

Statutory Trusts: What and Why?

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1

Today's Panel

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2

2

Business / Statutory Trusts

- Use the traditional common law donative trust for business operations
- Common law of trusts
- Eventually reduced to statute

3

3

Battle of the Titans

- Business Corporations versus Trusts
 - Then applicable limits on corporate ownership of real property
 - Then applicable limits on *maximum* capitalization of a corporation
- Sherman Anti-Trust Act

4

4

Battle of the Titans (II)

- Uncertainty as to inter-state usage
- Means v. Limpia Royalties, 115 S.W.2d 468 (Tex. App. 1938)

The fact that, under the laws of the state of Oklahoma and under the provisions of the declaration of trust, a shareholder in the Limpia Royalties could not be held liable for the debts or obligations of the association would not operate to extend the same immunity from liability growing out of transactions by the association in the state of Texas, since, as is well said in the opinion in Ayub v. Automobile Mortgage Company, Tex.Civ.App. 252 S.W. 287, 290, "The established public policy of the forum is supreme, and will not be relaxed upon the ground of comity to enforce contracts which contravene such policy, even though such contracts are valid where made."

5

5

Usages Today

- Mutual funds / investment companies
 - Series
- Asset securitization
- Tenancy in common ("TIC") ownership

6

6

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"Statutory Trust"