

ACT 127

S.B. NO. 65

A Bill for an Act Relating to Land Trusts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 558-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§558-4~~]]~~ Creation of trust, powers of trustee. Any recorded instrument transferring any interest in real property in this State, including but not limited to, leasehold and mortgagee’s interests, to any person, corporation, bank, or trust company, qualified to act as a trustee in this State, whether or not reference is made in such recorded instrument to any separate unrecorded collateral declarations or agreements, shall be effective to vest in the trustee [full rights of ownership] legal and equitable title over the real property or interest therein, with full power and authority as granted and provided in the recorded instrument to deal in and with the property or interest therein or any part thereof. Any trust authorized pursuant to this chapter shall be valid notwithstanding the fact that the recorded instrument

fails to state the duties imposed upon the trustee.”

SECTION 2. Section 558-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§558-8]] Disclosure of beneficiaries. (a) Any trust created hereunder shall be invalid unless the recorded conveyance document transferring title to the trustee discloses the name and pro rata interest of each beneficiary of [said] such trust.

(b) Upon service of a complaint, or similar pleading, in federal or state court to which the trustee is required to respond, the trustee shall disclose in the response the name of every beneficiary with a present interest in trust property which is a subject of the action. This subsection shall be liberally construed to require identification of the actual parties to the controversy.

(c) Upon receipt of a notice of violation of any ordinance, rule, regulation, or law relating to real property held in trust, the trustee shall disclose to the State, political subdivision, or agency giving notice or which is primarily responsible for enforcement of such ordinance, rule, regulation, or law, the identity of every beneficiary who has an interest in the trust property. This subsection shall be liberally construed to require identification of the actual parties who are being notified of the violation.

(d) As part of any contract relating to the ownership or use of real property which is the subject of a land trust and is entered into by and between the State or any local governmental unit or any agency of either and a trustee under a land trust, the trustee shall disclose the identity of every beneficiary of the land trust. This subsection shall be liberally construed to require identification of the actual parties benefiting from a transaction with a governmental unit or agency.

(e) Whenever any trustee or beneficiary of a land trust applies or supports an application to the State or any local governmental unit or any agency of either for any benefit, authorization, license, land use or permit relating to the land which is the subject of the land trust, such application shall identify every beneficiary of the land trust. This subsection shall be liberally construed to require identification of the actual parties benefiting from the actions of governmental units and agencies.

(f) A trustee who discloses the identity of a beneficiary pursuant to law shall not be liable in any civil action as a result of the disclosure.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1982.)