DUTY LAW

Is Your Trust Actually Protecting Your Family?

A Free Quick-Check Guide to Trust Funding

A revocable living trust is one of the most effective tools for keeping your family out of probate court. But a trust only protects the assets that are legally inside it. If your home, accounts, and other property are still titled in your own name when you pass away, the trust can't do its job — no matter how well it was written.

This guide gives you a fast, practical way to check whether your trust is actually funded, and what to do if it isn't.

The 60-Second Gut Check

Ask yourself these three questions right now:

☐ Do I know, specifically, whose name is on the deed to my home — mine, or my trust's?

☐ Have I called my bank or investment company to confirm my accounts are titled in the trust's name?

☐ Have I bought, sold, or opened any new accounts or property since I signed my trust?

If you answered "I'm not sure" to any of these, your trust may not be fully funded — and that means some (or all) of your estate could still end up in probate.

The Five Things People Forget to Fund

1. Real Estate

Your home, land, or rental property needs a new deed transferring it from your name into the name of your trust, recorded with the circuit clerk in the county where the property sits. Signing a trust document does not, by itself, move title to your house. To check the title, you would need to run a title search – check with a local title company on costs – or you may have the most recent deed on hand. For some counties, the records are available online. You may also try the local county real estate records office for a copy of your deed. Getting this part wrong by using the wrong legal description can cost you the transfer. It's best to have an attorney prepare a deed especially as errors can be fixed after death with a scrivener's affidavit if the attorney made the error. For the do-it-yourselfers, we have a deed template available with detailed instructions at our shop: dutylaw.etsy.com

2. Bank and Investment Accounts

Checking, savings, and brokerage accounts typically need to be retitled directly into the trust's name — OR have the trust listed as a beneficiary which is the recommended option. This usually requires a phone call or in-person visit to each institution. If the teller or individual you speak with is not familiar with trusts, ask to speak with a manager as most tellers and front-line employees have no experience in trust matters.

3. Business Interests

LLC membership interests, corporate stock, and partnership interests should be assigned into the trust, consistent with your governing documents (operating agreement, bylaws, etc.). This step is more complicated and can often be done wrong if you do not have an attorney review the documents. This may even require an amendment to your current business operating documents.

4. Vehicles and Personal Property

High-value personal property is often handled with a general assignment of personal property, rather than individually retitling each item. Never place a vehicle in your trust as it will expose the trust to liability in the event of a car accident. Instead use a beneficiary form for your vehicle – available at the DMV.

5. Anything You've Acquired Since Signing

New house, new brokerage account, new business — anything acquired after your trust was signed needs to be evaluated and funded too. This is the single most common gap, because it happens gradually, long after the excitement of the original signing appointment has worn off.

Quick Self-Audit Checklist

☐ Primary residence titled in trust's name

☐ Any additional real estate titled in trust's name

☐ Checking / savings accounts retitled OR make the trust a beneficiary on all accounts (recommended)

☐ Investment / brokerage accounts retitled OR make the trust a beneficiary on all accounts (recommended)

☐ Business interests assigned to trust

☐ Vehicles and valuable personal property addressed

☐ Retirement accounts and life insurance beneficiary designations reviewed and coordinated with trust

☐ No new accounts or property acquired since last funding review — or, if there are, they've been added to the trust

What To Do If You Find a Gap

Finding an unfunded asset isn't a crisis — it's just a to-do list. Some steps (like updating a beneficiary form) you may be able to handle yourself. Others, like preparing and recording a new deed, are worth having an attorney handle correctly the first time, since a defective deed can create its own set of legal headaches down the road.

Want the Full Playbook?

This quick-check guide tells you *what* to look for. Our full Trust Funding Playbook walks you through exactly *how* to fund each type of asset step by step — including sample letters to send your bank and other institutions, a phone script, and a master asset inventory worksheet so this doesn’t become a problem again. Our full playbook is available for instant download at our online shop: dutylaw.etsy.com

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