

TITLE INSURANCE REQUIREMENTS FOR INSURING LIVING TRUSTS

California



What Do I Need If All Trustees Are Living?

If all Trustees are still living, then a Certification of Trust pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company will be sufficient. Escrow will prepare this form for your client to complete.

What Do I Need When There Is A Death Of Trustee With Surviving Spouse/ Trustee?

If one of the trustees is deceased, you will need an Original Certified Death Certificate and a copy of the Trust and any amendments to the trust. A Certification of Trust pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company will also be required. Escrow will prepare this form for your client to complete.

What Do I Need When There Is A Death Of Trustee With No Surviving Spouse/Trustee?

If both trustees are deceased, you will need an Original Certified Death Certificate for both deceased Trustees and a copy of the Trust along with any amendments to the trust. You will need to verify who the successor trustees of the Trust are and a Certification of Trust pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company will also be required. Escrow will prepare this form for your client to complete.

What Do I Need When Incapacity Of Trustee?

If one or both trustees become unable to perform the duties as trustee of the Trust by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration or other similar causes, you will need a copy of the Trust and any amendments to the trust to verify who has been appointed successor trustee. The Trust may require Dr.'s letters to verify that the trustees are incapacitated. A Certification of Trust pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company will also be required. Escrow will prepare this form for your client to complete.

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Can A Power Of Attorney Be Used For A Trust?

A Power of Attorney can only be used if the trust specifically provides for the appointment of an attorney-in-fact.

What Do You Need When A Trustee Resigns And Appoints A New Trustee?

You will need the acting trustee to execute a Resignation of Trustee and the appointing trustee will need to execute an Acceptance of Trustee.

What Do I Need Upon The Death Of A Successor Trustee?

You will need a full copy of the Trust and any amendments and a copy of the successor trustee Death Certificate, most Trusts will provide for consecutive successor trustees, following one after the other in order

What Is The Difference Between A Revocable And Irrevocable Trust?

With a revocable living trust, the grantor can make changes in beneficiaries any time, by means of a trust amendment. An irrevocable living trust, on the other hand, is a trust that the grantor can no longer modify.

When Does A Trust Expire Or Terminate?

A Trust generally terminates either when there are no assets left within the trust or when the purpose of the trust was achieved as per the trust conditions. The Trust will usually have language about this in it.

What Happens When A Homeowner Forgets To Place Their Property Into Their Trust?

If the homeowner forgets to place their property into their trust, please consult with a Real Estate Attorney or contact your Title Officer or Legal Department.

Note: The trust should be examined to verify that: 1) the trust has not terminated by its own provisions, 2) the trustee(s) have the power to take the action contemplated, 3) the current trustee(s) is properly appointed under the terms of the Trust, and 4) the trust does not violate the rule against perpetuities or any similar statutes.

THE FOREGOING IS PROVIDED FOR GENERAL INFORMATION ONLY. FOR SPECIFIC QUESTIONS FOR FINANCIAL, TAX OR ESTATE PLANNING, WE SUGGEST YOU CONTACT AN ATTORNEY OR CERTIFIED PUBLIC ACCOUNTANT.