

Regular Session, 2012

ACT No. 740

HOUSE BILL NO. 469

BY REPRESENTATIVE ABRAMSON

AN ACT

To amend and reenact R.S. 9:2092(A) and (B)(1)(f) and (2) and 2262.2(A) and (B)(1)(g) and (2) and to enact R.S. 9:2092(B)(3) and 2262.2(B)(3), relative to property held in a trust; to provide for recordation of certain documents; to provide for the contents of an extract of trust relative to the authority of a trustee; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2092(A) and (B)(1)(f) and (2) and 2262.2(A) and (B)(1)(g) and (2) are hereby amended and reenacted and R.S. 9:2092(B)(3) and 2262.2(B)(3) are hereby enacted to read as follows:

§2092. Recordation of instruments

A. If at any time the trust property of either an inter vivos trust or a testamentary trust includes immovables or other property the title to which must be recorded in order to affect third parties, a trustee shall file the trust instrument, ~~or an extract thereof,~~ of trust, or a copy of the trust instrument or extract of trust certified by the clerk of court for the parish in which the original trust instrument or extract of trust was filed, for record in each parish in which the property is located.

B.(1) For purposes of recording an extract of a trust instrument, such an extract shall be executed by either the settlor or the trustee and shall include all of the following:

* * *

(f) ~~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. If the trust instrument also contains a transfer of immovable property or other property to~~

1 the trust, the title to which must be recorded in order to affect third persons, then the
2 extract shall contain a brief legal description of the property.

3 (2) Unless the trust and abstract of trust recite or otherwise note any
4 modification or restriction of the trustee's power or duties, the trustee shall have all
5 of the powers and duties granted to trustees under the Louisiana Trust Code.

6 ~~(2)~~(3) The provisions of this Section authorizing the filing of an extract of
7 the trust instrument or a clerk-certified copy of the trust instrument or extract of trust
8 without a description of the property are remedial and shall be applied retroactively
9 to any trust extract or clerk-certified copy of either the trust instrument or extract of
10 trust theretofore filed for record which is in substantial compliance with the
11 provisions of this Subsection, and such extract or clerk-certified copy shall affect
12 third persons as of the date of recordation. If the extract of an inter vivos trust
13 instrument or clerk-certified copy thereof is recorded, the failure of the trust
14 instrument to be in the form required by R.S. 9:1752 shall not be effective against
15 third parties, who shall be immune from claims based on the failure of the trust
16 instrument to be in the form required by R.S. 9:1752.

17 * * *

18 §2262.2. Recordation of instruments

19 A. If at any time the trust property of a foreign trust includes an immovable
20 or other property in Louisiana the title to which must be recorded in order to affect
21 third parties, a trustee shall file the trust instrument, ~~or an extract thereof, of trust, or~~
22 a copy of the trust instrument or extract of trust certified by the clerk of court for the
23 parish in which the original trust instrument or extract of trust was filed, for record
24 in each parish in which the property is located.

25 B.(1) For purposes of recording an extract of a trust instrument, such an
26 extract of a trust instrument either shall be in such form and contain such information
27 as may be lawful under the law of the jurisdiction which the parties have expressly
28 chosen to govern the trust, or shall be executed by either the settlor or the trustee and
29 shall include all of the following:

30 * * *

(g) A description of the immovable property or other property subject to the trust. If the trust instrument also contains a transfer of immovable property or other property to the trust, the title to which must be recorded in order to affect third persons, then the extract shall contain a brief legal description of the property.

* * *

(2) Unless the trust and abstract of trust recite or otherwise note any modification or restriction of the trustee's power or duties, the trustee shall have all of the powers and duties granted to trustees under the Louisiana Trust Code.

(2)(3) The provisions of this Section authorizing the filing of 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 are remedial and shall be applied retroactively to any trust extract or clerk-certified copy of either the trust instrument or extract of trust theretofore filed for record which is in substantial compliance with the provisions of this Section, and such extract shall affect third persons as of the date of recordation.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____