

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.

Using a Florida LLC as your Other-State Trustee

Our company offers land trust trustee services only for Florida properties. The three main reasons are that we aren't able to keep up with the laws of the other 49 states, other states might not have the liability protections that Florida law offers, and we don't want to be involved in litigation in other states. But we could set up a separate trust company for you to be your own trustee.

Having a Florida trustee of your land trust could have some benefits, although there is not enough caselaw in most states to know what would work. But some benefits might be, reliance on some aspects of Florida's land trust law, ability to hide ownership behind a Florida LLC, and difficulty for an antagonist to deal with a Florida trustee. Some or all of these might eventually be defeated, but asset protection is like an onion, and the more layers a creditor has to cut through, the more likely he'll be to settle or go away.

One thing good about Florida LLCs, which doesn't work in all states is that you can use a trust for an LLC manager. LLC members (owners) do not need to be listed or disclosed, only one or more managers need to be listed. For example, you could set up an LLC to be your trustee that sounds big, like Berkshire Williamsburg Trust Co. LLC, and make the manager Goldman, O'Malley, Gutierrez & Genovese Trust. A tenant wanting to sue you for not returning his deposit, might not bother once he sees who he has to sue.

Before using a Florida LLC as your trustee you should check with a local attorney or real estate closing company to see if an LLC could legally be a trustee in your state, and if not, what would be the consequences if you did it anyway. (Sometimes something is "not allowed" but if you do it there is no penalty or negative consequence, or the consequence is so minor it's worth breaking the rule.) In Florida it used to be that a company could not act as trustee unless it had a banking license, but the law was changed for land trusts. Some other states still have laws like this.

If you are interested in having us set up a Florida LLC for you, see our 5 page attachment, llcsetup2015.pdf.

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