

What is a Certification of Trust and Do I Need One?

If you have been named a trustee or you are otherwise involved in the administration of a trust, you may have heard somebody suggest that you obtain a Certification of Trust. What exactly is that? What does it do? And do you need one?

While the answer to that last question depends on your specific needs, we can explore the first two questions so that you will be prepared to discuss the issue with your estate planning attorney.

A Tool for Simplifying Trust Administration

A Certification of Trust is a legal document that proves the existence of a trust and demonstrates that the trustee has legal authority to act on behalf of the trust. This document provides critical information about the trust without revealing details about property distribution and other matters you might want to keep private.

When administering a trust, banks and other institutions often require proof of the trust and of the trust's authorization. This can be accomplished by providing copies of the entire trust document, but that can be very cumbersome and it shares details about the trust that you might rather keep private. If you have a Certification of Trust prepared, you can simply present that much shorter document and display your authority without revealing private information.

Under Texas law, a valid Certificate of Trust document can be provided in lieu of the trust instrument to anyone other than a beneficiary of the trust. Beneficiaries are entitled to see all of the provisions in the trust.

Requirements for Creating a Certification of Trust

Section 114.086 of the Texas Property Code specifies the information that must be included in a Certification of Trust. This includes some information that is straightforward and some that may be more difficult to define.

To be valid, a Certification of Trust must identify:

The date of execution of the trust instrument

The identity of the grantor/settlor

The name and address of the trustee

A statement describing the powers of the trustee in a way that complies with statutory requirements

Whether the trust is revocable and if so, who holds the power to revoke it

An explanation of the authority of any co-trustees

The way title to trust property should be taken

A statement indicating that the trust has not been amended or revoked in a way that would invalidate the Certification of Trust

The statute provides that a person or institution that relies on a Certification of Trust will not be liable if the information in the Certification turns out to be incorrect, so long as they didn't have knowledge of the errors. This and other provisions allow individuals and institutions to rely on a Certification of Trust.

The Nordhaus Firm Can Help You Make Trust Administration More Efficient with a Certification of Trust

Whether you are managing your own revocable trust or administering a trust created by others, a Certification of Trust can simplify the process and protect your privacy. At The Nordhaus Firm, we can prepare a Certification document that meets all legal requirements without divulging unnecessary information.

For more information about creating or using a Certification of Trust, contact us at your convenience.