

3 STEPS TO CREATE AN INVISIBLE INVESTOR STRATEGY

For Long-Term Buy-and-Hold
Rental Real Estate Investing



INTRODUCTION

When I was growing up, I watched how my father handled his real estate investing. Just like anyone in his position, he was concerned about protecting his assets and rental properties from the liabilities that are often encountered in the rental real estate industry. At that time, he didn't use business entities, but he did approach his business from the point of view that you don't want your tenants knowing how much you have. So, he adopted this approach that, whenever you deal with your tenants or visit your property, appear as if you don't own anything. This way, you don't become an attractive target.

If you are protecting yourself and your real estate correctly, you won't hold any assets in your name. This is what we call a "need to know, not a need to show" basis, or being an invisible investor.

Being an invisible investor is about buying real estate without alerting anyone to the fact that you own it.

Think about it: do you want to sue someone with no assets? You would be hard pressed to even find an attorney to take your case if the person you were suing had, or appeared to have, no assets. Why? Because attorneys usually get paid based on what they collect. As an attorney myself, I know that the ideal client is suing someone with a lot of easily-discoverable assets.

This is exactly what this ebook is about: how to appear as if you have nothing so you are completely undesirable as a lawsuit target. We will discuss how to protect your current and future assets with strategies that include how to take your name off title and buying real estate and owning assets anonymously.

Many times, the attorneys at Anderson Business Advisors tell people that, although they may have a competent local attorney, a Certified Public Accountant (CPA), or a mortgage broker who understands taxes, the real question is: do they understand real estate investing, especially from an anonymity compliant standpoint?

More likely than not, they are not personally or professionally familiar with these strategies. But, at Anderson Advisors, this is what we do. All of our partner attorneys are real estate investors themselves and the strategies you will find within the pages of this ebook are the exact same strategies they use to protect their own investment properties.

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PROTECTING YOURSELF FROM LAWSUITS

The greatest mistake that people make when it comes to asset protection for real estate is not understanding the risks that are out there waiting for them. If you go to a local attorney or CPA, they'll tell you to load up on insurance, or that risks don't really exist when it comes to real estate investing. They may even tell you, "Hey, I've been working with real estate investors for 10 years and I've never once seen one sued."

Just because they haven't experienced it, doesn't mean it can't happen. I hear it all the time: someone says their local attorney told them they didn't need any protection for their rental real estate because all they needed was more insurance, and doing any additional planning was just a waste of money because they hadn't seen many cases involving real estate investors being sued by their tenants.

Just because they haven't seen the risk doesn't mean it doesn't exist. Asset protection is a part of real estate investing; if you don't put any protection in place, you do so at your own peril. It only takes one lawsuit, and when it hits, the question then becomes:

Do I have enough protection?

I've had clients without any protection and clients with adequate protection, and there's a different mindset between these two groups. Among the people who don't have protection, the number-one complaint is: *I wish I would've done this when I set it up.*

The fact of the matter is: you're completely exposed when that lawsuit lands and there's nothing anyone can do for you at that point. This is because, after you've been sued, anything done could be considered a fraudulent transfer and undone by the court. The reason action could be considered fraudulent at that point is because you would be under a foreseeable risk of loss (meaning you could lose some assets) in the event of that lawsuit or at the conclusion of that lawsuit.

Asset protection is important and you need to plan if you're a real estate investor.

The next aspect you want to look at is making sure you receive the right information. When I say "right information," I'm not just talking about accurate information. I'm referring to *relevant* information that actually pertains to your business. As I mentioned before, Anderson Advisors is full of active real estate investors: we flip property. What we provide is not only accurate but *relevant* information.

The difference between "accurate" and "relevant" information involves examining your situation and determining what you need, not only from the tax and asset protection perspectives, but also from the business perspective. It takes a professional who actually understands your business to give you this type of advice.

Too many people out there on the internet will tell you the *how* when it comes to real estate asset protection, but then don't explain the *why*. And many times, it's because they themselves do not fully understand. At Anderson Advisors, we work with real estate investors just like you. This is what we do day in and day out. We have a team of professionals consisting of attorneys, tax attorneys, CPAs, and financial planners who focus on creating comprehensive plans for real estate investors to make sure their structures are not only accurate, but also relevant to their businesses.

In this ebook, I'm going to cover the five steps to creating an optimal, invisible real estate investing strategy for the long-term buy-and-hold real estate investor.



STEP 1: CHOOSE THE RIGHT ENTITY FOR YOUR RENTAL REAL ESTATE PROPERTY

If you're considering buying and holding real estate, then you're probably already aware that the limited liability company is the best choice for holding that real estate. The LLC is very popular because it offers certain benefits when you utilize it for your real estate investing.

The primary reason to use limited liability companies for holding real estate long-term is that LLCs provide two forms of liability protection: inside and outside protection. These protection levels are unique to limited liability companies and limited partnerships. Corporations do not offer these types of protection.

INSIDE PROTECTION

The type of protection that most people are concerned about when creating limited liability companies is when something happens on the inside of this company. You want to make sure that, if your tenants sue you, you won't be held personally liable for the tenants' claim against the LLC, or as a result of the property creating the harm. That's really why you box up your property in an LLC.

Generally speaking, across all 50 states, when you set up a limited liability company properly (i.e., you have an operating agreement, a bank account, and run it correctly), this company should protect you from the liabilities associated with the asset inside it.

Thus, if a tenant were to bring an action against your LLC, the liability and the lawsuit will stay inside the box, and only the LLC's assets can be used to pay the tenant's claim.

OUTSIDE PROTECTION

Inside protection is pretty uniform, but the other benefit an LLC provides is called outside protection, which protects against things that happen outside the LLC. What we're concerned about with outside protection is not the property creating the harm, but rather you personally creating the harm.

Let's say you're found at fault in a car accident and subsequently are sued. A judgment could take your vehicle, the cash in your personal bank accounts, etc. If you have business interests within limited liability companies, the question then becomes: can they take those interests from you?



This is where states vary in their approach to asset protection. Some states offer what are known as charging order protections. This means that, if someone sues you individually and obtains a judgment against you, the only settlement they're entitled to is a charging order against your ownership interest.

In layman's terms, it's quite simple. If any money is distributed from the LLC to you (because, as the owner, you're entitled to distributions), and there is an outside creditor, then those distributions must be paid to your creditor until the judgment is paid off.

Other states go one step further. They will allow a creditor to go beyond the charging order and basically take your entire interest away from you. So now, you end up losing your LLC and the creditor becomes the new owner. This is what we refer to as a foreclosure action. It's important to understand, then, which states offer charging order protections and allow foreclosure actions so you are aware of the risks and benefits to you before setting up your LLC in a particular state.

SUMMARY

When you're creating LLCs for real estate, do so for both inside and outside asset protection. All states provide inside protection, but only certain states provide outside protection.

From an asset protection standpoint, LLCs are great for holding property long-term because they provide protection from what happens inside the box, and in certain cases, they can also provide protection from what happens outside the box.

**LEARN MORE ABOUT
CHARGING ORDER
PROTECTIONS**



bit.ly/ChargingOrder

STEP 2: SET UP YOUR REAL ESTATE RENTAL PROPERTY ENTITIES

The burning question many real estate investors ask is, “Where do I create the LLC that’s going to hold my rental real estate?” It’s easier than you think. Always create the LLC in the state where the property is located. This is the general rule to follow because the LLC will conduct business in the state where the property is located.

The problem is: an LLC by itself does not guarantee you anonymity protection because you, the manager or member of the LLC, could end up listed on that particular state’s Secretary of State website. That’s not a very good foundation for an invisible investor strategy, especially for real estate investors who own multiple entities. If someone ran your name through the Secretary of State’s website, they could see all the businesses you own and make the assumption that you’re very successful at what you do.

The best structure is one where, when you file an entity in the state wherein you already own or are purchasing property, your personal information isn’t listed on the Secretary of State’s website. Now, this begins with an anonymity compliant limited liability company. This means creating an LLC within a state that doesn’t require listing your personal information so your privacy is protected.

USING A NOMINEE FOR ASSET PROTECTION

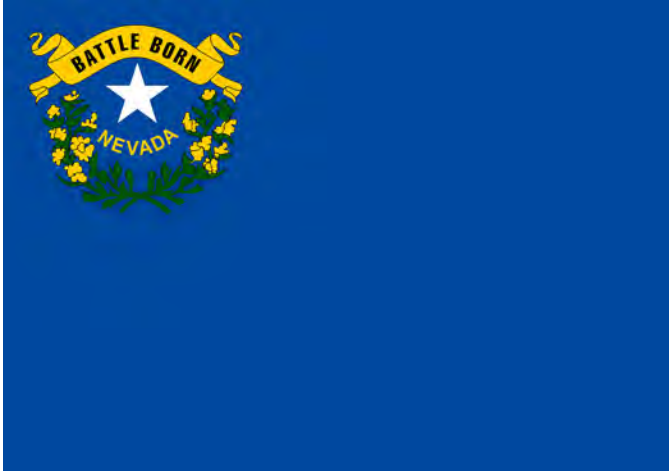
If you’re an investor who is planning to purchase property across multiple states, begin with creating a Nevada or Wyoming LLC. Not only do these states top the list as the best states for asset protection, they also allow the use of a nominee.

A nominee is someone who serves as your initial manager for filing purposes only, so your personal information is not disclosed with the Secretary of State. Once the entity is filed, this person then resigns and you are privately appointed as the new manager of your LLC. If anyone were to look up your LLC on the Secretary of State’s website, they wouldn’t see your name. They would only see your nominee’s

name instead. This LLC with nominee protection becomes the base of your overall structure.

At Anderson Business Advisors, we use A.T. Mathis as our nominee. Mr. Mathis is an attorney with our firm and has been acting as the nominee for our clients for over 20 years. As a result, there are around 15,000 entities filed with his name on them. That is a lot of people utilizing this asset protection technique throughout the country.

A.T. Mathis is listed as your LLC’s initial manager for filing purposes only, and then after it’s filed, he resigns and you become the undisclosed manager. If anyone looks at the Secretary of State’s website, all they’re going to see is A.T. Mathis; they’ll never see you because there’s a wall between A.T. Mathis and you. His resignation after filing is private; it’s only recorded within your personal documents.



ESTABLISHING A HOLDING COMPANY FOR PROPERTIES

Now, many people falsely assume that this type of structure can carry over into the state where they plan to purchase property. Remember: you want an LLC in the state where the property is located because it must be registered within the state where business is being conducted.

So, when you register that Nevada or Wyoming LLC in the state where the property is located, you have to list who the current manager of the property or the LLC is, and that is you. Now, you've just blown your anonymity; it's all gone. So how do you avoid falling into this trap?

At Anderson Advisors, we help protect people from this trap through anonymity shields that protect their assets by utilizing the laws of Nevada and Wyoming in a way that is unfamiliar to most local attorneys.



Here's how it works: first, you have to start with an anonymity protected entity, like a Wyoming LLC, which utilizes a nominee manager. Oftentimes, this is called a holding LLC because it's going to hold other business interests.

This LLC can wear many different hats and do many different things for you. One, it can be your bank. Two, it can be the holding entity for your various business interests while providing anonymity. To do that, you use A.T. Mathis as your nominee manager, and the Wyoming holding LLC as your member.

Next, you list the Wyoming LLC's name on the Secretary of State filing for the property LLC within the state the real estate is located. When someone (like a potential creditor) asks, "Who's associated with this LLC?," they'll be pointed to the local LLC's listing on the Secretary of State's website. Then, when they look at this entity, it will point them to the Wyoming holding LLC, which won't list anyone other than your nominee manager, A.T. Mathis.

Congratulations! You've just maintained your anonymity shield.

STEP 3: USE A LAND TRUST WITH YOUR RENTAL LLC

Now you may be asking yourself, how is a land trust going to help me, a real estate investor? The answer lies in why the land trust was created, and why it's perfectly legal. It's basically a compromise between two opposing forces. On one side is the bank, which is interested in generating income from loans and, at the same time, protecting itself through a security interest in real property. On the other side is the borrower, the real property owner, who desires to transfer title to his property without fear of foreclosure or forced refinancing. The bank acts as the antagonist by incorporating a due-on-sale clause into most, if not all, mortgages it writes.

AVOIDING THE DUE-ON-SALE CLAUSE

The due-on-sale clause essentially means that the bank can decide to call in or accelerate its loan if the property's title is ever transferred to another person or entity. This is important to real estate investors who desire asset protection or freedom of contract. If an investor wants to purchase property from a distressed seller subject to an existing mortgage, or to transfer three properties into a limited liability company for asset protection, he or she does so at the risk of the lender discovering the transfers and subsequently accelerating the loan balance repayments on the properties. Many investors are troubled by this potential outcome, and thus elect to not protect their encumbered investment real estate.

Anderson Business Advisors has worked with thousands of investors over the years and we have only seen one or two instances where the bank used the due-on-sale clause to force a person to refinance their loan. In these instances, the problem was simply that the owner was behind on his payments. But the due-on-sale clause has more ramifications than refinancing.

SUMMARY

Even though the Garn St. Germain Act stops banks from accelerating your mortgage, it does not prevent them from charging a title transfer fee if you deed your property into a trust. Before signing a mortgage, be on the lookout for this sneaky provision that could cost you money if you deed your property into a trust.

GARN ST. GERMAIN ACT

The nightmarish scenario of forced refinancing is averted through the Garn St. Germain Act. This 1982 legislation had many goals, including making home mortgages available to a large number of people. The Garn St. Germain Act addressed the basic conflict between homeowners looking to protect their assets and the bank's insistence that homeowners buy properties in their own names. It prevents lenders from enforcing the due-on-sale clause when residential properties are transferred into a revocable trust, and there is no change to the rights of the occupants. The keyword here is *revocable*. Remember that a land trust is really a revocable land trust that, as such, is covered under the Act.

Thus, under the Garn St. Germain Act, an investor can create a land trust to hold title to his rental real estate without fear of his lender calling the mortgage due and payable. Once the property is held by the land trust, an investor has the flexibility to assign his beneficial interest in the trust to a limited liability company or another purchaser without alerting any third parties to the fact that a transfer occurred. However, there are limits to the Garn St. Germain Act. If you have a property with more than four housing units, or a loan that is not federally backed, then the Garn St. Germain Act does not apply.

CONCLUSION

While a land trust is a valuable tool, it doesn't provide help on your tax returns or in the event of an actual lawsuit. This is where business entities come in. You don't have to be a millionaire to set up a business entity, but you do need to know which entity is appropriate for your given business.

As you can see, there are plenty of different ways you can use entities and trusts for your long-term real estate investing. The most important thing to know is that, by utilizing trusts in the appropriate manner with LLCs, especially in anonymity compliant states, you can protect your identity. If these entities are set up properly, you can ensure your assets remain protected from prying eyes.

I tried to break this process down as simply as possible, but there are still a lot more tools, techniques, and services available. At Anderson Advisors, we make it our number one goal to ensure that our clients' assets are protected from creditors and other threats, so we invite you to learn more about which entities work best for your personal, individualized situation. Schedule a FREE 30-minute strategy session today with an Anderson Senior Advisor at <http://www.AndersonAdvisors.com>.

Or, check out our Tax & Asset Protection Workshop, a three-day seminar featuring Anderson Advisors' partner attorneys, held monthly at the Anderson Event Center in Las Vegas. See the upcoming dates here: <https://andersonadvisors.com/ap>.

The key is to keep more of what you earn, and Anderson Advisors is here to help you do just that. If you're ready to get started right now, become an Anderson Platinum member today.



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As a Platinum member, you'll have full access to our firm's resources for a low flat rate of \$35 a month (plus a one-time sign-up fee) as long as you want to maintain that service. Together, you and your Anderson Senior Advisor will assess your current and potential assets and liabilities through our exclusive Risk Reduction Formula, which allows us to accurately and relevantly design a personalized blueprint for your real estate investing business.

And, if you're still not convinced that a Platinum membership is right for you:

- How would you like to have full access to a law firm that also has CPAs, bookkeepers, and a tax team working exclusively with real estate investors?
- How would you like to receive a visual asset protection plan with an explanation of which entities you should use and which ones to avoid in order to best protect your assets and reduce your taxes?
- How would you like to get your questions answered by a CPA or attorney as you need them, without worrying about getting billed on an hourly basis?

At the end of the day, we want to make sure that you're receiving the information you need to help you achieve your asset protection, tax reduction, and estate planning goals. Take the time right now to sign up for our Platinum membership, and start taking advantage of all of the amazing services available today.

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