Addendum Module — Illinois (IL)

Brand: AnchorPointTrusts

Product Tier: $2,500 document-preparation package

Classification: DRAFT — Layer 2, for Layer 3 attorney-council review

Anchor State: Illinois (Track A anchor)

Governing anchor: Illinois Uniform Trust Code (760 ILCS 3/)

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1. Execution Requirements

Under Illinois law, a trust is created by:

(a) The settlor signing a written declaration of trust; or

(b) The settlor transferring property to a trustee under a written instrument signed by the settlor.

Illinois Trust Code (760 ILCS 3/101): A trust is created by a written instrument signed by the settlor or by the settlor's execution of a declaration of trust.

Execution formalities:

- The trust instrument must be in writing.
- The settlor must sign the instrument, or the settlor's agent must sign in the settlor's presence and by the settlor's direction.
- No notary or witness is strictly required for trust creation under Illinois law. However, notarization of the trust instrument is standard practice and strongly recommended to facilitate real-property transfers and third-party acceptance.
- A trust created by oral agreement is valid only in limited circumstances (e.g., a trust arising by operation of law); the kit assumes written instruments only.

Citation: 760 ILCS 3/101 (Creation of trust); 760 ILCS 3/102 (Execution).

> UPL Note — Illinois Trust Creation Warning: Under Illinois law, the creation and validity of a trust are governed by the Illinois Uniform Trust Code (760 ILCS 3/101 et seq.). The trust instrument must comply with the statutory requirements of the Illinois Trust Code. [ATTORNEY-CONFIRM: Verify that the trust instrument complies with the Illinois Trust Code before using this template.]
>
> UPL Note — Illinois Trust Creation Warning: Under Illinois law, the creation and validity of a trust are governed by the Illinois Uniform Trust Code (760 ILCS 3/101 et seq.). The trust instrument must comply with the statutory requirements of the Illinois Trust Code. [ATTORNEY-CONFIRM: Verify that the trust instrument complies with the Illinois Trust Code before using this template.]
>
> Governing-Law Override Warning (760 ILCS 3/107(b)): Illinois law governs the validity, construction, and administration of this Trust while the principal place of administration remains in Illinois, regardless of any governing-law clause in the Trust Agreement. A client selecting Illinois as situs should understand that the Trust Agreement's governing-law designation may be overridden while Illinois remains the place of administration. [ATTORNEY-CONFIRM: Verify the client's situs choice against their governing-law intent before assembly.]

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2. Notarization and Witness Requirements

Notarization:

- Illinois law does not require notarization for the creation of a trust (760 ILCS 3/101). However, the Certificate of Trust under the Illinois Trust Code may be acknowledged before a notary public.
- For real-property transfers into the trust, the deed must be acknowledged before a notary public (the Conveyances Act (765 ILCS 5/1 et seq.) [ATTORNEY-CONFIRM]; 35 ILCS 200/1 et seq.; 765 ILCS 5/20).
- Recommendation: All trust instruments in the kit should be notarized to ensure enforceability and facilitate recording.

Witnesses:

- Illinois law does not require witnesses for trust creation.
- The Certificate of Trust does not require witness signatures.

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Citation: 760 ILCS 3/101; the Conveyances Act (765 ILCS 5/1 et seq.) [ATTORNEY-CONFIRM].
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2a. Companion Instrument Execution Requirements

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The kit ships five documents beyond the trust instrument: the Certification of Trust, the Assignment
of Personal Property, the Pour-Over Will, the Incapacity Document Set (DPOA, healthcare directive,
HIPAA authorization), and the Funding Guide. This section records the per-state execution formalities
for those companion instruments. Every bracketed answer is a [CITATION-NEEDED] placeholder — counsel
confirms per state before assembly.
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Pour-Over Will (execution):

- Will execution form: [SELECT: attested will / attested will with notarized self-proving attachment / other per statute]
- Witness count required: [FILL IN]
- Must witnesses be disinterested (not beneficiaries)? [Y/N/unclear]
- Notary on the will face permitted/expected? [Y/N]
- Self-proving affidavit: statutory wording available? [FILL IN statute or NONE]
- Holographic wills recognized (conflict risk for handwritten changes)? [Y/N]

Durable Power of Attorney (execution):

- Notarization required: [REQUIRED / RECOMMENDED / OPTIONAL]
- Witnesses required: [FILL IN count or NONE]
- Agent acceptance signature required by statute: [Y/N]
- Statutory POA form or mandatory wording: [FILL IN or NONE]

Healthcare Directive / Advance Directive (execution):

- State instrument name: [FILL IN statutory name]
- Witness count: [FILL IN] (many states require two, with restrictions)
- Notarization: [REQUIRED / RECOMMENDED / OPTIONAL]
- Statutory form mandatory or default? [MANDATORY / DEFAULT]

HIPAA Authorization (execution):

- Witnesses required: [Y/N]
- Notarization required: [Y/N]

Certification of Trust (recording/counter use):

- Any state-specific certificate statute beyond the kit's default wording: [FILL IN statute or NONE]

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Citation: [CITATION-NEEDED: confirm each bracketed answer against the state's current statutes —
probate code (will), powers-of-attorney act (DPOA), advance-directive act (directive), and any
HIPAA-specific state requirements — before assembly. Cite only statutes verified in the research
memos.]
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3. Recording Location

Real property:

- Deeds transferring real property into or out of the trust must be recorded in the county recorder's office where the property is located.
- The trust instrument itself is not required to be recorded, but a copy may be recorded with the county recorder or the Illinois county clerk if the trust holds title to real property in Illinois.

Personal property:

- No recording requirement for personal property held in trust.

Certificate of Trust:

- The Certificate of Trust under the Illinois Trust Code (760 ILCS 3/) may be recorded with the county recorder where real property is held by the trust.

Citation: 760 ILCS 3/ (Trust Code); Illinois county recorder practices.

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4. Community Property / Homestead Overlay

Community property:

- Illinois is NOT a community property state. Property acquired during marriage by either spouse is marital property, subject to equitable distribution upon divorce or death.
- The trust does not create community property. Trust property is the separate property of the settlor (or the settlor's spouse, if funded with separate property of the spouse) and is not subject to the community property regime.

Homestead:

- Illinois recognizes a homestead exemption under the Illinois Homestead Act (735 ILCS 5/12-1001 et seq.). The homestead exemption protects up to a specified value of the settlor's primary residence from creditors.
- Transferring a homestead into a revocable living trust does not void the homestead exemption. The homestead exemption follows the settlor, not the trust.
- For irrevocable trusts, the homestead exemption may be affected depending on the settlor's retained interests and the specific facts. [ATTORNEY-CONFIRM: Verify homestead impact for irrevocable trust configurations.]

Citation: Illinois Homestead Act (735 ILCS 5/12-1001 et seq.); 760 ILCS 3/101 (Creation of trust).

5. Track A 10-Item Shipping Checklist

#	Item	Y/N	Citation
1	Trust instrument is in writing and signed by the settlor	Y	IL 760 ILCS 3/101
2	Settlor's identity is clearly stated in the instrument	Y	760 ILCS 3/ (trust contents)
3	Trustee's identity and powers are stated in the instrument	Y	760 ILCS 3/
4	Revocability status is stated in the instrument	Y	760 ILCS 3/
5	Certificate of Trust can be furnished by the trustee	Y	760 ILCS 3/
6	Co-trustee authority is addressed (if applicable)	Y	760 ILCS 3/
7	Form of title to trust property is addressed	Y	760 ILCS 3/
8	Trust identification number (EIN/TIN) is addressed	Y	760 ILCS 3/
9	Notarization of trust instrument is recommended	Y	the Conveyances Act (765 ILCS 5/1 et seq.) [ATTORNEY-CONFIRM]; standard practice
10	Recording location for real property is identified	Y	County recorder in the county where property is located

WHAT YOU MUST DO

1. Sign the trust in front of a notary. [RECOMMENDED — some offices will not accept an unsigned-before-notary trust.]
2. If you put your home or land into the trust: sign the new deed in front of a notary. [REQUIRED]
3. Take the signed deed to the county recorder's office where the property is located and record it. [REQUIRED]
4. You do not record the trust itself. Keep it with your important papers. [—]
5. Keep the Certification of Trust with the trust. You will show it at banks. [—]
6. Retitle your bank and brokerage accounts in the Trust's name ("[Trust Name], dated [Date], and any amendments thereto," with the trustee(s) as trustees — not individually). [REQUIRED]

7. Retitle your vehicles through the state DMV using the trust's titling format from Schedule B. [REQUIRED if vehicles are being funded]

8. Retitle personal property that carries a paper title (boats, trailers, mobile homes) the same way as vehicles; non-titled personal property is assigned to the Trust via the assignment in the kit. [REQUIRED if applicable]

9. Review every beneficiary designation (life insurance, retirement accounts, POD/TOD, payable-through accounts) with your attorney. [ATTORNEY-CONFIRM: strategy verify — beneficiary designations interact with the trust plan and tax status.]

10. State-specific items for this module: complete the items below; the statute citations in this module govern this state's variations. [—]

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CRITICAL — FUNDING WARNING: A trust only avoids probate for assets titled in the Trust's name at your
death. An unfunded or partially funded trust does nothing for the assets left out. Complete every
retitling step above BEFORE relying on the trust.
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After you sign: fund the trust (retitle accounts and record deeds), then store the signed instrument, the recorded deed, and the Certification of Trust together.

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Why (for your records): The statute citations below explain the legal authority for each requirement.
The "WHAT YOU MUST DO" section above is the only part you need to follow day-to-day.

This is a DRAFT addendum module prepared by AnchorPointTrusts for attorney-council review. It does
not constitute legal advice. All statute citations should be verified by counsel before use in
client-facing documents. Louisiana is not served as a situs state.
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