



How to Use Trusts and Other Methods to Minimize Probate

Presented by:

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Attorney's Biography

Michael J. O'Reilly graduated from the Moritz College of Law at the Ohio State University, and Miami University, Oxford, Ohio. Mr. O'Reilly has been a practicing lawyer for 30 years. He served as Staff Counsel with an office tower developer and then as General Counsel to a shopping center developer before entering private practice.

Michael presently handles estate planning and probate matters. The services provided include wills, trusts, powers of attorney, health care directives, and estate administration. He has engaged in probate litigation, including will contests and asset disposition disputes.

Mr. O'Reilly also continues to practice real estate and business law including real estate and business purchases and sales, leases, and property exchanges and also represented companies and individuals on zoning, environmental law, real estate tax reduction, condominium law, and eminent domain legal issues. Mr. O'Reilly is available for complex commercial real estate matters, and also offers residential real estate legal services. Mr. O'Reilly has handled many kinds of real estate litigation including quiet title cases, foreclosure defense, breach of contract, and fraud.

Mr. O'Reilly has lectured in legal subjects to other attorneys, and Realtors. Michael tries to make the legal process as worry-free as possible for his clients.

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➤ Reasons for Minimizing Probate

- Privacy
- Savings on Legal Fees
- Time Saving

➤ “Easy to Accomplish” Non-Probate Planning:

- Survivorship Real Estate Deed – Ohio law allows deeds to provide for joint ownership by a couple, with title automatically passing to the survivor on the first death, without probate.

TIP: Older deeds in Ohio may not have survivorship language – find your deed and see if it mentions “joint lives” and the “remainder”

- TOD for Real Estate – you can file a Transfer on Death Designation Affidavit with the County Recorder to pass title to your real estate upon your death to designated persons
- Joint Bank Accounts
- Payable on Death Bank Accounts
- Spouses can receive two vehicles from deceased spouse without probate
- Vehicle TOD’s – You can amend your vehicle title at the BMV to transfer title on death to someone
- Life Insurance – death benefits are paid outside Probate if the beneficiaries designated are living. Make sure there are contingent beneficiaries designated as well.

- 401-ks, IRA's, 403-B's – retirement-oriented accounts, like life insurance, can be passed outside Probate if the death beneficiaries are designated are living.

➤ Trusts – a More Sophisticated Method

- Preceding Methods can capture one asset or another and divert them from Probate – a Trust can be used to take a comprehensive approach.
 - Trusts make a *multi-generational* plan possible (spouse then children and/or charitable)
 - Couple's Revocable Living Trust:
 - The couple are the initial trustees and beneficiaries
 - Surviving spouse remains Trustee and beneficiary
 - Child or Bank becomes Successor Trustee on second death and administers and distributes the assets, typically among children, other family, charitable purposes such as your church or school or charity.
 - Deed house to the couple as Trustees of the Trust
 - Trust as first or second beneficiary on life policies and retirement plans
 - Significant brokerage accounts placed in trust name
 - "Pour Over" Will directs the transfer to the Trust of any probatable estate assets to the Trust
 - Can set aside special trusts for family members with special needs – other family member in charge
- This outline is general information and not personal legal advice and has covered only the basics. Most experienced planning attorneys, including the author, welcome appointments to explain further!

Thanks for listening or reading!