

THE HOME PROTECTION TRUST™

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**Timothy P. Crawford past Board Member and Current Member of the
National Academy of Elder Law Attorneys**

*** Attorney Timothy P. Crawford has
been Board Certified as an Elder
Law Attorney by the National Elder
Law Foundation which has been
approved as the Sole Certifying
Organization for Elder Law Attorneys
by The American Bar Association**

This pamphlet is issued to inform, not to advise. This pamphlet is not intended to render specific legal advice. For specific legal advice, see Attorney Timothy P. Crawford.

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A Home Protection Trust™ can best be understood by considering it as a combination of estate planning and nursing home protection planning. Your estate gets put in order so after death your assets avoid a lengthy and expensive court process known as probate (generally \$4,000 or more), but you also get protection from the nursing home during your lifetime. The home you place into the Home Protection Trust™ isn't forced to be spent on your nursing home care, and after you die those assets go to the beneficiaries you want, without going through probate court.

The reason this kind of Trust protects assets is because it is an irrevocable trust. Despite being an irrevocable trust, this Trust can in fact be changed or amended, but there are additional requirements to do so.

How Is A Home Protection Trust™ Created?

A Home Protection Trust™ is a document that acts like a bucket. You put your home inside the bucket, you appoint someone to watch over the bucket (i.e. a Trustee), and you say who gets what is in the bucket after your death. With this kind of Trust, you or your spouse will NOT be the trustee. Instead, you will appoint someone else, usually a child, a relative, or friend. You will have the right to live in the home.

After you have named the parties to your Trust, and have signed it, the next step is for you to put your home into your Trust. You will not put every piece of property in this Trust. You generally put your home into this Trust and nothing else. The bank account you use for gas and groceries does not go into this trust. If you have financial assets (e.g. stocks, bonds, mutual funds, or rental properties) we put those into a different kind of asset protection trust. In that situation, we would use an Income Only Asset Protection Trust or a Financial Asset Protection, depending on whether you want the income from the assets. So, there are times when you will want more than one asset protection trust.

What About Taxes?

In our Home Protection Trust™, we add in special tax features. We do this so you can still deduct your property tax bill, deduct your mortgage interest, and sell the home tax free under Section 121 of the Internal Revenue Code. The Trust can also help reduce estate taxes, although these days most people do not have an estate tax problem.

What If I Sell The Home When It Is Inside The Home Protection Trust™?

There will be very little difference from what happens when you sell your home when it is still in your name. The main difference is your Trustee will sign the paperwork now, not you. Proceeds from the sale are deposited inside the Trust, and then the proceeds are generally used to purchase another home or condo. The proceeds from the sale are protected, just like the home that was sold, and the new real estate purchased will also be protected.

Why Don't I Just Put My Home In My Daughter's Name?

This is a horrible idea, but one we hear frequently. The problem with this approach is if your daughter goes bankrupt, gets divorced, dies prematurely, or gets sued, you are at risk of losing your home! Making matters worse, if you put the home in your daughter's name, your daughter will have an unnecessary tax bill after you die.

That is because any capital gain your home had will now pass on to your daughter, but if your home is in our Home Protection Trust™, that capital gain gets erased (i.e. “stepped up”) after you pass away. Thus, putting the home in your daughter's name is bad both for purposes of risk management and for taxes. The Home Protection Trust™ works so well because your daughter does not own the home—so we don't have to worry about bankruptcy, divorce, lawsuits, or unexpected death—but you also don't own the home for purposes of the nursing home. Instead, the Trust owns it and you have the right to live in the home, paying taxes, insurance, and utilities just like before.

How Much Do Nursing Homes Cost?

A good estimate for nursing home costs in Southeastern Wisconsin is right around \$100,000 per year. Some nursing homes are cheaper. Some are more expensive. Assisted living facilities are generally cheaper than a nursing home. Also note that at the time of writing this, the average stay in a nursing home is just under three years, but that is just the average. It is not uncommon for people to go into a nursing home for a much longer period.

What Is A Certified Elder Law Attorney?

Less than 20 attorneys from the state of Wisconsin have passed the national exam out of over 800 Elder Law Attorneys that we have in the state of Wisconsin.

Attorney Timothy P. Crawford was the first Attorney to have passed the exam to become **Board Certified**. He has been **Nationally Board Certified** as an **Elder Law Attorney** by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

What Is Your Next Step?

To get more information concerning the above, call for your free conference. Please call Attorney Timothy P. Crawford at 262-634-6659. We have offices located in Brookfield, Glendale, Milwaukee, Oak Creek and Racine.

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