

the trustees, and one or both of them happen to be non-residents of Maryland, Senate Bill 296 would prohibit him from naming his sons as the trustees.

3. Problems relating to the marketability of title, if Senate Bill 296 is not vetoed, will be very difficult. This could be true even if the Bill were interpreted to apply only to deeds of trust for purposes of financing. If the trustees of a deed of trust are Maryland residents and one of them moves out of state, the Bill would undoubtedly require him to resign as soon as he left the state. If the trust were engaged in any type of transaction while he was in the process of moving to another state, enormous title problems would be created. The problem is further compounded, from the title searcher's point of view, when he may have to dig back into the facts concerning the conveyance by the trustees as to whether or not the trustees who signed the deed conveying, mortgaging, or foreclosing the real estate were in fact residents of Maryland when the deed or mortgage was executed or the foreclosure proceedings were instituted.

4. The Bill relates only to a deed of trust "conveying real estate." One of the most ambiguous terms in Maryland practice is "real estate." Does it refer only to fee simple real estate or would it also include the interest of a long-term tenant? Many large tracts of land which are developed for industrial or commercial purposes are leased by the developers under long-term leases. These are technically leasehold estates and might, according to some opinion, not constitute "real estate." Even if the Bill could be interpreted to refer only to deeds of trust in the nature of financing devices, the Bill is ambiguous as to whether it applies only to fee simple real estate, or whether it also applies to leasehold property.

5. The Bill is not limited to real estate located in Maryland. If the only parcel of real estate involved in the transaction is located in some other state, the Bill does not by its terms exclude a deed of trust conveying that real estate. If a Maryland grantor conveys Pennsylvania real estate to a deed of trust, the Bill, on its face, attempts to require Maryland trustees. There may be serious constitutional problems in such an attempt.

6. This Bill reverses a healthy trend that was initiated a few years ago by the General Assembly and the Governor. In 1969, all restrictions on non-resident executors, administrators, and guardians were removed by statute. The theory of the removal of this restriction was that if a man desires to have his assets handled by certain people, especially persons in his family, he should not be prohibited from doing so. This Bill, unless it is vetoed, would reverse that trend.

For all of the above reasons, we urge the Governor to veto Senate Bill 296.

Respectfully submitted,
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