
DIGEST

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Abramson

HB No. 469

Abstract: Authorizes a trustee of an inter vivos trust, a testamentary trust, or a foreign trust that includes immovable property to file a recorded copy of either the trust document or extract which is certified by the clerk of court.

Present law provides that if the trust property of either an inter vivos trust, a testamentary trust, or a foreign trust includes immovables or other property the title to which must be recorded, a trustee shall file the trust instrument or an extract thereof in each parish in which the property is located.

Proposed law retains present law and authorizes recording a copy of either the trust instrument or extract which is certified by the clerk of court.

Present law provides that an extract of the trust shall include the name of the trust, a statement as to whether the trust is revocable or irrevocable, the name of each settlor, the name of each trustee and name or other description of the beneficiary or beneficiaries, the date of execution of the trust, and a brief description of the immovable property or other property subject to the trust, the title to which must be recorded in order to affect third persons.

Proposed law deletes the requirement to include a brief description of the immovable property or other property subject to the trust.

Proposed law provides that unless the extract of trust recites any restrictions on the trustee's authority, no alienation or encumbrance of trust property shall be set aside on the ground that the trustee did not have all of the powers granted to trustees under the La. Trust Code, except in cases of fraud by the purchaser.

Proposed law provides that the authorization to file an extract of the trust instrument or a clerk-certified copy of the trust instrument or extract of trust without a description of the property shall be applied retroactively to any trust extract or clerk-certified copy of either the trust instrument or extract of trust filed for record.

(Amends R.S. 9:2092(A) and (B)(2) and 2262.2(A) and (B)(2); Adds R.S. 9:2092(B)(3) and 2262.2(B)(3); Repeals R.S. 9:2092(B)(1)(f) and 2262.2(B)(1)(g))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provisions clarifying that the trustee shall file the trust instrument or extract of trust in each parish in which the trust property is located.

House Floor Amendments to the engrossed bill.

1. Changed references from the "recorder of mortgages" to "clerk of court".
2. Added an exception for cases of fraud by the purchaser.