

**614.14 Real estate interest transferred by trustee.**

1. If an interest in real estate is held of record by a trustee, a bona fide purchaser acquires all rights in the real estate which the trustee and the beneficiary of the trust had and any rights of persons claiming by, through or under them, free of any adverse claim including but not limited to claims arising under section 561.13 or claims relating to an interest in real estate arising under section 633.238.

2. A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim, who has relied on a current, recorded affidavit in substantially the following form delivered to the purchaser:

[Individual trustee]

Affidavit in re

[insert legal description]

I, ....., being first duly sworn and under oath state of my personal knowledge that:

1. I am the trustee under the trust dated ....., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... (month), ..... (year), recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. I am the presently existing trustee under the trust and am authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever.

3. The trust is in existence and I as trustee am authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....

[signature of affiant]

Sworn to and subscribed before me by ..... on this ..... day of ..... (month), ..... (year)

.....

[Notary Public in and for the State of .....]

[Corporate trustee]

Affidavit in re

[insert legal description]

I, ....., being first duly sworn and under oath state of my personal knowledge that:

1. .... is the trustee under the trust dated ....., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ..... (month), ..... (year), recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. .... is the presently existing trustee under the trust and is authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever, and I am ..... [officer] of the corporate trustee.

3. The trust is in existence and ..... as trustee is authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....

[signature of affiant]

Sworn to and subscribed before me by ....., on this ..... day of ..... (month), ..... (year)

.....  
[Notary Public in and for the State of .....]

3. As used in this section, “adverse claim” includes a claim that a transfer was or would be wrongful, a claim that a particular adverse person is the owner of or has an interest in the real estate, and a claim that would be disclosed by the examination of any document not of record.

4. Unless clearly provided to the contrary by the instrument of transfer to a purchaser, a trustee transferring an interest in real estate warrants to the transferee all of the following:

- a. That the trust pursuant to which the transfer is made is duly executed and in existence.
- b. That, to the knowledge of the trustee, the person creating the trust was under no disability or infirmity at the time the trust was created.
- c. That the transfer by the trustee to the purchaser is effective and rightful.
- d. That the trustee knows of no facts or legal claims which might impair the validity of the trust or the validity of the transfer.

5. a. A person holding an adverse claim arising or existing prior to January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not file an action to enforce such claim after December 31, 2010, at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate.

b. An action based upon an adverse claim arising on or after January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not be maintained either at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate, legal or equitable, more than one year after the date of recording of the instrument from which such claim may arise.

6. An interest in real estate held of record at any time by a trust shall be deemed to be held of record by the trustee of such trust.

7. This section shall not be construed to limit any personal action against the trustee or purported trustee.

[S13, §3447; C24, 27, 31, 35, 39, §11021; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.14]

91 Acts, ch 183, §33; 92 Acts, ch 1014, §1, 2; 92 Acts, ch 1163, §115; 99 Acts, ch 56, §1; 2000 Acts, ch 1058, §65; 2008 Acts, ch 1119, §12, 13, 39; 2009 Acts, ch 52, §1, 14

Referred to in §614.16

[SP] 2009 amendment to subsection 6 applies retroactively to all trusts in existence on or after July 1, 1999; 2009 Acts, ch 52, §14