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Bill Analysis
Legislative Service Commission

S.B. 134

127th General Assembly
(As Introduced)

Sen. Faber

BILL SUMMARY

- Provides that a memorandum of trust be executed and acknowledged only by the trustee of the trust.

CONTENT AND OPERATION

Memorandum of trust

Current law provides that a memorandum of trust that satisfies both of the following may be presented for recordation in the County Recorder's office of any county in which real property that is subject to the trust is located (R.C. 5301.255(A)):

(1) The memorandum is executed by the settlor and trustee of the trust and acknowledged by the settlor and trustee of the trust in accordance with R.C. 5301.01 (see below).

(2) The memorandum of trust states all of the following:

(a) The names and addresses of the settlor and trustee of the trust;

(b) The date of execution of the trust;

(c) The powers specified in the trust relative to the acquisition, sale, or encumbering of real property by the trustee or the conveyance of real property by the trustee, any restrictions upon those powers.

Current law requires that a memorandum of trust must be signed by the settlor and trustee of the trust. The signing must be acknowledged by the settlor and trustee before a judge or clerk of a court of record in Ohio or a county auditor, county engineer, notary public, or mayor, who must certify the acknowledgement

and subscribe the official's name to the certificate of the acknowledgment. (R.C. 5301.01(A) and (B).)

The bill provides that only the trustee of a trust, and not both the settlor and the trustee, must sign, acknowledge, and execute a memorandum of trust, and that the name and address of only the trustee of the trust, and not of both the settlor and the trustee, must be stated on the memorandum of trust (R.C. 5301.01(A) and (B) and 5301.255(A)).

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 03-28-07 |

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