

How to Contract to Buy Property Into a Land Trust

When contracting to buy a property into a land trust there are two ways to write the contract, you can write it in your name and assign it to the trustee, or you can write it in the name of the trust.

Signing the Contract in Your Name

The best way to buy the property is to sign the contract in your name and make sure it is assignable, then assign it to your new land trust. To make sure the seller doesn't object to the trust, you should put a clause in the contract like this:

The parties hereto understand that this contract will be assigned to a trustee of a land trust which is being set up for this purchase.

Making the Trust the Buyer

The other way to write your contract is to designate the trust as the buyer. You would word it like this:

Trust No. 1234MS, Land Trust Service Corporation, trustee, with full power and authority, to protect, conserve, sell, lease, encumber or otherwise manage and dispose of the property under Florida Statutes §689.071.

You can sign as an agent or as beneficiary of the trust you will be setting up, but this is a gray area of the law and there is a chance that you might not be able to sue the seller if he refuses to sell. Also, the land trust law says that the land trust language should be in a recorded instrument, so you should get the contract notarized in case you need to record it. If you don't plan to sue the seller, or expect to be sued for not buying the property, you can skip the notarization. But in any case you can avoid these issues if you just sign the contract yourself as described above and assigning the contract to the trust. To choose the number of the trust, use the street address. Thus, 1234 Main Street, would be "Trust No. 1234MS." 601 Fifth Ave. would be "Trust No. 601-5A."

Amending the Contract

If you forgot to make the contract assignable, you can sign an Amendment to Contract with the seller. Just use a blank "Amendment to Contract" form and state that the contract is being amended as follows:

The Buyer under this contract shall be, Trust No. 1234MS, Land Trust Service Corporation, trustee, with full power and authority, to protect, conserve, sell, lease, encumber or otherwise manage and dispose of the property under Florida Statutes §689.071.

Land Trust Service Corporation
Post Office Box 186, Lake Wales, FL 33859

Phone: 863-678-0011

Fax: 863-678-0155

L.T.S.C. INFO SHEET is a short summary of a legal issue of interest to some of our clients. Keep in mind that the law changes and is subject to different interpretations. See a lawyer if you need specific legal advice.

How to Buy a Short Sale Property into Trust

One problem clients have with buying short sale properties is that they don't want to set up a trust until they know which property they are buying, but they need to have a name of the trust to make the offer, because sellers usually don't allow the contract to be assigned to someone else after acceptance.

What you can do is make the offer in the name of the trust we are going to set up, and sign the contract on behalf of it. As soon as it is accepted we can set up the trust.

To choose the name, our company prefers to use a trust number based on the property address because all of our systems are set up that way and it makes all of our work easier when the system is uniform. When a client requires a special name for a trust we charge \$50 extra because of the extra work involved.

What we can do is give you a system to use to create a trust number to use on your offers that will work with our system. Here are some examples:

Address

1234 Schiller Avenue, Deland, FL
555 North Boulevard, Unit 1000, Sanibel, FL
605 Happy Acres Way, Rotunda, FL

Trust Number

Trust No. 1234SA
Trust No. 555-1000
Trust No. 605HAW

If you use a numbering system like this when making your offers, we can use it to set up your trust as soon as your offer is accepted and the seller will not be surprised by a new name appearing on the deed.

There are different ways to word your purchase offer. The best way is to just make the Buyer the trust, "Trust No. 1234SD" and then on the signature line put "Trust No. 1234SD, By: *[your signature]* Beneficiary."

If they say they need the trustee's name, you can put on the first page of the contract like this "BUYER: Trust No. 1234SD, Land Trust Service Corp., as Trustee" and then still sign the signature page as buyer. To completely cover all the bases you can put a clause in the miscellaneous section that says "Property to be purchased in land trust to be set up upon acceptance of contract." But this might make some lenders nervous.

Once your offer is accepted, you can send us your Land Trust Setup Instruction Sheet and Land Trust Data Sheet and note on it the trust number that you used in the purchase offer.

Bottom line:

If you make an offer using a trust number based on the property address it will work in our system and the seller shouldn't have a problem with the trustee taking title at closing.

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Buying Tax Deeds

In order to buy a property at a tax deed sale into a land trust you must be sure to do the paperwork properly or you may have a title problem later.

Some title underwriters take the position that a Clerk of the Circuit Court does not have the ability to grant powers to a trustee on a tax deed. So what you need to do is to have the clerk deed it to someone, called a "strawman" who deeds it to the land trust trustee with the full necessary trustee powers.

At Land Trust Service Corporation, we use a limited liability company (LLC) as our strawman, L.T.S.C., LLC. A person buying a property at a foreclosure sale would tell the clerk to deed it to "L.T.S.C., LLC, Trustee" without any other language or a trust name or number. Then L.T.S.C., LLC, Trustee would deed the property to a new trust with Land Trust Service Corporation as the trustee with the full necessary powers on the deed and the trust number.

We have heard that some clerks will put anything you want on the tax deed, including the land trust powers, and some title companies may insure these without realizing that there may be a legal problem. but if you want to make sure you do not have a title problem, you should use a strawman.

Tell the clerk that the buyer on the tax deed should be as follows:

L.T.S.C., LLC, Trustee, under Florida Statutes 689.071
PO Box 186
Lake Wales, FL 33859

Then fax or email us a copy of the tax deed so we can sign a deed to your trust.

L.T.S.C.

INFO SHEET

No. 5A

September 1, 2014

L.T.S.C. INFO SHEET is a short summary of a legal issue of interest to some of our clients. Keep in mind that the law changes and is subject to different interpretations. See a lawyer if you need specific legal advice.

How to buy a foreclosure property

In order to buy a property at a courthouse foreclosure sale into a land trust you must be sure to do the paperwork properly or you may have a title problem later.

The general rule is that a Clerk of the Circuit Court does not have the ability to grant powers to a trustee on a certificate of title. So what you need to do is to have the clerk deed it to someone, called a "strawman" who deeds it to the land trust trustee with the full necessary powers.

At Land Trust Service Corporation, we use an LLC as our strawman, L.T.S.C., LLC. A person buying a property at a foreclosure sale would tell the clerk to deed it to "L.T.S.C., LLC, Trustee." Then L.T.S.C., LLC, Trustee would deed the property to a new trust with Land Trust Service Corporation as the trustee of your trust with the full necessary powers on the deed.

We have heard that some clerks will put anything you want on the certificate of title, including the land trust powers, and some title companies may insure these without realizing that there may be a legal problem. but if you want to make sure you do not have a title problem, you should use a strawman.

To put a foreclosure purchase in trust with us, when you buy the property, tell the clerk that the buyer on the Certificate of Title should be as follows:

L.T.S.C., LLC, as Trustee, under Florida Statutes 689.071
PO Box 186
Lake Wales, FL 33859

Next, complete the Strawman Trust Agreement on the next page, and our Land Trust Setup Instruction Sheet and Land Trust Data Sheet, and fax or email them to us along with a copy of the Certificate of Title so we can prepare the trust and sign a deed to your trust.

Land Trust Service Corporation
28 West Park Avenue
Post Office Box 186
Lake Wales, FL 33859

Tel: 863-678-0011
Fax: 863-678-0155
Email mark@warda.net
www.floridalandtrust.com

STRAWMAN TRUST AGREEMENT-Foreclosures

WHEREAS Clerks of Circuit Courts cannot grant trustee powers for Florida land trusts under Florida Statutes §689.071 and 689.073, and

WHEREAS _____ (Beneficiary) wishes to buy foreclosure properties and put them in trust with Land Trust Service Corporation as trustee, and

WHEREAS Land Trust Service Corporation (Trustee) has agreed to act as trustee for such purchases, and has a subsidiary limited liability company, L.T.S.C., LLC, set up for the purpose of being strawman buyer for such transactions,

NOW THEREFORE in consideration of one dollar and the mutual covenants herein contained the undersigned parties agree as follows:

- In the event _____ (Beneficiary) purchases a property at a foreclosure sale, it will be bought in the name of
L.T.S.C., LLC as Trustee under Florida Statutes 689.071
PO Box 186
Lake Wales, FL 33859
and Beneficiary shall as soon as practicable inform Land Trust Service Corporation of such purchase, and submit a Land Trust Setup Instruction Sheet and a Land Trust Data Sheet for the property.
- Land Trust Service Corporation agrees that such properties shall be held by L.T.S.C., LLC, as trustee for the buyer and as soon as practicable deeded to Land Trust Service Corporation as trustee under the trust agreement that has been set up for the property.
- It is understood by the parties that at no time shall Land Trust Service Corporation or L.T.S.C., LLC have any interest in the properties other than as trustee for the Beneficiary.

Dated _____, 20____

BENEFICIARY:

Name: _____

Signature: _____

TRUSTEE:

L.T.S.C., LLC
By: Land Trust Service Corporation, Manager

By:  _____
President