

**386.622 Arrangement between spouses involving community property considered a community property trust -- Requirements for -- Provisions of written agreement -- Amendment or revocation of trust -- Consideration not required -
- Classification and distribution of property.**

- (1) Any arrangement between spouses involving community property shall be considered a community property trust if one (1) or both spouses transfer property to a trust that:
 - (a) Expressly declares that the trust is a Kentucky community property trust that meets the requirements of KRS 386.620 to 386.624;
 - (b) Has at least one (1) trustee who is a qualified trustee whose powers include or are limited to maintaining records for the trust, on an exclusive or a nonexclusive basis, and preparing or arranging for the preparation of, on an exclusive or a nonexclusive basis, any income tax returns that must be filed by the trust. Both spouses or either spouse may be a trustee;
 - (c) Is signed by both spouses; and
 - (d) Contains the following language in capital letters at the beginning of the trust:

THE CONSEQUENCES OF THIS TRUST MAY BE VERY EXTENSIVE, INCLUDING BUT NOT LIMITED TO YOUR RIGHTS WITH YOUR SPOUSE BOTH DURING THE COURSE OF YOUR MARRIAGE AND AT THE TIME OF A DIVORCE. ACCORDINGLY, THIS AGREEMENT SHOULD ONLY BE SIGNED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS AGREEMENT, YOU SHOULD SEEK COMPETENT ADVICE.
- (2) In the agreement establishing a community property trust, spouses may agree on and provide in writing:
 - (a) The rights and obligations in the property transferred to the trust, notwithstanding when and where the property is acquired or located;
 - (b) The management and control of the property transferred to the trust;
 - (c) The disposition of the property transferred to the trust on dissolution, death, or the occurrence or nonoccurrence of another event;
 - (d) The choice of law governing the interpretation of the trust; and
 - (e) Any other matter that affects the property transferred to the trust and does not violate public policy or any statute imposing a criminal penalty.
- (3) Either spouse may amend a community property trust regarding the disposition of that spouse's one-half (1/2) share of the community property in the event of a spouse's death.
- (4) Except as provided in subsection (2)(a) of this section, a community property trust may not be amended or revoked unless the agreement itself provides for amendment or revocation.
- (5) Whether or not both, one (1), or neither spouse is domiciled in this state, spouses may classify any or all of their property as community property by transferring property to a community property trust and providing in the trust that the property is

community property.

- (6) A community property trust shall be enforceable without consideration.
- (7) All property owned by a community property trust shall be considered community property during marriage and the right to manage and control property that is transferred to a community property trust shall be determined by the terms of the trust.
- (8) When property is distributed from a community property trust, it shall no longer constitute community property.

Effective: July 15, 2020

History: Created 2020 Ky. Acts ch. 25, sec. 2, effective July 15, 2020.