2015 Regular Session

HOUSE BILL NO. 687

BY REPRESENTATIVE HAZEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana. TRUSTS: Provides relative to the recordation of trust extracts

1	AN ACT		
2	To amend and reenact R.S. 9:2092(B)(2) and to enact R.S. 9:2029.1 and 2092(B)(1)(g),		
3	relative to the recordation of an extract of trust; to provide limitations under certain		
4	conditions on the transfer of property owned by a trust; to provide for certain		
5	information included in a recorded extract of trust; to provide for the effectiveness		
6	against third parties; and to provide for related matters.		
7	Be it enacted by the Legislature of Louisiana:		
8	Section 1. R.S. 9:2092(B)(2) is hereby amended and reenacted and R.S. 9:2029.1		
9	and 2092(B)(1)(g) are hereby enacted to read as follows:		
10	§2029.1. Termination of trust; immovable property owned by trust		
11	If a trust owns immovable property at the time the trust terminates and the		
12	date of termination is not discernable on the face of the recorded trust agreement or		
13	extract of trust, the termination shall not cause the dispositive provisions of the trust		
14	to have their ultimate effect insofar as third persons are concerned until an act		
15	evidencing such termination has been recorded in the conveyance records of the		
16	clerk of court of the parish in which the immovable property is located or there is an		
17	actual conveyance by the trustee to its beneficiaries pursuant to the termination of		
18	the trust.		
19	* * *		
20	§2092. Recordation of instruments		
21	* * *		

Page 1 of 3

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	B.(1) For purposes of recording an extract of a trust instrument, such an
2	extract shall be executed by either the settlor or the trustee and shall include all of
3	the following:
4	* * *
5	(g) Any limitation or restriction on the power of the trustee to sell, lease, or
6	mortgage immovable property contained in the trust instrument.
7	(2) Unless the trust and abstract of trust recite or otherwise note any
8	modification or restriction of the trustee's power or duties, the trustee shall have all
9	of the powers and duties granted to trustees under the Louisiana Trust Code. When
10	an extract of trust is recorded pursuant to Subsection A of this Section, any limitation
11	or restriction in the trust instrument on the power of the trustee to sell, lease, or
12	mortgage immovable property shall not be effective against third persons unless it
13	is noted or recited in the extract of trust.
14	* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 687 Engrossed	2015 Regular Session	Hazel
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Abstract: Requires any limitation on the power of the trustee to sell, lease, or mortgage immovable property to be included in the trust extract, and provides certain requirements as to the conveyance of property owned by the trust when the date of termination of the trust is not discernable.

<u>Proposed law</u> provides that if the date of termination is not discernable on the face of the recorded trust agreement or extract of trust, the termination of the trust shall not cause the provisions of the trust relative to the transfer of immovable property owned by the trust to effect third persons until an act evidencing such termination has been recorded or there is an actual conveyance by the trustee to its beneficiaries.

<u>Present law</u> requires that an extract of trust recorded in the mortgage and conveyance records shall be executed by either the settlor or the trustee and include certain information.

<u>Proposed law</u> retains <u>present law</u> and requires any limitation or restriction on the power of the trustee to sell, lease, or mortgage immovable property contained in the trust instrument to be included in the extract of trust.

<u>Present law</u> provides that the trustee shall have all of the powers and duties granted to trustees under the Louisiana Trust Code unless the trust and abstract of trust recite otherwise.

<u>Proposed law</u> deletes <u>present law</u> and provides that when an extract of trust is recorded, any limitation or restriction in the trust instrument on the power of the trustee to sell, lease, or mortgage immovable property shall not be effective against third persons unless it is noted or recited in the extract of trust.

(Amends R.S. 9:2092(B)(2); Adds R.S. 9:2029.1 and 2092(B)(1)(g))