

This bill requires that only persons who are residents of the State of Maryland and only certain corporations, shall be permitted to act as trustees of deeds of trust conveying real estate located in Maryland for the purpose of securing a debt.

As I stated last year when I vetoed a bill similar to Senate Bill 209, it is extremely undesirable to enact a law which more severely restricts the rights of non-resident trustees than before, especially in light of recent Maryland legislation which has considerably extended the rights of non-residents to serve in other fiduciary capacities in Maryland. The enactment of this bill would represent a major step backward in Maryland's policy toward her neighboring States. Furthermore, this bill would invite neighboring States to impose similar restrictions on Maryland residents.

Although S. B. 209 has corrected some of the defects found in last year's bill, there are still several problems of concern to attorneys. The chief one relates to the status of a deed of trust having a non-resident trustee. Is such deed valid to pass title? Should it be recorded? If it should not be recorded, there are no guidelines or presumptions for the clerks of court to use in determining the residence of the trustees. If a deed of trust not listing the residence of the trustees is to be recorded, is it the obligation of the title searcher or real estate lawyer to make an independent determination of the residence of the trustees? What happens if the residence of the trustees change? Does the bill mean that the trustees must be residents at the time the document is executed or at the time the document is recorded or at the time the document becomes effective in foreclosure? None of these questions are answered by S. B. 209. Moreover, there is no definition of "resident" in this bill. I am concerned that such unanswered questions could lead to utter confusion for members of the bar and the Courts. Such a result could possibly curtail the availability of money in Maryland from lenders.

At a hearing which I held on the bill the only proponent of the bill present stated that its chief purpose was to protect the public from non-resident trustees who, it was said, are immune from service of process. However, Maryland's "long arm statute" as found in Article 75, Section 96 of the Annotated Code of Maryland, would give a Maryland court jurisdiction over such trustees. Another asserted purpose of the bill was to protect the public from exorbitant "trustees release fees" demanded by non-resident trustees. House Bill 439, which was enacted by the General Assembly and signed by me on May 26, 1972, prohibits any release fee in excess of \$15 unless the fee is specified in the instrument. In essence, I believe that Maryland law presently protects the public in the areas that encompass the underlying purposes of the bill.

The Section on Real Property, Planning and Zoning of the Maryland State Bar Association, in a memorandum which is attached herewith, has urged that I veto Senate Bill 209 for the above-mentioned reasons as well as for others. Also several attorneys specializing in estates and trust have similarly requested that the bill be vetoed.

For these reasons, I believe Senate Bill 209 must be vetoed.

Sincerely,

/s/ MARVIN MANDEL,

Governor.