



IMPORTANT NEW CHANGES TO CERTIFICATES OF TRUST

In Michigan, there are a number of laws which govern trusts and trust ownership and transfer of real estate. Historically, whenever a trustee sought to transfer real estate, it was necessary to record the entire trust agreement.

In the early 1990's, the Michigan Legislature streamlined the process. A real estate law was created permitting the recording of a Certificate of Trust Existence and Authority, instead of the entire trust agreement. The purpose of the Certificate of Trust was to provide record notice of certain information pertinent to the trust and the trustee's ability to transfer real estate. The Certificate of Trust could be recorded into the chain of title so third parties would not need to obtain the full trust agreement.



In 2010, the Michigan Estates and Protected Individuals Code ("EPIC") created a second, somewhat inconsistent, statute addressing Certificates of Trust. The EPIC Certificate of Trust contains different requirements with respect to the contents and who could sign the document. For example, the real estate Certificate of Trust required the Certificate to include a verbatim reproduction of certain trust terms, while the EPIC statute did not. Also, the real estate Certificate of Trust could not be signed by a successor trustee, while any trustee can sign an EPIC Certificate of Trust.

Very recently both statutes were amended to harmonize Certificates of Trust for both the real estate and EPIC statutes. The EPIC statute now governs both the contents of a Certificate of Trust, and who may sign it. As a result, a much shorter and simpler Certificate of Trust may now be used for real estate purposes. In addition, the settlor, successor trustee or the trustee's attorney may sign the Certificate. The recording of a Certificate of Trust continues to be permitted in order to facilitate real estate transactions.

If you are selling a property owned by your trust, and need an updated Certificate of Trust, or if you have any questions about Certificates of Trust or other real estate matters, please contact [Gregg Nathanson](#), [Stacey DiDomenico](#) or a Couzens Lansky [Real Estate](#) or [Estate Planning](#) Attorney.