is to keep your assets in your family. Doing that can mean probate avoidance; it can mean lawsuit protection and it can mean tax avoidance or at least minimization.