

Keep your address confidential while buying real property

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Last Review Date

March 27, 2025

When you buy a house or other real estate, you have to sign a lot of documents that show your name and the address or location of your property. These documents show up in public records that anyone can see. If you're in the Address Confidentiality Program (ACP), you can keep your name and location confidential by creating a **Revocable Living Trust** that you can control. Then you can buy property in the name of the Trust, without using your own name. (Form and instructions)

1. Fast facts

What is the Address Confidentiality Program?

Washington's Address Confidentiality Program (<https://www.sos.wa.gov/acp/>) (ACP) helps people who fear for their safety maintain a confidential address. You can use ACP as part of your overall safety plan to keep a perpetrator from locating you through public records such as driver licenses, voter registries, marriage and property records.

You are eligible for ACP if you live in Washington and any of these are true:

- You're a survivor of domestic violence, sexual assault, trafficking, or stalking
- You're a criminal justice employee or elections official who has been a target of threats or harassment because of your work

What is a revocable living trust?

A revocable living trust (we'll call this the Trust) is a legal arrangement to hold specific property (like real estate) for someone's benefit. It is "revocable" because the person who created it can cancel it at any time.

You create a revocable living trust by making a written agreement. The agreement names these people:

- **Settlor:** The person who creates the Trust – this is you, the ACP participant.
- **Beneficiary:** The person who benefits from the Trust – this is also you, the ACP participant. You could make someone else the beneficiary, but that is more complicated. Talk to a lawyer if you're thinking of having someone other than you as the beneficiary.
- **Trustee/s:** The people or organizations that manage the Trust and sign documents for the Trust. This can be you (the ACP participant) together with another person or organization as co-trustees. We'll call the other person or organization the "Public Trustee" because their name will appear in the public record.

You can create a trust that you manage for your own benefit where you're the "Settlor", "Beneficiary", and "Trustee".

How does a revocable living trust work for real estate?

When you purchase property, you typically work with a title and escrow company who prepare and record a document so there is proof of the transfer in ownership (title). Transfer documents are Deeds. If a loan is part of the purchase transaction, a mortgage or deed of trust will also be recorded. Transfer and loan documents will include the buyer's name and address. When a document is "recorded", it becomes part of the county's permanent public records. Anyone is allowed to see recorded documents – they're not confidential.

If you have a Trust, the Trust can buy property on your behalf and hold title for your benefit, so your name does **not** appear on any publicly recorded documents and nobody can find you by tracing from these documents. Here's how it works.

What if I already bought my house?

A revocable living trust works best for property you do not already own. You can transfer property you already own to a revocable living trust. But your name and address will already be in the public record, so it is not as useful for confidentiality. Your name will still be on the deed from when you first bought the property and the deed transferring the property to the Trust. Those deeds and the real estate

excise tax affidavits will still be publicly available in the county where your property is located.

2. Choose a trustee

Why do I need a Public Trustee?

To protect your confidentiality, you need someone else to be a Public Trustee to sign documents that will be recorded and available to the public. The Public Trustee's role can be temporary. You only need a Public Trustee when you're buying, selling or refinancing property, or for other property transactions that will be recorded in public records. (Example: getting or giving easements.)

Who should be my Public Trustee?

The Public Trustee should be someone who is **not obviously connected with you** because their name will be on the publicly available recorded documents. Choose someone who is capable, qualified, and trustworthy. This could be:

- Any person over 18 who is of sound mind, and has not been convicted of any felony or crime involving "moral turpitude"
- Nonprofit corporations with appropriate articles and bylaws
- Trust companies and national banks
- Law firms

3. Your role

What are my duties as the settlor for the Trust?

You're responsible for managing the property. You make all the decisions that an owner makes. You decide whether to sell, rent, build, improve, or make changes to the property. You pay for all repairs, taxes, and other expenses.

What if I'm married? Can I use a revocable living trust to hold community property?

Yes, but that is more complicated. Talk to a lawyer about this.

What if I have a criminal record?

If you've been convicted of a **felony, fraud, theft, or any crime involving dishonesty**, you cannot be a Trustee. This means you cannot have a temporary Public Trustee who resigns after signing documents. You can still create a Trust. But you will need someone else to be the sole Trustee for as long as you want to own the property confidentially in the Trust.

The Trust Agreement form we provide assumes that you will be a Trustee. **Don't use our form** if you've been convicted of a felony, fraud, theft, or other crime involving dishonesty (moral turpitude). Talk to a lawyer about your Trust options.

The law says you can't be a trustee if you have been convicted of a felony or other crime involving "moral turpitude". Generally, that means fraud, theft, and other crimes of dishonesty. Talk to a lawyer if you're not sure whether your conviction involves moral turpitude.

4. Going forward

How long does the Trust last?

You can put an end date or conditions for ending the Trust in the **Trust Agreement**. You also can end the Trust at any time by putting in writing that you want to terminate it.

Otherwise, the Trust lasts as long as you want it to. The Trust can continue even if you no longer qualify for ACP status and are no longer enrolled as an ACP Participant (unless your Trust Agreement says it ends in that situation). If you're no longer enrolled with ACP, you must give the county treasurer and assessor's office a new mailing address for the Trust.

What happens when the Trust ends?

The property is transferred back to you (unless you sold it). The Trustee signs a deed on behalf of the Trust that transfers the property into your name. When that new deed is recorded, you become the owner and taxpayer of record. Your personal mailing address becomes the mailing address for all official mail about the property. This information will be available to the public.

What happens when I'm no longer enrolled as an ACP participant?

You **can't** use the ACP address as your personal address if you're no longer an ACP Participant. Any mail ACP receives for you will be returned to sender. It won't be forwarded to you.

The Trust can continue even if you no longer qualify for ACP status and are no longer enrolled as an ACP Participant, unless your Trust Agreement says it ends in that situation. If you're no longer enrolled with ACP, you must give the county treasurer and assessor's office a new mailing address for the Trust.

What happens if I die while the property is owned in the Trust?

The Trustee distributes the property to the personal representative of your estate who will distribute the property according to your will. If you're serving as the sole Trustee when you die, then your personal representative will become the Trustee. If you don't have a will that names a personal representative, you can use the Trust Agreement to name someone to serve as Trustee after you die.

5. Step-by-step

Form attached:

Living Trust Agreement (NJP Safety 301)

1. **Choose a Public Trustee and create a trust.** You can create your revocable Living Trust Agreement by using our form. You can also work with a lawyer to create a trust.

When naming your trust, pick something that's **not associated with your name**. It can be anything distinctive, such as the "XYZ Trust" or "Banana Trust". (These are examples. Choose your own unique name for your Trust.) The trust name will show up in recorded and county documents that anyone can see. Please check with ACP to see if the trust name you want has already been taken.

2. **Tell ACP about the Trust.** Give the name of your Trust to the ACP in writing. This is how the ACP knows to forward all mail and notices about the Trust property to you.
3. **Tell your lender and realtor about the Trust.** If you apply for a loan tell your lender that you're in the ACP and will be buying the property using a revocable trust. It's also important to let your realtor know that you're in the ACP.
4. **Sign a Purchase Agreement.** When you find the property you want to buy, make sure the "buyer" on the purchase agreement is the Trust. You or the Public Trustee can sign the purchase agreement for the Trust.

If you've not yet created your trust when you sign the purchase agreement, list the buyer as "{your name} **and/or assigns**". Then create the Trust and assign the purchase agreement to the Trust so that the Trust will be the legal buyer and the owner.

5. **Use the Trust's name on closing documents.** Tell the escrow company and your lender to use the name of the Trust instead of your name on the mortgage, deed of trust, deed, and real estate excise tax affidavit. These documents will be in the public record.

You may be asked to include the name of your Public Trustee on the closing documents as well. That's okay, so long as your Public Trustee has agreed and the Public Trustee is not too closely associated with you (which might

increase the risk that your identity could be disclosed).

6. **Use the Trust's name for real estate taxes.** Tell the escrow company to put the name of the Trust and the ACP PO Box address in Olympia (**not the property address**) as the owner/taxpayer's name and address on the Real Estate Excise Tax Affidavit.

This means the Trust (not you) will be named as the taxpayer for the property. The Trust's address in the public county records will be the ACP address. The county will send all notices about the property to the Trust at the ACP address.

7. **Public Trustee signs documents at closing.** Before closing, review your documents to make sure that **only** the names of the Trust and your Public Trustee (**not your name**) appear anywhere on the documents to be recorded. You'll have your Public Trustee sign those documents on behalf of the Trust.

You may have to provide a copy of the Trust Agreement to show that the Public Trustee has authority to sign. The Trust Agreement **won't** be recorded as a public document.

There may be other documents as part of the transaction that **won't** be recorded. Those may include your name for you to sign. That's okay.

8. **After closing, the Public Trustee can resign.** That leaves you as the only Trustee. The Trust will continue to own the property and be named in the public records. This protects your confidentiality. You can appoint a new Public Trustee if you need to have new documents recorded later, like a second mortgage, or an easement.

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(Trust Name) _____
Living Trust Agreement
(Single Settlor)

This Living Trust Agreement ("Trust Agreement") is made on (date) _____ between these parties:

(ACP Participant Name) _____, as Settlor ("Settlor"), and
(Name) _____, as Public Trustee ("Public Trustee").

Both Settlor and Public Trustee are Co-Trustees (together called "Co-Trustees", individually called a "Trustee" or "Co-Trustee").

1. Address Confidentiality Program Participant

Settlor currently qualifies for and is enrolled as a Program Participant in the Address Confidentiality Program ("ACPP") as defined in Washington state law. (Revised Code of Washington, Chapter 40.24 RCW, creating the Washington Address Confidentiality Program.) So long as the Settlor is enrolled as an ACP Participant, they shall have "ACPP status" in this agreement.

2. Purpose

Settlor has created this trust to hold real property for Settlor's benefit in a manner that will protect Settlor's confidentiality in the public record. All parts of this agreement should be interpreted and implemented to promote that purpose.

3. Trust Name

The name of the trust is the "_____ Living Trust."

4. Property Held in Trust

Any property transferred to and accepted by the Co-Trustees shall be held in trust according to this Trust Agreement.

5. Settlor's Rights

Settlor **can** change (amend) or terminate this trust at any time and demand the transfer of some or all of the trust property to the Settlor.

Settlor **can** remove Public Trustee as Co-Trustee at any time.

So long as Public Trustee is a Co-Trustee,

- Settlor **cannot** increase the duties of Public Trustee under this Trust Agreement unless Public Trustee agrees to the change in writing.
- Settlor **cannot** change the Trust Agreement requirements about Settlor's ACPP status unless Public Trustee agrees to the change in writing if Public Trustee is then serving as a Co-Trustee.

No one else can exercise Settlor's rights to change or terminate this trust on Settlor's behalf, including a guardian or an attorney in fact, **unless** the power of attorney document specifically refers to this Trust Agreement and allows such an exercise of rights.

6. Distributions from Trust During Settlor's Lifetime.

During the Settlor's lifetime, the Settlor may direct the Trustee orally or in writing to pay to the Settlor (or to someone else if so directed by Settlor) any portion of the assets held in this trust in the manner directed by the Settlor.

If Settlor cannot act on Settlor's own behalf (is incapacitated), the Trustee:

- Shall disregard any direction from Settlor;
- May discontinue any payments of income or principal of the property held in the trust then being made to or on behalf of Settlor and, in that case, shall distribute the trust property to any guardian of the estate of Settlor or to any attorney in fact appointed by Settlor with authority over Settlor's assets; and/or
- May resign with no further obligations under this Trust Agreement.

7. Termination and Final Disposition of Trust During Settlor's Lifetime

So long as Public Trustee is Co-Trustee and Settlor is alive, this trust shall terminate and the remaining trust assets shall be distributed to the Settlor if any of the following things happens.

- a. Settlor puts in writing that the trust is terminated.
- b. Settlor is no longer an ACP.
- c. Settlor sells the real property held in this trust unless Settlor gives written direction to Trustee to use the proceeds of the sale to purchase another residential real property to be held by this trust. The purchase must close within three (3) months of the sale of the initial trust property, or the trust shall terminate.
- d. Settlor fails to timely pay property taxes related to the real property held in this trust. Settlor shall have thirty (30) days to cure any property tax delinquency once written notice of such delinquency has been provided by Trustee.
- e. A tax lien is imposed on the trust property (other than for real property taxes). Settlor shall have ninety (90) days to remove any such lien once written notice of such lien has been provided by Trustee.
- f. A foreclosure action is filed on any secured interest in the real property held in the trust.
- g. A government authority files court action to acquire some or all of the real property held in this trust.
- h. Settlor files for bankruptcy or becomes insolvent.
- i. Settlor commits any of the following "bad acts" that materially affects the property held in trust or the ability of Trustee to perform Trustee's duties hereunder: (i) fraud or misrepresentation, (ii) gross negligence or willful misconduct, (iii) commission of a criminal act.

8. Termination of Trust Upon Death of Settlor.

If this trust is not terminated during Settlor's lifetime according to section 7 above, when Settlor dies, the trust shall terminate and the Trustee shall distribute the then remaining trust property to the Settlor's estate.

9. Removal of Co-Trustee.

At any time, Settlor may remove and replace, or remove and not replace, Public Trustee, or any successor, as Co-Trustee.

If either Settlor or Public Trustee resigns or otherwise fails to serve as a Co-Trustee, the remaining one of them may serve alone as the sole Trustee.

10. Successor Trustees.

Settlor and Public Trustee are the initial Co-Trustees of the Trust. If, at any time, there is no Co-Trustee serving with Settlor, then Settlor may appoint one or more persons and/or entities authorized to serve as trustees under RCW 11.36.021 to serve as Co-Trustee. The last serving Trustee may appoint, by a writing filed with this trust, one or more persons and/or entities authorized to serve as a trustee under RCW 11.36.021 to serve as successor Trustee of the trust.

- a. **No Trustee.** If no one is serving as Trustee while Settlor is alive, and the Settlor is unable or unwilling to appoint a successor Trustee, the court may appoint a successor Trustee.
- b. **Death.** If no one is serving as Trustee after Settlor dies, the personal representative of Settlor's estate shall become the Trustee. If there is no personal representative of the Settlor's estate, the court may appoint a successor Trustee.
- c. **Incapacity.** If, at any time, Settlor is not serving as Trustee because Settlor is incapacitated, when Settlor regains capacity, Settlor shall again serve as Trustee if Settlor so wishes. Any then acting Trustee who was serving in Settlor's place shall resign as Trustee until a successor Trustee is again needed, at which time the named successor shall again become Trustee.
- d. **Liability.** Any state law regarding the resignation or succession of trustees shall not apply to any Trustee serving pursuant to this Agreement. No successor Trustee under this Trust Agreement shall be liable for any act or omission of a prior Trustee, or required to investigate any such acts or omissions. Any successor Trustee may accept as conclusive any accounting and statement of assets furnished by a prior Trustee, and shall only be accountable for the assets included in such statement.
- e. **Bond.** No Trustee serving hereunder need provide a bond. If, for any reason, a Trustee is required to provide a bond, then Settlor requests that the bond for the Trustee be accepted without surety and in the lowest possible amount.

11. Trustee Powers.

The Trustee has only those powers needed to acquire and hold record title to real property on behalf of Settlor in good faith to maintain Settlor's confidentiality under the Address Confidentiality Program.

These limited powers specifically include the following:

- a. To accept conveyance of real property as Grantee on behalf of Settlor;
- b. To convey a mortgage or deed of trust interest in real property held in trust;
- c. To accept conveyance of easements and other real property interests benefitting real property held in trust;

- d. To convey easements and other real property interests burdening real property held in trust;
- e. To sign real estate excise tax affidavits related to conveyance of real property held in trust;
- f. To accept delivery of notices related to the real property held in trust; provided that Trustee shall promptly forward such notices to Settlor at the address listed for Settlor in this agreement;
- g. To be listed as record property owner on applications for land use entitlements related to real property held in trust; and
- h. All other rights, powers, duties, and responsibilities granted under the law (including by Revised Code of Washington Title 11, incorporated by this reference) necessary to carry out the purpose of this trust agreement.

Trustee shall only exercise the powers described in this agreement at the express written direction of Settlor so long as Settlor is not deemed to be incapacitated. Trustee shall rely on Settlor and Settlor's directions and approval in all respects. Trustee shall have no liability or responsibility to Settlor in following Settlor's directions.

12. Real Property and Administrative Provisions.

- a. Real Property identified. (*Check one*)
 - ☐ Settlor has **not** yet signed a Real Estate Purchase and Sale Agreement identifying the property to be held by the Trust. Settlor will identify the property to be held by the Trust in the future.
 - ☐ Settlor has entered, or intends to enter, into a Real Estate Purchase and Sale Agreement with (*Seller's name*) _____ ("Seller") dated _____ in which Settlor is "Buyer" for the purchase of real property described in Schedule A (the "Real Property").
- b. **Purchase of the Real Property.** Settlor shall direct Seller to convey the Real Property to Public Trustee, as Co-Trustee, so that the Trust will hold the Real Property on behalf of Settlor under the terms of this Trust Agreement. As Co-Trustees, either Settlor **or** Public Trustee may sign loan documents for funds to purchase the Real Property. This includes a loan agreement, promissory note, deed of trust, and other related documents. On behalf of the Trust, Public Trustee will sign all the transaction and related loan documents that will be recorded or become part of the public record. Settlor **or** Public Trustee may sign all the transaction and related loan documents that will **not** be recorded or become part of the public record.
- c. **Amendments to Deed of Trust.** According to the written direction and authorization of Settlor, the Trustee, or Co-Trustees, shall convey, mortgage, execute amendments to or restatements of the mortgages or deeds of trust and record same, or otherwise deal with title to or any interest in the Real Property as directed by Settlor. However, the Co-Trustees shall **not** enter into any personal obligation or liability in dealing with such real estate.
- d. **Settlor to manage and control the Real Property.** Settlor will retain management of the Real Property and will control the selling, renting, and handling of it. This includes, without limitation, improving or modifying the Real Property, making ordinary and extraordinary repairs, and collecting and handling

any and all rents, earnings, avails, and proceeds of the Real Property. Public Trustee has **no** duty or responsibility for any of those things. Public Trustee also has **no** duty to pay any taxes, assessments, insurance, or mortgage, unless the Settlor instructs Public Trustee to do so in writing and provides Public Trustee with the necessary funds. If Settlor wishes to lease the Real Property or a portion thereof and to record the lease or a memorandum of the lease, Settlor may ask Public Trustee, as Co-Trustee, to sign the lease and/or memorandum on behalf of the Trust.

- e. **Public Trustee to forward notices about the Real Property.** Public Trustee shall promptly forward to Settlor all notices Public Trustee receives about the Real Property. This includes notices about taxes, mortgages or liens, land use regulation, and anything else related to the Real Property. Public Trustee shall forward such notices by reputable overnight courier, or by registered or certified mail, return receipt requested to the following address:

(ACP Participant Name) _____

PMB _____

P.O. Box 257

Olympia, WA 98507-0257

- f. **Settlor responsible for taxes.** Settlor is obligated to make any required reports or filings and pay any and all taxes or other fees required related to the trust and Real Property. The taxpayer identification number used for the trust shall be the Settlor's social security number. Public Trustee is **not** required to file any income, profits, or other tax reports or schedules.
- g. **Contracts, etc.** Settlor shall **not** have any authority to contract for or in the name of Public Trustee or to bind Public Trustee personally.
- h. **Accounting Requirements.** Public Trustee is **not** required to prepare or file an annual accounting of the trust assets.
- i. **Release of Trustee.** To the full extent permitted by law, Settlor shall hold Public Trustee harmless from and against any and all loss, cost, damages, liability or expense of any kind, including reasonable attorneys' fees, to which Public Trustee may be subject in connection with any legal proceedings brought against Public Trustee regarding the trust. This includes any legal proceeding brought against Public Trustee by Settlor. Public Trustee shall **not** be obligated to advance or pay out any money on account of this trust or to prosecute or defend any legal proceedings involving this trust or the Real Property unless Public Trustee is provided with enough funds to cover such expenses or, unless Public Trustee is indemnified with respect thereto in a manner satisfactory to Public Trustee in its sole discretion.
- j. **Administrative Convenience.** At any time during which there is more than one Co-Trustee serving hereunder:
 - (1) If all Co-Trustees agree, one Co-Trustee may delegate any power, right, or duty to another Co-Trustee. The delegation must be made in writing and signed by the delegating Co-Trustee. To be effective, the delegation must be accepted by the Co-Trustee to whom the power, right, or duty is delegated. The delegating Co-Trustee may likewise revoke the delegation by a signed writing. A right, power, or duty expressly given to only one

Trustee may not be delegated, and any power, right, or duty expressly denied a Trustee shall not be delegated to that Trustee.

- (2) To take an action, one Trustee may give written notice to all other Co-Trustees of the proposed action. If a Co-Trustee does not respond with a written objection within fifteen (15) days after receiving notice, the Co-Trustee will be deemed to have approved the proposed action. Any Co-Trustee may waive, in writing, the fifteen-day notice period.
- (3) Any Co-Trustee may without resigning, give up such Co-Trustee's powers, rights or duties, to any extent and upon any terms, by written instrument delivered to all other then-acting Co-Trustees.

13. **Situs and Governing Law.**

- a. **Situs.** The location and place of administration ("situs") of this trust shall, as to real property held in trust, be the jurisdiction where such property is located. The situs of any trust shall, as to personal property, be (i) the location of the main business office of the Trustee who then has custody of the trust records, wherever the Trustee may locate that office, or (ii) any other reasonably designated situs identified by the trustee in writing.
- b. **Governing Law.** The administration of this trust shall, unless otherwise required by law, be governed first by the provisions of this Trust Agreement, including any laws incorporated in this Trust Agreement by reference or otherwise made applicable by this Trust Agreement, and second, to the extent consistent with such provisions, the laws of the trust's situs. To the extent permitted by law, each trust and Trustee shall be exempt from all registration requirements.

14. **Definitions and Interpretive Provisions.**

As used in this Trust Agreement, unless some other meaning or intent is apparent from the context:

- a. **Plurals and Gender.** Unless some other meaning and intent is apparent from the context, the plural shall include the singular and vice versa, "Trustee" shall include "co-Trustee," and words of any gender shall be deemed to include either or both other genders as appropriate to the context.
- b. **Titles and Headings.** The titles, headings, or captions in this Trust Agreement are inserted only for convenience. They in no way define, limit, or extend the Settlor's intention or the scope of this Trust Agreement or any of its provisions. They shall not be considered in any question of interpretation of this Trust Agreement.
- c. **Incapacity.** For purposes of this instrument, the Settlor and each individual Co-Trustee under this Trust Agreement shall be deemed to have full capacity until such time as such individual's primary care physician determines, in a signed written statement delivered to the acting Trustee (in the case of the Settlor's incapacity) or to an individual Trustee's successor, that such individual is incapacitated. As used in this Trust Agreement, the terms "incapacity" and "incapacitated" shall be construed broadly and shall include (without limitation) mental or physical disability, incompetency, or senility, or any combination thereof, which renders such Co-Trustee incapable of managing the legal, financial, and related affairs of any trust hereunder, and all instances in this Trust Agreement of "fails or ceases to serve" shall include being incapacitated.

This Trust Agreement is **agreed to and signed by** the Settlor and the Public Trustee as of the date listed at the beginning of the agreement.

Settlor ▶ Settlor and Co-Trustee	Public Trustee ▶ Co-Trustee
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Notarization

State of Washington

County of _____

Signed or attested before me on (*date*) _____

by **Settlor** (*ACP Participant Name*) _____.

▶ _____
Signature of Notary
Notary Public for the State of Washington.
My commission expires _____.

[*If Public Trustee is an individual*]

State of Washington

County of _____

Signed or attested before me on (*date*) _____

by **Public Trustee** (*Name*) _____.

▶ _____
Signature of Notary
Notary Public for the State of Washington.
My commission expires _____.

[If Public Trustee is an organization]

State of Washington

County of _____

Signed or attested before me on (date) _____

by (Name) _____ as (role/title) _____

of (**Public Trustee Organization**) _____,

a (type of organization) _____.



Signature of Notary

Notary Public for the State of Washington.

My commission expires _____.

Schedule A

Legal Description of the Real Property

The land referred to is situated in the unincorporated area of the County of _____,
State of Washington, and is described as follows:
