

## *STANDBY TRUST*

### **WHAT IS A STANDBY TRUST?**

A standby trust is created to manage your property when you do not want to manage or cannot manage your assets because of disability.

### **WHY IS IT IMPORTANT TO HAVE A STANDBY TRUST ON DISABILITY?**

It is important to have a standby trust on your disability because at that time there is usually no one with the authority to act for you. Therefore, it may be necessary to obtain a guardianship for you. This is a very expensive and time consuming process which may be avoided by having a standby trust.

### **WILL A POWER OF ATTORNEY ACCOMPLISH THE SAME THING?**

Not always. If you have given someone a durable power of attorney, that person may act for you. However, even though the legislature has attempted to address the problem, there is a long history of individuals and institutions, such as, banks and title companies, refusing to accept powers of attorney. This is usually not a problem when a trust is involved. Also, a trust provides a much more organized way to administer the property.

### **HOW DOES A STANDBY TRUST WORK?**

When the trust is activated, for example, on your disability, the trustee manages your property and makes investments where required. The income and corpus of the trust are used by the trustee to pay your bills and otherwise take care of you.

### **WHAT ARE THE MECHANICS OF THE USE OF THE TRUST?**

The trust is created by your lawyer. You will then execute it, and you will put a small amount, \$100, into it. The trust then stays dormant until it is needed. Then when you direct or when you become incapacitated, the trustee puts your assets into it using a power of attorney. When you are ready or able to manage the property again, you can get the property back from the trustee.

### **WHAT IS THE ADVANTAGE OF A STANDBY TRUST OVER A LIVING TRUST?**

The advantage is that the trust does not begin operating until you want it to begin, or you are incapacitated. The living trust must be started right away. So, the standby trust saves you the inconvenience of operating it between its creation and the time it is actually needed.

### **HOW CAN ADDITIONAL INFORMATION ABOUT THE STANDBY TRUST BE OBTAINED?**

If you would like additional information, please do not hesitate to contact us.