



Your Guide to a Mississippi Asset Protection Trust

Protect what you have built from what has not happened yet

If you own a business, practice a profession, own rental property, or simply have more than you need to live on, you are a target for the lawsuit that has not been filed yet. A Mississippi asset protection trust lets you set part of what you own aside, under a Mississippi trustee, where a future creditor cannot reach it, while you can still benefit from it for the rest of your life.

The problem, and the solution

THE PROBLEM

One accident, one bad partner, one malpractice claim can take everything you have saved

A regular trust does not help: the law says a trust you make for yourself is open to your creditors

You do not want to give everything away to protect it

You worry about losing control to a stranger

You are not sure it is legal

THE SOLUTION

Property in a Mississippi asset protection trust is off the table for creditors who come after you later

Mississippi's 2014 statute makes an exception for a trust built exactly the way it requires

You can keep the income, receive principal when the trustee agrees, veto any distribution, and decide where it goes when you die

You choose the Mississippi trustee, you can replace the trustee, and you can direct the investments yourself

It is written into the Mississippi Code, requires a sworn affidavit that you are solvent and not running from anyone, and requires you to carry liability insurance

What our clients pay: the asset protection trust is a separate engagement from your estate plan and is quoted at your planning meeting once we know what you want to protect and who will serve as trustee. No hourly bills.

What a Mississippi asset protection trust is

A Mississippi asset protection trust is a permanent trust that you create with your own property, run by a Mississippi trustee, that can pay money to you when the trustee decides to, and that your future creditors cannot reach if it is built and funded the way the Mississippi statute requires.

Think of the wagon again.

With a regular living trust, you put your things in the wagon and pull it yourself. With an asset protection trust, you put some of your things in a second wagon and hand the handle to a Mississippi trustee you choose. You walk alongside. You can say where the wagon goes, you can tell the trustee not to hand anything out, and the trustee can hand things to you along the way. But because you are no longer holding the handle, someone who sues you later cannot grab the wagon.

Ordinarily the law does not allow this. In every state, and in the District of Columbia and Louisiana today, a trust you make for your own benefit is open to your creditors, no matter what the document says. In 2014 Mississippi passed the Qualified Disposition in Trust Act, which changes that rule for a trust that follows its conditions. This guide explains those conditions, what you keep, what you give up, and what the trust does not do.

Words you will see in this guide

WORD

WHAT IT MEANS

Qualified disposition trust	The statute's name for a Mississippi asset protection trust.
Transferor (or settlor)	You, the person who puts property in the trust.
Qualified trustee	A Mississippi resident, or a Mississippi-supervised trust company, who runs the trust and does real work here. You cannot be the trustee.
Qualified affidavit	The sworn statement you sign before each transfer, saying you are solvent and not hiding from anyone.
Spendthrift clause	The provision that says no one's interest in the trust, including yours, can be taken by a creditor before it is actually paid out.
Exception creditor	A creditor the statute does not shut out: child support, an existing spouse, someone you injured before the transfer, the State.
Fraudulent transfer	Moving property to keep it from a creditor you already owe. The trust never protects that.

Why people use one

Who is at risk. Doctors, dentists, nurses and other professionals. Business owners and their families. Landlords, contractors and developers. Anyone who drives, employs people, signs contracts, or has enough that a plaintiff's lawyer would bother. Liability insurance is the first line of defense, but policies have limits and exclusions, and a judgment above the limit comes out of what you own.

Why a regular trust does not help. A living trust is for probate and incapacity; your creditors can reach it because you can revoke it. Even an irrevocable trust does not help if you are a beneficiary, because the general rule everywhere is that a trust you create for yourself is open to your creditors. Giving property outright to your children protects it, but then it is theirs, exposed to their divorces and lawsuits, and you cannot get it back.

Why Mississippi. Mississippi is one of a minority of states that has passed a statute allowing a person to create a trust for his own benefit that his future creditors cannot reach, if strict conditions are met. Neither the District of Columbia nor Louisiana has such a law. The Mississippi statute does not require you to live in Mississippi, but it does require a Mississippi trustee who does real work here, a sworn affidavit, and liability insurance.

What it is not. It is not a way to escape debts you already owe, to hide money from a spouse in a divorce, or to protect assets from a lawsuit that has already been filed or threatened. Transfers made for those reasons are fraudulent transfers, the affidavit you must sign would be false, and the statute offers no protection. The trust is for the risk that has not happened yet, set up while you are solvent and no one is chasing you.

How it works, step by step

- 1 **We check that you qualify.** At your planning meeting we go through your debts, any claims or lawsuits, your insurance, and what you can afford to set aside. If there is a claim pending or you would be insolvent after the transfer, we will tell you the trust is not for you.
- 2 **You choose the Mississippi trustee.** A Mississippi trust company, or an individual who lives in Mississippi (a relative or friend can serve). You also choose a backup, and you may name an advisor or protector who can live anywhere.
- 3 **You put the insurance in place.** A general liability policy of at least \$1,000,000, a professional liability policy of at least \$1,000,000 if your work calls for one, and a \$1,000,000 umbrella. You pay the premiums.
- 4 **You sign the trust.** It is irrevocable, it names Mississippi law, and it has the spendthrift clause the statute requires. You decide which of the permitted powers to keep.
- 5 **You sign the sworn affidavit.** Before anything goes in, you swear that you own the property outright, will still be solvent, are not trying to defraud anyone, have no lawsuits or proceedings pending or threatened (or list them), are not planning bankruptcy, that the money is clean, and that you carry the insurance.
- 6 **You fund the trust.** Deeds to Mississippi real estate are recorded with the chancery clerk. Cash and investments go to a Mississippi custodian in the trustee's name. Business interests are assigned. Each later contribution gets a new affidavit.
- 7 **The clock runs.** Each transfer starts its own two-year period. After it, a creditor who did not already exist is shut out entirely, and an existing creditor who did not sue in time is barred.
- 8 **You live with it.** The trustee invests, pays you income or principal under the trust's terms, and keeps the records. You report the trust's income on your own return. Every year we confirm the insurance is in force and the trustee is still doing its Mississippi work.
- 9 **When you die,** the trust passes to your family as you directed, or continues for them, with no probate and no court.

The four rules

The protection depends on four things being true every time property goes into the trust. Miss any one and that transfer is not protected.

-
- 1 The trust says what the statute requires.** It must be irrevocable, it must say Mississippi law governs it, and it must contain a spendthrift clause that keeps every beneficiary's interest, including yours, out of a creditor's reach until the trustee actually makes a payment. Any power you try to keep beyond what the statute allows is void.

 - 2 A Mississippi trustee is serving.** At least one trustee must be a Mississippi resident or a Mississippi-supervised trust company, and that trustee must do at least one of these here: hold some of the property, keep the records, prepare or arrange the tax returns, or otherwise take a real part in running the trust. You can never be the trustee. If the Mississippi trustee stops qualifying, your named backup takes over automatically.

 - 3 You sign the sworn affidavit first.** Before each transfer, under oath, you state that you own the property, that you will still be solvent, that you have no intent to defraud a creditor, that no lawsuits or proceedings are pending or threatened except those you list, that you are not contemplating bankruptcy, that the property was not derived from unlawful activity, and that you carry the required insurance. No affidavit, no protection. A false affidavit is perjury and destroys the protection anyway.

 - 4 You carry the insurance.** A general liability policy of at least \$1,000,000, plus a professional liability policy of at least \$1,000,000 if your occupation calls for one, with the premiums paid by you, kept in force. If you let the required coverage lapse, any creditor can reach up to \$1,500,000 in the trust. Because one line of the statute calls the required policy an "umbrella" policy, we have every client carry a \$1,000,000 umbrella as well, so there is nothing to argue about.
-

What you keep and what you give up

YOU KEEP

The right to veto any distribution to anyone

The income, if the trust is written that way

Principal when the trustee decides you need it

A fixed amount each year of up to 5 percent of the trust's value

The power to say in your will who gets what is left

The power to remove and replace the trustee and advisors

The job of directing the investments

Reimbursement of the income tax you pay on trust income, if the trustee chooses

Your spouse and children as beneficiaries alongside you

YOU GIVE UP

The right to revoke or change the trust

The right to demand money; you receive what the trustee decides to pay

The right to be trustee or co-trustee

The right to name a relative or employee as replacement trustee

Any side deal or understanding with the trustee about how the money will be used; the statute makes it void

The right to spend the trust on whatever you want, whenever you want

The right column is the price. If you cannot live with it, the trust is not for you, and we will say so.

How you live with the trust

Your money

You keep whatever you did not put in the trust and live on it as before. From the trust, you receive income if the trust is written that way, a fixed annual amount if you chose one, and principal when the trustee decides to pay it. A trustee who never says yes is a trustee you can replace.

Your taxes

Because the trustee may pay income to you, the trust is a “grantor trust”: you report its income on your own return, federal and Mississippi, and the trust pays no tax of its own. That is a benefit; it lets the trust grow without tax drag, and it is not a gift. The trust may reimburse you for that tax if the trustee chooses, but the trust will never require it, because a required reimbursement pulls the whole trust into your taxable estate.

For most clients the trust is built so that the transfer is not a completed gift: no gift tax return, none of your \$15,000,000 federal exemption used, and the assets stay in your estate at death with a fresh income tax basis. A client with a federal estate tax problem can choose the opposite design. We decide that at the planning meeting.

Control

You direct the investments. You can veto any distribution. You can remove the trustee and name another Mississippi trustee or trust company (not a relative or employee). You can say in your will where the trust goes when you die. What you cannot do is take the money back, and that is the point: a creditor can only reach what you can reach.

What changes

- Part of your wealth is titled in the trustee’s name, with a Mississippi custodian.
- You sign an affidavit each time you add to it, and you renew the insurance every year.
- You call us before any lawsuit, business change, or move, so nothing is done that undercuts the protection.

A real-life example

Dr. Avery, a surgeon in Jackson, has \$6,000,000 in investments beyond her home and retirement accounts, and carries \$1,000,000 of malpractice coverage. She creates a Mississippi asset protection trust, names a Ridgeland trust company as trustee and her brother as protector, signs the affidavit, adds a \$1,000,000 umbrella, and funds the trust with \$2,500,000 of investments. She keeps the veto, the power to direct investments, and the power to say in her will who inherits. Four years later a patient's family wins a \$4,000,000 judgment against her, \$3,000,000 above her coverage. The trust was funded years before the surgery, the two-year period has long passed, and the family cannot show she intended to defraud them. The \$2,500,000 in the trust, now grown to \$3,200,000, is safe. She and her family continue to receive distributions from it for the rest of her life.

What a creditor has to do to reach it

A creditor cannot simply garnish the trust or attach its property. The only road is a fraudulent-transfer lawsuit, and the statute makes that road short and steep.

The deadline. Someone you already owed when you made the transfer must sue within two years after the transfer, or within six months after they found out about it (or should have), whichever is later. Because we record the deed and any financing statement, the whole world is treated as knowing on the recording date. Someone whose claim arises after the transfer must sue within two years after the transfer, which means a claim that arises more than two years later is shut out before it begins.

The burden. The creditor must prove, by clear and convincing evidence, that you made the transfer with actual intent to defraud that specific creditor. Not that you were careless, not that you kept a benefit, not that you were a professional with risk: actual intent, aimed at them. Your affidavit, signed while you were solvent with no claims pending, is the answer to that.

Each transfer stands alone. Every contribution has its own two-year clock. Adding money later does not reopen what you put in earlier.

No one else can be sued. The trustee, the advisors, and the lawyer who set the trust up cannot be sued for doing so.

The exceptions. The statute does not shut out four kinds of claims: child support and alimony; a property division or support owed to a spouse you were married to when you made the transfer (someone you marry later is not an exception); a person killed, injured or whose property was damaged before the transfer, by you or someone you are responsible for; and the State of Mississippi. Even those creditors must first get a final judgment that the debt is past due and a court finding that they tried to collect from your other assets or that trying would be pointless. And if you let the insurance lapse, any creditor can reach up to \$1,500,000.

If a creditor wins. The court takes only enough to pay that creditor and its costs. Distributions already made to you or your family in good faith are not clawed back, and the trustee is paid its defense costs from the trust first.

What goes in and what stays out

ASSET	IN THE TRUST?	WHY
Cash, CDs, brokerage accounts	Yes	Moved to a Mississippi custodian in the trustee's name; the core of most trusts
Interests in your LLC, partnership or company	Yes	Assigned to the trustee; the statute expressly protects setting up an entity and contributing it
Mississippi land, rental property, timber	Yes	Deeded to the trustee and recorded, which starts the discovery clock
Your home	No	Use a qualified personal residence trust if you want the home protected; the statute lists no other residence use
IRAs, 401(k)s, pensions	No	Already protected by other law, and cannot be transferred without tax
Property already pledged as collateral	No	The lender's rights come first, and the affidavit requires full title
Money you need to live on	No	Put in only what you can spare; you must remain comfortably solvent
Life insurance	Sometimes	Often better owned by a separate insurance trust; we will tell you
Property in DC, Louisiana or another state	Case by case	Better sold and reinvested through the Mississippi custodian, or held through a Mississippi entity

Most clients fund the trust with a third to a half of their liquid wealth and keep the rest in their own name. The trust is one layer of protection; insurance, an LLC for the business or rentals, and retirement accounts are the others.

Frequently asked questions

Is this legal?

Yes. It is written into the Mississippi Code as the Qualified Disposition in Trust Act, in force since 2014. What is not legal is using it to move property away from a creditor you already owe, and the sworn affidavit is designed to keep that from happening.

I do not live in Mississippi. Can I do this?

The statute does not require you to. A DC or Louisiana resident can create a Mississippi trust with a Mississippi trustee and Mississippi-held assets. The protection is strongest for assets located in Mississippi; if you are sued at home, your home-state court decides whether to honor Mississippi law, and that has not been tested. We recommend it for out-of-state clients only with a Mississippi trust company as trustee and assets that can be held here, and with that caveat understood.

Can I be the trustee?

No. Never. You can direct the investments, veto distributions, and replace the trustee, but you cannot hold the handle.

Can my brother in Mississippi be the trustee?

Yes, if he lives in Mississippi and actually does one of the required jobs here (holds property, keeps records, handles tax returns, or takes a real part in running the trust). Many clients prefer a Mississippi trust company so the record is clean.

Can I get my money back if I need it?

You can receive income and, if the trustee agrees, principal. You cannot demand it. If you think you will need all of it, put in less.

What if I get divorced?

A spouse you were married to when you funded the trust can still reach it for support and property division. A spouse you marry after the transfer cannot, but a prenuptial agreement is still the right tool for that.

What about a lawsuit that is already pending?

The trust will not protect you, the affidavit would be false, and we will not set one up.

Does it protect against a nursing home or Medicaid?

No. Medicaid counts everything the trustee could pay to you. Nursing-home planning uses a different trust; see our Medicaid trust guide.

QUESTIONS, CONTINUED

Does it save taxes?

No. You pay the income tax on the trust's earnings. The usual design uses none of your gift and estate tax exemption and leaves the assets in your estate; a client with a federal estate tax problem can choose a different design that removes them.

What if I file bankruptcy?

Federal law lets a bankruptcy trustee unwind a transfer to a trust like this made within ten years, if it was made to hinder or defraud creditors. A transfer made while solvent, with no claims pending, for ordinary planning reasons is not that, and the affidavit proves it. Do not fund the trust if bankruptcy is on the horizon.

What happens if I let the insurance lapse?

Any creditor can reach up to \$1,500,000 in the trust. Keep the policies in force; we check every year.

Has a Mississippi court ever ruled on one of these?

We have not located a reported Mississippi appellate decision applying the statute. That is common for asset protection statutes and means the law is untested, not that it has failed.

How long does it take?

Most trusts are signed and funded within six to eight weeks, longer if a trust company must open accounts or real estate must be deeded.

How much does it cost?

The trust is quoted at the planning meeting. You also pay the Mississippi trustee's annual fee, the recording fees, and the insurance premiums.

Things this trust does not do

We would rather you hear these from us now than be surprised later.

- It does not protect against debts you already owe or claims already made. That is a fraudulent transfer, and the affidavit forbids it.
- It does not shut out child support, alimony, or a spouse you were married to when you funded it.
- It does not shut out someone you injured before the transfer, or the State of Mississippi.
- It does not protect anything if you let the \$1,000,000 insurance lapse; any creditor can then reach up to \$1,500,000.
- It does not protect against a bankruptcy trustee looking back ten years for a transfer made to hinder creditors.
- It does not guarantee that a court in another state will honor Mississippi law; for a DC or Louisiana resident that question is untested.
- It does not protect against Medicaid's counting rules or a nursing-home spend-down.
- It does not save income tax or, in its usual form, estate tax.
- It does not let you take the money back. You receive what the trust and the trustee allow.
- It does not run itself. Each contribution needs an affidavit, the insurance needs renewing, and the trustee must keep doing its Mississippi work, every year.

Why families choose Trusted Plan Lawyers

A real Mississippi lawyer, start to finish. Brad Williams has practiced in Mississippi for more than twenty years and personally designs and reviews every trust.

One flat fee. The asset protection trust is quoted at your planning meeting and covers the trust, the sworn affidavit for the initial funding, the deed for Mississippi real estate, and written funding instructions. No hourly bills.

Plain English. You will understand every page before you sign, including what the trust does not do.

Fast without rushing. Most trusts are signed and funded within six to eight weeks.

A partner for life. We review the insurance and the trustee's compliance with you every year.

Ready to protect what you have built? Call (844) 544-PLAN or visit trustedplan.com to schedule a planning meeting.

Your next steps

- 1 **Gather your information.** A list of what you own and what you owe, your insurance declarations pages, and any letter, claim or lawsuit you have received. We will send you a one-page checklist.
 - 2 **Think about your trustee.** A Mississippi trust company, or a person who lives in Mississippi and will actually do the work? Who is your backup?
 - 3 **Think about how much.** What can you set aside and still live comfortably, with a margin?
 - 4 **Come to your planning meeting.** We will go through the affidavit questions with you honestly and tell you plainly whether this trust is the right fit.
-



Trusted Plan Lawyers, LLC
(844) 544-PLAN · www.trustedplan.com

This guide is general information for our clients. It is not legal advice for your specific situation until we have met and reviewed your facts. The rules described are those of the Mississippi Qualified Disposition in Trust Act, the federal Bankruptcy Code, and the Internal Revenue Code as of 2026, and they change from time to time.
