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North Carolina Telephone: (704) 944-3245  
[www.potterestateplanning.com](http://www.potterestateplanning.com)

# BEWARE OF LIVING TRUST SCARE TACTICS!





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## ABOUT THE FIRM

**THE POTTER LAW FIRM** is devoted exclusively to estate planning and elder law. We are members of the American Academy of Estate Planning Attorneys. We offer quality guidance and advice to our clients in every area of estate planning.

If you have a well-drafted estate plan in place, you'll ensure that your estate passes to whom you want, when you want, and is carried out in the manner you've chosen. You can rest assured that your family won't have to endure the public process and costly matter of probate. You need to be aware of the many options that exist in estate planning—and choose your attorney wisely.

We provide comprehensive, tailored estate planning services to meet all of our clients' needs. Below is a sampling of the type of services we offer. If you have questions about any of our services, please do not hesitate to contact us at **(704) 944-3245 (NC) or (606) 324-5516 (KY)**.

**Wills.** Prepare a Will or other document to outline your wishes.

**Revocable Living Trust.** Prepare comprehensive, customized plans according to your needs.

**Special Needs and Divorce Protection.** Protect loved ones and get informed advice on these important estate planning issues.

**Asset Protection.** Receive guidance on protecting your legacy.

**Retirement Planning.** Ensure that your tax-deferred accounts are properly structured to give your family the greatest tax advantages possible.

**Long-Term Health Care.** Make sure you have properly outlined necessary health care instructions.

**Creditor Protection.** Find out how you can protect your estate and your heirs.

**Structured Buy-Out Plans.** The plan you create for your children to sell or distribute land and assets.

**Trust Administration.** Distributing your estate after the first and second spouses pass away according to the way your Trust dictates.

**Advanced Planning.** Get assistance with matters such as Family Limited Partnerships, Irrevocable Life Insurance Trusts, Charitable Remainder Trusts and Business Succession Planning.

**Probate Assistance.** Get the assistance you need when someone with or without a Will passes away.

**Updating Documents.** Ensure that your affairs are in order with regular estate reviews. Amend or restate your existing estate plan to ensure its effectiveness.

**Tax Planning.** Preserve your wealth and reduce taxes with proper planning

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## CONTACT US



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## BEWARE OF LIVING TRUST SCARE TACTICS

While most people know they should have some sort of estate plan in place, many procrastinate because they don't want to undertake the process of creating one. Some are concerned about the expense and most worry about choosing an option that will accomplish their wishes as they intended. Sometimes it seems as if no plan is better than falling prey to the wrong plan. There is so much conflicting information regarding estate planning options, it's difficult to know whom to trust.

Some so-called authorities have scared the public into believing that certain estate planning tools are all bad or all good in order to promote their own cure-all methods. While most people realize that few things fall into such black and white categories, don't be fooled by self-appointed experts who espouse such extreme beliefs as:

### DO NOT FALL FOR THESE MYTHS!

- Living Trusts are always bad or always good
- The sale of Living Trusts is the scam of the decade
- Living Trusts unnecessarily expose your home, retirement accounts, insurance and other exempt assets to creditors
- Living Trusts increase rather than decrease taxes and delays
- Living Trusts are more expensive and time-consuming than probate
- Courts are declaring Living Trusts invalid
- A Living Trust, unlike a will, is open to challenge and creditors' claims for years

On the other hand, you must also watch out for salespeople who proclaim that a Living Trust is the indisputable solution to every person's estate planning needs. While a Living Trust can be an effective tool, it may not be right for everyone. Be especially wary of trust mills that aggressively promote cheap trusts that seem too good to be true – they are!

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## HOW YOU CAN PROTECT YOURSELF

It is crucial to make sure you are working with a legitimate estate planning firm rather than an impostor trust mill. The following list can help you tell the difference.

### ALWAYS BE ALERT FOR THE FOLLOWING

- **Non-attorneys giving legal advice.** Only a licensed attorney has the experience and expertise to provide the legal advice necessary to achieve your goals. There are important reasons it is unlawful for non-attorneys to provide legal advice.
- **Going through the entire trust process without ever actually meeting with an attorney licensed in your state.** Estate planning laws vary from state to state so it is important to know that you are dealing with a qualified attorney who is well-versed in local laws.

- **Cheap trusts.** Remember, you get what you pay for! It can take substantial amounts of time and energy to prepare a proper estate plan that meets all of your needs. That kind of care and investment costs more in the short term but can save you and your family immense heartache, aggravation and expense in the long run.
- **Your own instincts.** Gut feelings exist for a reason – don't ignore them! Trust your instincts and if you have any doubts, don't be afraid to check with your state's bar association for past complaints against your attorney.

There are many reasons to create an estate plan, many of which you may not have ever considered. The list below provides a variety of examples of why it is vital to have a proper estate plan in place. The only way to know for sure what is right for you and your family is to discuss your options with a qualified estate planning attorney. Our office can help you determine what your needs are and which tools will best fit those needs.

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## 15 MOST COMMON REASONS TO DO ESTATE PLANNING

1. Designate who will manage your affairs if you become disabled and when you pass away.
2. Plan for Medicaid and its impact on your estate if you must go into a nursing home.
3. Avoid guardianship/ conservatorship, during your lifetime and probate when you pass away.
4. Protect children from a prior marriage if you pass away first.
5. Protect assets inherited by your heirs from lawsuits, divorces and other claims.
6. Impose discipline upon children (and/or grandchildren) who may not be capable or experienced in managing money.
7. Provide for special needs children and grandchildren.
8. Insure that a specific portion of your estate actually gets to grandchildren, charities, etc.
9. Protect a portion of your estate if you pass away first and your surviving spouse remarries.
10. Address different needs of different children.
11. Prevent or discourage challenges to your estate plan.
12. Reward/encourage heirs who make smart life decisions, and prevent the depletion of your estate by those who do not make smart choices.

- 13.** Assure an education for children/grandchildren, despite what they (or their parents) dream of doing with the inheritance.
- 14.** "Brady-Bunch" family estate planning: assure the step-parent doesn't spend your children's inheritance and/or provide for a spouse by sacrificing the intended legacy for children of a prior marriage
- 15.** Pursue charitable goals you may not otherwise feel you can afford. Considerably cutting probate expenses allows you to also leave a legacy to a charitable organization you admire.

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## ABOUT THE ACADEMY

This report reflects the opinion of the American Academy of Estate Planning Attorneys. It is based on our understanding of national trends and procedures, and is intended only as a simple overview of the basic estate planning issues. We

recommend you do not base your own estate planning on the contents of this Academy Report alone. Review your estate planning goals with a qualified estate planning attorney.



The Academy is a national organization dedicated to promoting excellence in estate planning by providing its exclusive Membership of attorneys with up-to-date research on estate and tax planning, educational materials, and other important resources to empower them to provide superior estate planning services.

The Academy expects Members to have at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides over 40 hours of continuing legal education each year. The Academy has also been recognized as a consumer legal source by *Money Magazine*, *Consumer Reports Money Adviser* and Suze Orman in her book, *9 Steps to Financial Freedom*.

## ADDITIONAL REPORTS

Request any reports of interest to you or your family. Simply call our office at **(704) 944-3245 (NC)** or **(606) 324-5516 (KY)** or visit our website at **[www.PotterEstatePlanning.com](http://www.PotterEstatePlanning.com)**.

- 7 Things to Know Before You Choose A Nursing Home
- A Family Guide on Medicaid Planning: What It Is, How It Works, and Why You Need a Plan
- A Nursing Home Resident's Rights: Ensuring You Get the Care You Deserve
- A Special Child Needs Special Planning
- Aid & Attendance: Special Care Pensions Wartime Veterans
- Are Your Bank Accounts Safe? FDIC Insurance Can Cover You – With the Right Planning
- Asset Protection: Reducing Risk, Promoting Peace of Mind
- Charity Begins at Home: The Charitable Remainder Trust
- Creating a Lasting Legacy: The Best Things in Life Aren't Things
- Dangers of Do-It-Yourself Wills and Living Trusts
- Estate Planning Basics For Families with Young Children
- Estate Planning with Individual Retirement Accounts (IRAs)
- Family Farm: The Next Generation
- Family Wealth Trust: Calculating the Benefits
- Fifteen Common Reasons to Do Estate Planning
- Funeral Planning: Options for You and Your Family
- Getting the Most Out of Your Life Insurance: The Irrevocable Life Insurance Trust
- Grandparents' Guide to Second Generation Planning
- Keeping Up with the Ever Changing Estate Tax
- Living Trusts: Calculating the Benefits
- Living with ALS: A Legal and Financial Resource Guide
- Living with Alzheimer's: A Legal and Financial Resource Guide
- Paying for Nursing Home care: A Guide to Medicaid Planning
- Peace of Mind: Planning for All Of Life's Contingencies
- Plan Today for a Secure Tomorrow: The Benefits of Medicaid Planning with An Income-Only Trust
- Planning It Right The Second Time Around
- Probate: A Process, Not a Problem
- Probate: An Executor's Role and Responsibilities
- Protecting Your Assets with the Family Limited Partnership
- Protecting Your Assets with the Limited Liability Company
- Putting on the Brakes: How To Help Older Drivers Make Safe Driving Decisions
- Should You Trust Your Estate Plan – Estate Plan Reviews Ensure Protection for Your Family and Assets
- Special Valuation Benefits for Farms and Other Business Real Property
- The Impact of Divorce on Your Estate Plan
- The Nightmare of Living Probate
- The Trouble with Joint Tenancy
- To My Dog Lucky I Leave \$10,000
- Trust Administration: Prior Planning Prevents Problems
- What Every Senior Should Know About Probate
- Where There's a Will, There's Probate
- Your Life, Your Final Say