

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 469 by Representative Abramson

RECORDS/RECORDATION: Provides with respect to property held in a trust

Synopsis of Senate Amendments

1. Deletes provisions under both the La. Trust Code and foreign trusts relative to setting aside an alienation or encumbrance of trust property.
2. Adds requirements under both the La. Trust Code and foreign trusts of including a brief legal description of the property if the trust instrument contains a transfer of immovable property, and specified that the trustee shall have all powers and duties granted to a trustee under the Trust Code, unless the trust provides otherwise.
3. Deletes the repeal of the requirement to include a description of the immovable property or other property subject to the trust.

Digest of Bill as Finally Passed by Senate

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, and provides that if the trust instrument contains a transfer of immovable property or other property to the trust, the extract shall contain a brief legal description of the property.

Proposed law provides that unless the extract of trust recites any modification or restriction on the trustee's authority, the trustee shall have all of the powers and duties granted to a trustee by the La. Trust Code.

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