



## ACP participants can use a Revocable Living Trust to buy real property confidentially

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 are 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.

### FAQ

#### Q 1. What is the Address Confidentiality Program?

Washington's [Address Confidentiality Program](#) (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 are a survivor of domestic violence, sexual assault, trafficking, or stalking
- You are a criminal justice employee or elections official who has been a target of threats or harassment because of your work

#### Q 2. What is a revocable living trust?

A revocable living trust (we will 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 are 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 will 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 are the "Settlor", "Beneficiary", and "Trustee".

### Q 3. How does a revocable living trust work for real estate?

When you purchase property, you typically work with a title and escrow company who will 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 are 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.

- Step 1: Choose a Public Trustee and create a trust.** (See Q 5 and Q 15.)
- Step 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.
- Step 3: Tell your lender and realtor about the Trust.** If you apply for a loan tell your lender that you are in the ACP and will be buying the property using a revocable trust. It is also important to let your realtor know that you are in the ACP.
- Step 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 have 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.

**Step 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 (**not** your name) 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).

**Step 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.

**Step 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 will have your Public Trustee sign those documents on behalf of the Trust. (See Q 4.) You may have to provide a copy of the Trust Agreement to show that the Public Trustee has authority to sign. The Trust Agreement will **not** be recorded as a public document.

There may be other documents as part of the transaction that will **not** be recorded. Those may include your name for you to sign. That is okay.

**Step 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.

#### Q 4. 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 are buying, selling or refinancing property, or for other property transactions that will be recorded in public records. (Example: getting or giving easements.)

#### Q 5. 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

#### Q 6. What if I have a criminal record?

If you have 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 sample Trust Agreement form in Q 15 assumes that you will be a Trustee. Do **not** use the sample form from Q 15 if you have been convicted of a felony, fraud, theft, or other crime involving dishonesty\*. Talk to a lawyer about your Trust options.

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❖ The law says you cannot 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 are not sure whether your conviction involves moral turpitude.

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**Q 7. What should I name the Trust?**

Pick something that is **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.

**Q 8. What are my duties as the settlor for the Trust?**

You are 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.

**Q 9. What if I am married? Can I use a revocable living trust to hold community property?**

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

**Q 10. 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.

**Q 11. 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 are no longer enrolled with ACP, you must give the county treasurer and assessor’s office a new mailing address for the Trust.

## Q 12. 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.

## Q 13. What happens when I am no longer enrolled as an ACP participant?

You cannot use the ACP address as your personal address if you are no longer an ACP Participant. Any mail ACP receives for you will be returned to sender. It will not 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 are no longer enrolled with ACP, you must give the county treasurer and assessor's office a new mailing address for the Trust.

## Q 14. 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 are serving as the sole Trustee when you die, then your personal representative will become the Trustee. If you do not have a will that names a personal representative, you can use the Trust Agreement to name someone to serve as Trustee after you die.

## Q 15. How do I create a revocable living trust?

You can create your **Revocable Living Trust Agreement** by filling it out online free through [Washington Forms Online](#). You can also work with a lawyer to create a trust.

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