GEVA BAR
REALTOR ASSOCIATE

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HOMEOWNER GUIDE · UPDATED OCTOBER 3, 2026

Trusts & your Florida *home*

Why families use trusts, the main types, what they cost, how they are managed, the tax and liability picture, and how to put a Florida homestead in a trust without losing your exemption.

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PLEASE READ FIRST

I am a real estate advisor, *not a lawyer*

This guide is general education gathered from Florida statutes, the IRS, The Florida Bar and Florida attorneys' published materials. It is not legal, tax or financial advice, and it does not create an attorney-client relationship.

Why it matters

A trust is a legal document. Small drafting mistakes, especially with homestead property, can cost a family its tax exemption or its protections.

Who should draft it

A Florida-licensed estate planning attorney. The Florida Bar's lawyer referral service and its Board Certified Wills, Trusts & Estates specialists are good places to start.

Where I help

Buying, selling or retitling real estate, coordinating with your attorney and title company, and making sure the property appraiser has what it needs.

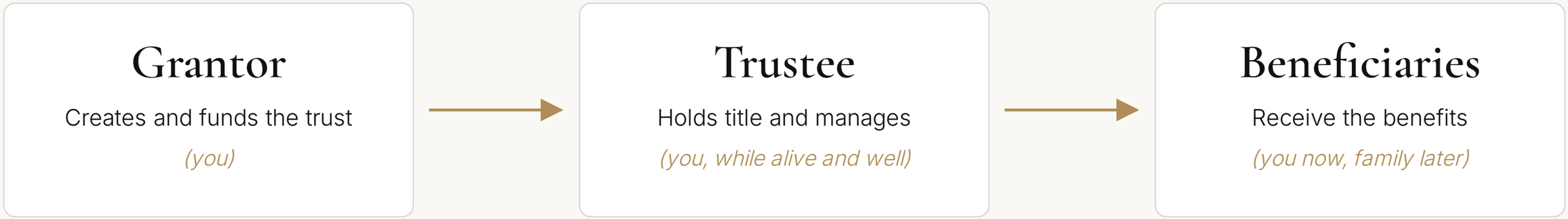
Questions to ask an estate attorney

Are you Board Certified in Wills, Trusts & Estates? · Is the fee flat, and does it include funding and the deed? · How will my homestead be handled? · Who will be my successor trustee, and what will they need to do? · How often should we review the plan?

THE BASICS

A trust is a set of instructions that *owns* your assets

You (the grantor) transfer assets to a trustee, who manages them for the beneficiaries under the rules you write. With a revocable living trust, you usually wear all three hats while you are alive.



At death or incapacity, the successor trustee you named steps in, with no court guardianship and no probate for trust assets.

WHY PEOPLE SET UP TRUSTS

Eight reasons families *use* trusts

Skip probate

Assets titled to the trust pass without a court process that can take six months to two years.

Privacy

A will becomes public in probate. A trust stays private between the trustee and the family.

Incapacity plan

A successor trustee steps in if you can't manage, avoiding a court-supervised guardianship.

Control

Stagger gifts to children, protect a spouse from a prior marriage, or set conditions.

Out-of-state property

Avoid a second "ancillary" probate in each state where you own real estate.

Special needs

Provide for a loved one without disqualifying them from government benefits.

Tax planning

Larger estates use irrevocable trusts to manage estate, gift and income taxes.

Protect heirs

Spendthrift terms can shield what beneficiaries inherit from their creditors and divorces.

Sources: The Florida Bar; Fla. Stat. 736.0502; Kogan Law

GOOD TO KNOW

Trusts are mostly *state law*

QUESTION	WHICH LAW DECIDES?
Is the trust valid? Trustee duties?	State law. In Florida, the Florida Trust Code (Fla. Stat. ch. 736), based on the Uniform Trust Code used in more than 30 states
Estate, gift and trust income taxes	Federal law, the same in every state. Florida has no state estate or inheritance tax
Deeds, homestead, recording	The state where the real estate is located, so Florida rules apply to a Florida home
Creditor protection	State law. Florida does not protect a trust you set up for yourself

Moving to Florida with an existing trust?

It is usually still valid, but have a Florida attorney review it. Florida requires the testamentary parts of a revocable trust to be signed with will formalities (Fla. Stat. 736.0403), and the property appraiser looks for specific homestead language.

Asset-protection states

Nevada, Delaware, South Dakota and Alaska allow "self-settled" asset protection trusts. Florida does not (Fla. Stat. 736.0505).

Sources: Fla. Stat. 736.0403, 736.0505; Uniform Law Commission

THE BIG DECISION

Revocable vs. *irrevocable*

FEATURE	REVOCABLE LIVING TRUST	IRREVOCABLE TRUST
Can you change or cancel it?	Yes, any time while competent	Generally no, only in limited ways
Who controls the assets?	You, as trustee	An independent trustee
Avoids probate?	Yes, for funded assets	Yes
Protects from your creditors?	No (Fla. Stat. 736.0505(1)(a))	Can, if you are not a beneficiary
Reduces estate tax?	No, stays in your estate	Can remove assets from your estate
Income tax	Your own return, your Social Security number	Often its own return (Form 1041) and EIN
Step-up in basis at death	Yes	Usually no, unless included in the estate
Best for	Most families: probate, privacy, incapacity	Large estates, asset protection, special goals

THE MENU

Common types of *trusts*

Revocable living trust

The everyday estate plan: probate avoidance, privacy and incapacity planning.

Testamentary trust

Created inside a will; only starts after death and after probate.

Florida land trust

Holds real estate with the trustee on title; popular for privacy (Fla. Stat. 689.073).

Spendthrift trust

Shields a beneficiary's inheritance from their creditors (Fla. Stat. 736.0502).

Irrevocable life insurance (ILIT)

Keeps life insurance proceeds out of your taxable estate.

Spousal lifetime access (SLAT)

Moves assets out of the estate while a spouse can still benefit.

Qualified personal residence (QPRT)

Transfers a home to heirs at a reduced gift-tax value; you live there for a term.

Special needs trust

Supplements care without disqualifying Medicaid or SSI benefits.

Charitable remainder (CRT)

Income to you for life or a term, the rest to charity; can defer capital gains.

Dynasty trust

Lasts for generations; Florida allows trusts up to 360 years.

Irrevocable homestead trust

Advanced Florida planning to keep homestead tax benefits in an irrevocable trust.

Lady Bird deed (alternative)

Not a trust: a deed that passes a home at death without probate.

Sources: Fla. Stat. 689.073, 689.225, 736.0502; Florida Bar Journal

WHAT PEOPLE ACTUALLY USE

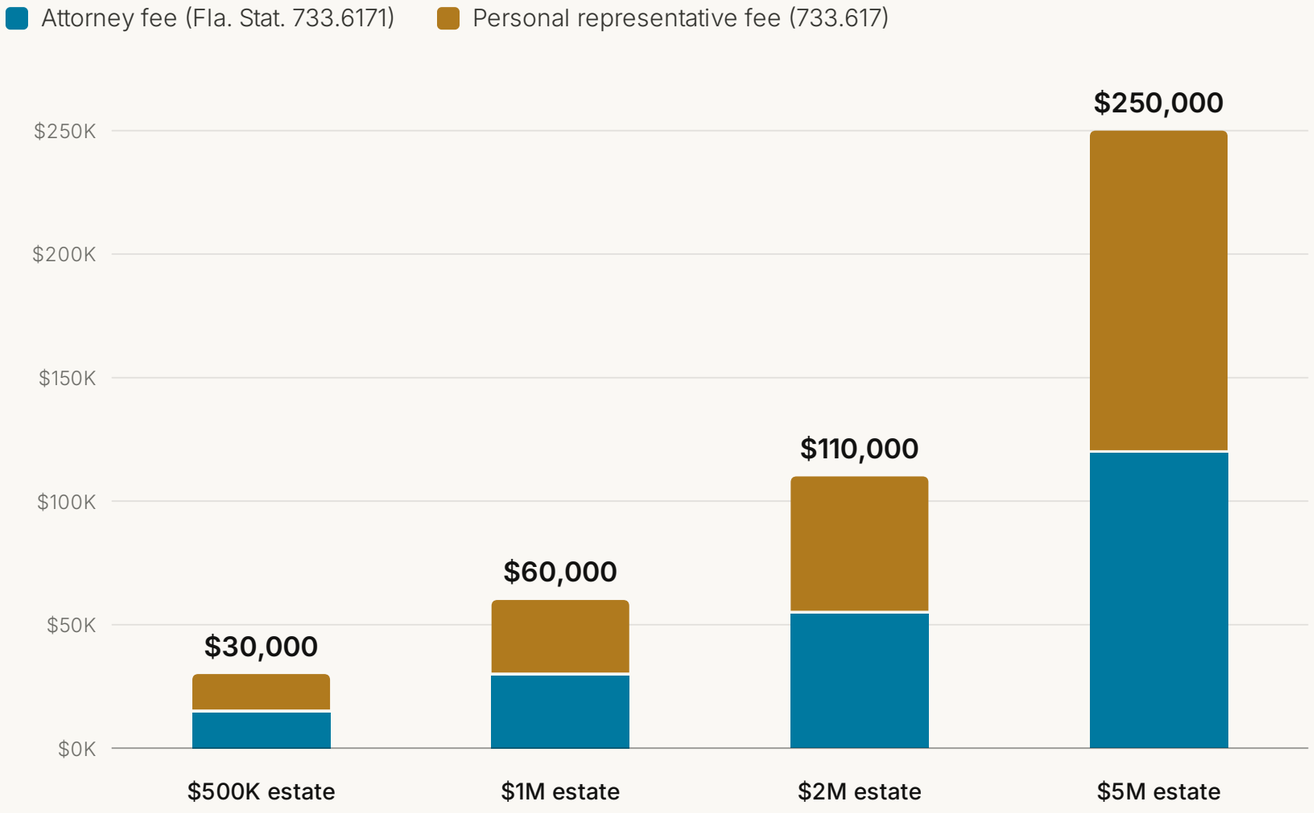
The most common setups, *and why*

YOUR SITUATION	TYPICAL SETUP	WHY PEOPLE CHOOSE IT
Single homeowner	Revocable living trust + pour-over will	The most common plan in Florida: no probate, privacy, a successor trustee if you can't manage
Married couple	Joint revocable trust, or one trust each	Joint is simpler to run; separate trusts can suit second marriages and keep assets clearly divided
Parents of young children	Revocable trust with children's sub-trusts	A trustee manages money until set ages (for example 25, 30, 35) instead of a court guardianship
Blended family	Revocable trust with a marital (QTIP) trust	Supports a spouse for life while guaranteeing the rest goes to your own children
One home, simple wishes	Lady Bird deed (no trust)	Low cost; the home passes at death without probate and you keep full control
Rental or investment property	LLC owned by your revocable trust; land trust for privacy	The LLC limits liability from the property, the trust avoids probate, the land trust keeps names off title
Loved one with a disability	Third-party special needs trust	Pays for extras without disqualifying Medicaid or SSI
Estate near or above $15M	ILIT, SLAT, dynasty or charitable trusts	Moves growth out of the taxable estate
Foreign (non-U.S.) buyer	Structure set by international tax counsel	Only a $60,000 U.S. estate tax exemption applies to non-resident foreigners

Sources: The Florida Bar; Alper Law; IRC §§2056(b)(7), 2102

WHAT A TRUST CAN AVOID

Florida probate fee benchmarks



6 months to 2 years

Typical length of a formal Florida probate. Court records, including the will and inventory, generally become public.

Smaller estates

Summary administration now covers estates with up to $150,000 of non-exempt property, for deaths on or after July 1, 2026 (was $75,000).

The chart shows fees Florida law presumes reasonable for ordinary services. Many attorneys charge less, family members often waive the personal representative fee, and court costs, appraisals and extra services are additional. Homestead often passes outside the probate estate.

Sources: Fla. Stat. 733.6171, 733.617; CS/HB 1337 (2026); Kogan Law

BUDGET

What a trust *costs*

ITEM	TYPICAL RANGE
Revocable trust plan by a Florida attorney (trust, pour-over will, powers of attorney, health care documents, deed)	$2,000 – $5,000+
Irrevocable or asset-protection trust	$3,000 – $8,000+ (complex plans more)
Lady Bird deed only	$400 – $1,000
Recording the deed (per county clerk)	$10 first page, $8.50 each added
Doc stamps, deed to your own revocable trust	Usually $0.70 minimum
Professional trustee (bank or trust company)	Often about 1% of assets a year

Funding is the step people skip

A trust only controls what is titled to it. Deeds, bank and brokerage accounts must be retitled, and beneficiary designations reviewed. An unfunded trust can still mean probate.

Ranges are published estimates from Florida attorneys and vary with complexity. Ask for a written flat-fee quote that includes funding and the deed.

Sources: Alper Law; Fla. Stat. 28.24; Fla. Admin. Code 12B-4.013

SETTING IT UP

Seven steps to a working *trust*

01 **List your assets and goals**
Real estate, accounts, business interests, insurance; who should receive what, and when.

02 **Choose your trustees**
Usually yourself first, then a successor: a spouse, adult child, friend or professional.

03 **Hire a Florida estate attorney**
Board certification in Wills, Trusts & Estates is a strong signal.

04 **Sign with formalities**
Two witnesses and a notary, as for a will (Fla. Stat. 736.0403, 732.502).

05 **Fund the trust**
Deed real estate to the trustee, retitle accounts, update beneficiaries.

06 **Sign the supporting documents**
Pour-over will, durable power of attorney, health care surrogate, living will.

07 **Review every few years**
After marriage, divorce, births, a move, a sale or a tax-law change.

Sources: The Florida Bar; Fla. Stat. 732.502, 736.0403

How trust *management* works

While you are alive

Business as usual

As trustee you buy, sell and refinance as before, signing "as trustee." Income is reported on your own Form 1040. No separate tax return is needed for a revocable trust.

If you become incapacitated

Successor steps in

Your named successor trustee takes over under the terms you set, typically after a doctor's certification, without a court guardianship.

After death

Trust administration

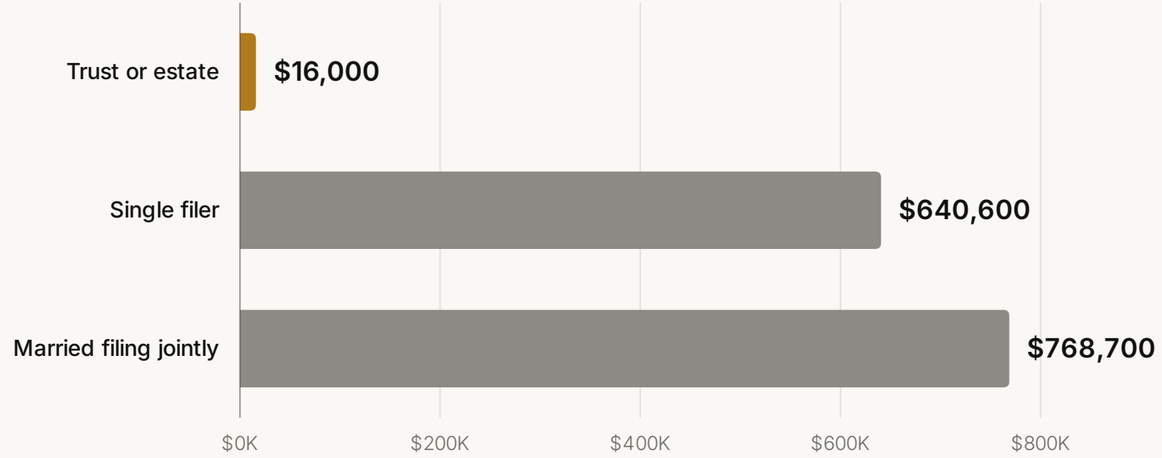
The trustee files a Notice of Trust with the court, notifies beneficiaries within 60 days, gets an EIN, pays debts and taxes, then distributes.

Trustee duties

Florida trustees owe loyalty, prudence and impartiality, must keep beneficiaries reasonably informed, and must provide at least annual accountings once a trust is irrevocable (Fla. Stat. 736.0802, 736.0803, 736.0804, 736.0813). Trustees are entitled to reasonable compensation (736.0708).

TAX PICTURE · 2026

Where the *37%* federal rate begins



A trust that keeps its income reaches the top bracket at just $16,000. Distributing income usually shifts the tax to beneficiaries at their own rates. Revocable trusts are taxed to you, so this does not apply to them while you are alive.

$15M

Federal estate and gift exemption per person in 2026 ($30M per married couple), made permanent and inflation-indexed by the One Big Beautiful Bill Act.

$19,000

Annual gift exclusion per recipient in 2026 ($38,000 for a married couple).

$0

Florida estate or inheritance tax. Florida has none.

TAX PICTURE

Do trusts *save taxes*?

Revocable trust: usually not

The Florida Bar notes revocable trusts are "often credited with saving estate taxes, but this is not entirely accurate." The assets stay in your taxable estate, and income is taxed to you. The upside: heirs still get a step-up in basis at your death, which can erase capital gains on appreciated real estate.

Irrevocable trusts: they can

Moving assets out of your estate (ILIT, SLAT, QPRT, dynasty trusts) can reduce estate tax for estates near or above the $15M exemption, and charitable trusts can defer capital gains. The trade-off is giving up control, and usually the step-up in basis.

Most Florida families

With a $15M per-person federal exemption and no Florida estate tax, most families set up trusts for probate, privacy and control, not tax.

Foreign owners: a big exception

Non-U.S. persons who are not U.S. residents get only a $60,000 U.S. estate tax exemption on U.S. assets such as Miami real estate. Structuring with international tax counsel is essential.

Step-up in basis

Example: a home bought for $800,000 and worth $2.5M at death. Held in a revocable trust, heirs' tax basis generally resets to $2.5M, so selling soon after produces little or no capital gain. Gifted during life, the $800,000 basis carries over.

Sources: The Florida Bar; IRC §§1014, 2102; Skatoff Law

LIABILITY & CREDITORS

What a trust *does and doesn't* protect

SITUATION	PROTECTION?	WHY
Your creditors vs. your revocable trust	NO	Assets you can take back are reachable (Fla. Stat. 736.0505(1)(a))
Trust you set up for your own benefit	NO	Florida does not allow self-settled asset protection (736.0505(1)(b))
Irrevocable trust for others, with spendthrift terms	GENERALLY YES	Beneficiaries' creditors can't reach undistributed assets (736.0502)
Transfers made to dodge a known claim	NO	Florida's fraudulent transfer law can undo them (Fla. Stat. ch. 726)
A tenant or guest injured at a rental	NO	A trust doesn't limit liability from operating property; investors pair an LLC with insurance
Your Florida homestead	CONSTITUTION	Homestead's own creditor protection (Art. X §4); a properly drafted revocable trust generally keeps it

Sources: Fla. Stat. 736.0502, 736.0505, ch. 726; Fla. Const. Art. X §4; Alper Law

HOMESTEAD + TRUST

Can a Florida homestead go in a trust? *Yes.*

WHAT YOU KEEP WITH A REVOCABLE TRUST	RESULT	REQUIREMENT
Homestead tax exemption ($25K + up to $26,411 in 2026)	KEPT	You live there and the trust gives you a beneficial interest for life (Fla. Stat. 196.031, 196.041(2))
Save Our Homes cap (no reassessment)	KEPT	Deed to your own trust is not a change of ownership when you stay the beneficiary (193.155)
Portability to a future homestead	KEPT	Same owner-beneficiary rules
Creditor protection (Art. X §4)	GENERALLY KEPT	Depends on drafting; an irrevocable transfer can lose it
Devise restrictions (spouse / minor child)	STILL APPLY	A trust can't bypass them (Fla. Stat. 736.1109); a spouse can waive in a deed (732.7025)
Your mortgage	NO DUE-ON-SALE	Federal Garn-St Germain Act, when you remain a beneficiary

Sources: Fla. Stat. 193.155, 196.031, 196.041, 732.7025, 736.1109; 12 U.S.C. 1701j-3

Moving your home into your *trust*

01 **Trust language first**
Your attorney includes your right to live in the home for life and homestead-specific provisions.

02 **Prepare the deed**
To "[Name], as Trustee of the [Trust Name] dated [date]," with the exact legal description.

03 **Spouse joins**
If married, your spouse signs even if not on title. Two witnesses and a notary.

04 **Record it**
With the county clerk; doc stamps are usually the $0.70 minimum for your own revocable trust.

05 **Tell the property appraiser**
Miami-Dade asks for a copy of the trust when title is held in trust. Confirm the exemption carries over.

06 **Call title and insurance**
Check that your title policy continues (endorsement if needed) and add the trustee to your homeowner's policy.

07 **Let your lender know**
Not required by law for a revocable trust, but it avoids confusion at refinance or sale.

08 **Keep copies**
The recorded deed, the trust and the appraiser's confirmation.

Sources: Alper Law; Miami-Dade Property Appraiser; Fla. Stat. 28.24, 689.073

CASE STUDY · ILLUSTRATIVE

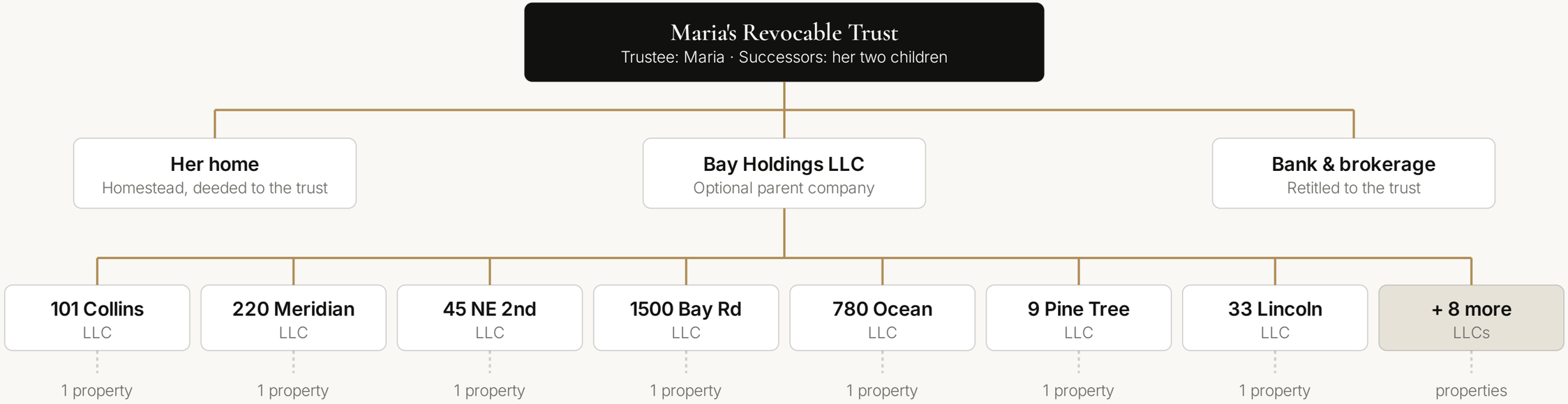
Maria, 70, widowed: *15 rentals in 15 LLCs*

15 rentals
Miami-Dade, each in its own LLC

$7.5M value
$1.5M of mortgages, so $6M of equity

$300K a year
Net rental income

$1.5M basis
Bought for $2.5M over 25 years, about $1M depreciated



Each property stays inside its own LLC with its own bank account, lease and insurance. The trust owns the LLC interests, not the deeds.

Two adult children. Recommended core: a revocable trust that owns the LLC interests and her home, with lifetime trusts for each child at her death. Names and figures are illustrative.

CASE STUDY · WHAT HAPPENS IF…

Five situations, *one plan*

SITUATION	WHAT THE STRUCTURE DOES
A tenant is hurt at one property	The claim can generally reach only that property's LLC, about $400K of equity. The other 14 properties, her home and her accounts are walled off. In one big LLC, all $6M would be exposed.
Maria causes a car accident	A personal judgment can pursue her LLC interests; Florida courts can order a single-member LLC interest sold. Her protection here is a large umbrella insurance policy.
Maria has a stroke	Her children are already named successor trustees and successor managers in every operating agreement, so rent, leases and repairs continue the next day with no guardianship.
Maria passes away	No probate (about $300K of statutory fees avoided on $6M), no estate tax under the $15M exemption, and her children's basis steps up from about $1.5M to $7.5M.
The children split the properties	The trustee assigns 7 LLCs to one child and 8 to the other, balanced by value with cash. No deeds change. Each LLC files a change-of-control notice (Form DR-430) and is reassessed at market value.

Trust plan (trust, pour-over will, POA, health care, homestead deed)

$3,000 – $7,000+

Assign 15 LLC interests and update 15 operating agreements

Often $150 – $500 per LLC

Optional holding LLC restructure

$1,500 – $5,000+

Florida LLC annual reports

$138.75 × 15 ≈ $2,080 a year

Sources: Fla. Stat. 733.6171, 193.1555; IRC §1014; Florida Division of Corporations

Do heirs pay tax when they *sell*?

MARIA'S KIDS RECEIVE THE RENTALS BY…	BASIS	TAX IF SOLD AT $7.5M
Inherited through a revocable trust	$7.5M (stepped up)	**About $0**
Inherited through a will (probate)	$7.5M (stepped up)	**About $0**
Gifted while the parent is alive	$1.5M (parent's basis)	**About $1.4M**
Irrevocable trust kept out of the estate	Usually $1.5M	**About $1.4M**

The trust doesn't create the step-up; inheriting at death does. Lifetime gifts and most estate-tax irrevocable trusts pass along the parent's low basis (IRS Rev. Rul. 2023-2).

Example: $15M irrevocable trust, kids sell

Rentals moved to trust in 2015	$10,000,000
Basis after $2,000,000 depreciation	$4,000,000
Value at death, sold	$15,000,000
Gain (no step-up)	$11,000,000
Federal tax: 25% recapture + 20% gain + 3.8% NIIT	**≈ $2,718,000**
Estate tax avoided if estate was over $15M (40%)	**≈ $6,000,000**

Worth it for a large estate. For an estate under $15M, no estate tax was due, so the kids paid about $2.7M for nothing. A "swap" power or a 1031 exchange can reduce the hit.

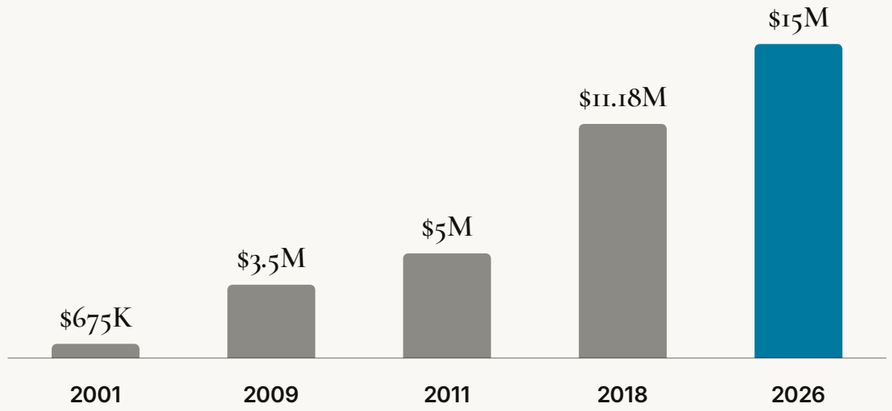
 Sources: IRC §§1001, 1014, 1250, 1411; IRS Rev. Rul. 2023-2

REVOCABLE OR IRREVOCABLE?

Which trust *fits* the situation

SITUATION	USUALLY	WHY
Estate well under $15M, wants control	Revocable	Keeps the step-up and full control; no estate tax to save
Estate well above $15M ($30M for a couple)	Irrevocable	Saves 40% estate tax on growth, which can outweigh losing the step-up
Serious lawsuit exposure (doctor, contractor, business owner)	Irrevocable	A trust for others, set up well before any claim, can be beyond creditors
Planning for nursing-home Medicaid	Irrevocable	Assets can stop counting after Medicaid's 5-year look-back
Large life insurance policy	Irrevocable (ILIT)	Keeps the payout out of the taxable estate
Child with a disability	Irrevocable (special needs)	Protects Medicaid and SSI eligibility
Big gain and charitable goals	Irrevocable (CRT)	Income stream, deferred capital gains, remainder to charity

Federal estate tax exemption per person



Many older irrevocable trusts were set up when the exemption was $3.5M–$5M. Today most estate-tax irrevocable trusts make sense near or above $15M, but people at every wealth level still use irrevocable trusts for insurance, special needs, Medicaid, protection and charity.

Sources: IRS; One Big Beautiful Bill Act (2025); Florida Bar

Questions clients *ask me*

Can I put my Florida homestead in a trust?

Yes. With a revocable living trust that gives you a beneficial interest for life, you generally keep the homestead tax exemption, the Save Our Homes cap and portability (Fla. Stat. 196.031, 196.041(2), 193.155). The deed must be drafted carefully, a spouse must join, and the property appraiser may ask for a copy of the trust.

Will putting my house in a trust raise my property taxes?

Not when done correctly. Deeding a home to your own revocable trust, while you remain the beneficiary and keep living there, is not treated as a change of ownership, so the assessment is not reset.

If my kids inherit through my revocable trust and sell, do they pay capital gains tax?

Generally only on growth after your death. Assets in a revocable trust are part of your estate, so they get the step-up in basis. The same is true for assets inherited through a will. The trust is not what saves the tax; inheriting at death is.

If my kids inherit from an irrevocable trust and sell the property, do they pay taxes?

Usually yes. Most estate-tax irrevocable trusts keep assets out of your estate, so there is no step-up in basis (IRS Rev. Rul. 2023-2). Your children keep your original basis and owe capital gains tax, plus depreciation recapture on rentals, when they sell. That can still be worth it if the trust saved 40% estate tax on a large estate.

Is it better to gift property to my children now or leave it to them at death?

For appreciated real estate, leaving it at death is usually better for income tax because of the step-up in basis. A lifetime gift passes along your low basis. Gifting can make sense for larger estates or fast-growing assets; ask your CPA to run the numbers.

Do I pay tax when I inherit property in Florida?

Florida has no inheritance or estate tax, and receiving an inheritance is not income for federal tax. Federal estate tax applies only to estates above $15 million per person in 2026. You may owe tax later if you sell for more than your stepped-up basis.

Sources: Fla. Stat. ch. 736, 193.1555; IRC §1014; IRS Rev. Rul. 2023-2

Questions clients *ask me*

Does a revocable trust protect my assets from creditors or lawsuits?

No. In Florida, assets in a trust you can revoke remain reachable by your creditors (Fla. Stat. 736.0505(1)(a)). For rental properties, liability protection comes from LLCs and insurance. A Florida homestead has its own constitutional creditor protection.

Should my rental properties be in an LLC or a trust?

Often both. The LLC limits liability from operating the property; the revocable trust owns the LLC interests to avoid probate and plan for incapacity. Deeding properties out of an LLC into a trust can remove the liability shield.

Is it better to put each rental in its own LLC?

Many investors do, because a claim at one property generally reaches only that LLC's assets. It costs more to maintain (a Florida annual report is $138.75 per LLC) and requires separate bank accounts, leases and insurance for each.

Does putting my rentals in a trust change my income taxes?

No. A revocable trust is ignored for income tax while you are alive. Single-member LLCs owned by your revocable trust stay on your personal return.

Do only people with over $15 million use irrevocable trusts?

No. Irrevocable trusts used to cut federal estate tax mostly make sense near or above $15 million per person, but people at every wealth level use irrevocable trusts for life insurance, special needs, Medicaid planning, asset protection and charitable giving.

Does a trust protect my home from nursing-home costs?

A revocable trust does not. Certain irrevocable Medicaid trusts can, if set up at least five years before applying because of Medicaid's look-back period. This is specialized elder-law planning.

Sources: Fla. Stat. ch. 736, 193.1555; IRC §1014; IRS Rev. Rul. 2023-2

FAQ · 3 OF 3

Questions clients *ask me*

Do I need to file a tax return for my trust?

Not for a revocable trust while you are alive. An irrevocable trust, or a trust after the grantor's death, generally needs its own EIN and files Form 1041 if it has $600 or more of gross income.

Will inherited rental property be reassessed for property taxes?

Generally yes. Non-homestead property is reassessed to market value after a change of ownership or a change of control of the LLC that owns it, which must be reported to the property appraiser (Form DR-430).

What happens to my trust if I move out of Florida?

It generally stays valid. Have an attorney in your new state review it, especially for real estate, taxes and any state estate tax.

Do I still need a will if I have a trust?

Yes. A pour-over will sends anything left outside the trust into it and names guardians for minor children.

Can I sell or refinance a home that's in my trust?

Yes. You sign as trustee. Have the trust and a certification of trust (Fla. Stat. 736.1017) ready for the title company and lender.

How long does trust administration take after death?

Simple trusts are often settled in a few months to a year, much faster than formal probate. The trustee files a Notice of Trust, notifies beneficiaries within 60 days, pays final bills and taxes, then distributes.

Sources: Fla. Stat. ch. 736, 193.1555; IRC §1014; IRS Rev. Rul. 2023-2

SOURCES · CHECKED OCTOBER 3, 2026

Verify before you rely

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BUYING, SELLING OR RETITLING A HOME?

Geva Bar P.A.

Real Estate Advisor at Compass. I work alongside your estate attorney and title company so the real estate side of your plan is done right.

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