

Proceeds of a Seller: When the seller is a trust



Once a title company has recorded all documents, all payoffs have been made and the title file is closed, the title company will wire the proceeds to escrow. Once received, escrow will balance and close out their file.

The proceeds of the sale of real property belong to the Seller of the property, which means that the payee of the proceeds should be exactly the same as the vested owner of record, with a natural person or entity designated as the Seller on the Residential Purchase Agreement or in the Preliminary Title Report. Therefore, if the Seller of the property is a trust, the sale proceeds belong to the trust.

There are multiple types of trusts and different powers afforded to the trustees of any specific trust. Title and Escrow Officers are not legally qualified or permitted to interpret the trust to determine what the trustees or successor trustees are authorized to do and what they are not to do.

If a trustee requests that the escrow holder pay all or some of the proceeds to anyone other than the trust itself, the Escrow Officer cannot be certain that the trustee is authorized to give such an instruction. Therefore, sale proceeds will only be made payable to the trust at the close of escrow.

If the Seller does not have a bank account set up for the trust, one will need to be established prior to closing in order for escrow to be able to wire the seller's proceeds. Some banks are able to add the trust as a secondary owner of an existing personal account. Please consult with your bank to insure a seamless transfer of proceeds to your account.



Selling Property in Your Trust

You can still sell property after you transfer it into a living trust. The first and most common approach is to sell the property directly from the trust. In this case, the trustee of the trust (most likely, you, as trustee) is the seller. A second approach, used mostly when an institution requests it, is to transfer the property out of the trust and back to you. Once you own the property again, you can sell it as you would anything else.

Source: Legal Zoom

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