

CHAPTER 15

TRUSTS

§851. Trust in lands requires writing

There can be no trust concerning lands, except trusts arising or resulting by implication of law, unless created or declared by some writing signed by the party or his attorney.

§851-A. Conveyances to or from trusts without naming trustee

1. Conveyance to a trust. In any conveyance of real property or any interest in real property in this State, if the grantee or one or more of the grantees is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantee, then the conveyance is deemed to have been made to all of the trustees of the trust in their capacity as trustees of the trust, as though they had been named as grantees instead of the trust.

[PL 1995, c. 523, §1 (NEW).]

2. Conveyance from a trust. In any conveyance of real property or any interest in real property in this State, if the grantor or one or more of the grantors is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantor, then the conveyance is deemed to have been made by all of the trustees of the trust who signed the instrument of conveyance as trustees of the trust, as though they had been named as grantors instead of the trust.

[PL 1995, c. 523, §1 (NEW).]

3. Preservation of claim. Any person who claims title to any real property or any interest in real property in this State by virtue of the failure of an instrument of conveyance delivered before the effective date of this section to name as grantor or as grantee any trustee of a trust may preserve that claim by recording a notice, within 2 years from the effective date of this section, in the registry of deeds where the instrument of conveyance is recorded. In order for the notice to be effective, it must contain the name and mailing address of the claimant, the names of the parties to the instrument of conveyance that is claimed to be defective, the book and page numbers where the instrument of conveyance is recorded and a statement of the purported defect on which the claim is based. The notice described in this subsection may be presented for recording by the claimant or by any other person acting on behalf of a claimant who is under a disability or is unable to assert a claim on the claimant's own behalf, but a disability or lack of knowledge of any kind does not suspend or extend the period for the recording of the notice.

[PL 1995, c. 523, §1 (NEW).]

4. Register's duties. The register of deeds shall enter upon the margin of the recorded instrument, described in a notice recorded as provided in subsection 3, the book and page numbers where the notice is recorded.

[PL 1995, c. 523, §1 (NEW).]

5. Application. This section does not apply to any trust that, as determined by the laws of its situs, is an entity capable of holding and conveying title in its own name.

[PL 1995, c. 523, §1 (NEW).]

6. Construction. Nothing contained in this section may be construed to recognize trusts created under the laws of this State as entities capable of holding or conveying title to real property in their own names. This section applies to conveyances made before, on or after the effective date of this section, but nothing contained in this section may be construed to suggest or require that any instrument delivered before the effective date of this section is invalid. Nothing contained in this section may be

construed to extend the period for the commencement of an action or for the performance of any other required act under any statute of limitations.

[PL 1995, c. 523, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 523, §1 (NEW).

§852. Titles not defeated by trusts without notice or record

The title of a purchaser for a valuable consideration or a title derived from levy of an execution cannot be defeated by a trust, however declared or implied by law, unless the purchaser or creditor had notice thereof. When the instrument, creating or declaring it, is recorded in the registry where the land lies, that is to be regarded as such notice.

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