

man must have intended all other deeds of trust to be covered by the Bill.

The problem is further compounded by the fact that the Bill adds a statute to Article 21 of the Maryland Code, which deals with conveyancing, and not to Article 66, which deals with mortgages and deeds of trust for the purpose of securing debts. Had the Bill been inserted in Article 66, it might then have been difficult to argue reasonably that the references to "deeds of trust" were to all deeds of trust, including those created for other than financing purposes. However, the fact that the Bill has been inserted in Article 21 is strong evidence that the Bill will be applied by lawyers, title companies, and trust companies to all deeds of trust, whether or not they are intended to secure an obligation.

Presently the only other mention of deeds of trust in Article 21 is contained in Section 71 of that Article. Section 71 gives the statutory form for a "deed of trust to secure debts, indemnify securities, or other purposes." (Emphasis added) Thus, the General Assembly itself has already acknowledged, by enacting Section 71 of Article 21, that a deed of trust can have purposes other than the securing of a debt.

The General Assembly's precision in the use of the term "deed of trust" has been manifested on other occasions. For example, in Section 3 of Article 66, it is stated that the section is "not to apply to deeds of trust in the nature of mortgages or any other deeds of trust to secure bonds, notes or other obligations." In Section 26 of Article 66, the following phrase appears: "mortgages or deeds in the nature of a mortgage." The General Assembly has, therefore, limited the phrase "deeds of trust" when it desires to limit the application of that term to a financing device, and it has also recognized (in Section 71 of Article 21) that there are purposes for deeds of trust other than merely securing debts.

2. There are many valid salutary purposes for creating a deed of trust of real property, which have nothing whatsoever to do with financing. Here are some examples:

A. A man is ill and must go to a hospital for a serious operation. Before he goes to the hospital, he desires to transfer most of his assets, including his real estate, into a trust, so that the trustees can manage the assets while he is in the hospital, and even after he gets out of the hospital, in the event that he should be unable to manage them himself. The trust is revocable. His closest relatives are his two sons, whom he desires to treat equally. One of the sons lives in Philadelphia, and the other lives in Baltimore. He wants to name both of them as trustees; Senate Bill 296 would prohibit him from doing so.

B. A person desires to make an irrevocable transfer of certain of his assets in order to avoid the application of the Federal estate tax on those assets. His sole heirs are his son and his three grandchildren, all of whom live in Pennsylvania. He desires to name his son as a trustee and to name the three grandchildren as the beneficiaries of the trust. If real estate is involved in the trust, he would not be able to name his son as a trustee.

C. In some instances, a Maryland resident may own real estate in another state. In order to avoid the complexities and expenses of ancillary administration in that state when he dies, he transfers the property to a trust while he is alive. If he desires his two sons to be