

ENROLLED

HB 0529

2004 Legislature

A bill to be entitled

An act relating to deeds or conveyances of real estate; amending s. 689.07, F.S.; revising criteria for granting certain estates, transferring and assigning certain interests, and vesting certain rights in certain deeds or conveyances of real estate; providing legislative intent; providing for retroactive application; providing an effective date.

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

Section 1. Subsections (1), (2), and (3) of section 689.07, Florida Statutes, are amended to read:

689.07 "Trustee" or "as trustee" added to name of grantee, transferee, assignee, or mortgagee transfers interest or creates lien as if additional word or words not used.--

(1) Every deed or conveyance of real estate heretofore or hereafter made or executed, in which the words "trustee" or "as trustee" are added to the name of the grantee, and in which no beneficiaries are named, ~~nor~~ the nature and purposes of the trust, if any, are not set forth, and the trust is not identified by title or date, shall grant and is hereby declared to have granted a fee simple estate with full power and authority in and to the grantee in such deed to sell, convey, and grant and encumber both the legal and beneficial interest in the real estate conveyed, unless a contrary intention shall appear in the deed or conveyance; provided, that there shall not appear of record among the public records of the county in which the real property is situate at the time of recording of such

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deed or conveyance, a declaration of trust by the grantee so described declaring the purposes of such trust, if any, declaring that the real estate is held other than for the benefit of the grantee.

(2) Every instrument heretofore or hereafter made or executed transferring or assigning an interest in real property in which the words "trustee" or "as trustee" are added to the name of the transferee or assignee, and in which no beneficiaries are named, ~~nor~~ the nature and purposes of the trust, if any, are not set forth, and the trust is not identified by title or date, shall transfer and assign, and is hereby declared to have transferred and assigned, the interest of the transferor or assignor to the transferee or assignee with full power and authority to transfer, assign, and encumber such interest, unless a contrary intention shall appear in the instrument; provided that there shall not appear of record among the public records of the county in which the real property is situate at the time of the recording of such instrument, a declaration of trust by the assignee or transferee so described declaring the purposes of such trust, if any, or declaring that the interest in real property is held other than for the benefit of the transferee or assignee.

(3) Every mortgage of any interest in real estate or assignment thereof heretofore or hereafter made or executed in which the words "trustee" or "as trustee" are added to the name of the mortgagee or assignee, and in which no beneficiaries are named, ~~nor~~ the nature and purposes of the trust, if any, are not set forth, and the trust is not identified by title or date, shall vest and is hereby declared to have vested full rights of

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ownership to such mortgage or assignment and the lien created thereby with full power in such mortgagee or assignee to assign, hypothecate, release, satisfy, or foreclose such mortgage unless a contrary intention shall appear in the mortgage or assignment; provided that there shall not appear of record among the public records of the county in which the property constituting security is situate at the time of recording of such mortgage or assignment, a declaration of trust by such mortgagee or assignee declaring the purposes of such trust, if any, or declaring that such mortgage is held other than for the benefit of the mortgagee or assignee.

Section 2. The amendments to section 689.07, Florida Statutes, provided by this act are intended to clarify existing law and shall apply retroactively.

Section 3. This act shall take effect upon becoming a law.