

SUBSTITUTE FOR
HOUSE BILL NO. 5398

A bill to amend 1991 PA 133, entitled
"An act to allow the use and recording of certain documents
regarding trusts in the case of real property that is conveyed or
otherwise affected by a trust; and to prescribe their effect,"
by amending sections 1, 4, and 5 (MCL 565.431, 565.434, and
565.435), section 4 as amended by 2018 PA 194; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. An instrument ~~conveying, encumbering,~~ **THAT CONVEYS,**
2 **ENCUMBERS,** or otherwise ~~affecting an interest in~~ **AFFECTS** real
3 property, executed pursuant to an express trust, may be accompanied
4 ~~either by a~~ **EITHER OF THE FOLLOWING:**
5 **(A) A** copy of ~~the~~ **EACH OPERATIVE** trust agreement ~~or by a~~
6 **INSTRUMENT. AS USED IN THIS SUBDIVISION, "TRUST INSTRUMENT" MEANS**
7 **THAT TERM AS DEFINED IN SECTION 7103 OF THE ESTATES AND PROTECTED**
8 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.7103.**

1 **(B) A certificate of trust ~~existence and authority, as~~**
2 ~~described in sections 2 and 3.~~**UNDER SECTION 7913 OF THE ESTATES AND**
3 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.7913, THAT**
4 **INCLUDES THE LEGAL DESCRIPTION OF THE AFFECTED REAL PROPERTY.**

5 Sec. 4. A trust ~~agreement~~**INSTRUMENT** or certificate of trust
6 ~~existence and authority~~**UNDER SECTION 7913 OF THE ESTATES AND**
7 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.7913, that**
8 accompanies an instrument as described in section 1, and any
9 amendments to or revocations of the trust ~~agreement~~**INSTRUMENT** or
10 the certificate of trust ~~existence and authority,~~**UNDER SECTION**
11 **7913 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,**
12 **MCL 700.7913, may be recorded in the office of the register of**
13 deeds of each county where the lands that are the subject of or
14 affected by the trust ~~agreement~~**INSTRUMENT** are located. If a trust
15 ~~agreement~~**INSTRUMENT OR CERTIFICATE OF TRUST UNDER SECTION 7913 OF**
16 **THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL**
17 **700.7913, accompanies an instrument AS DESCRIBED IN SECTION 1, the**
18 trust ~~agreement~~**INSTRUMENT OR CERTIFICATE OF TRUST UNDER SECTION**
19 **7913 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,**
20 **MCL 700.7913, must be recorded as a separate document. AS USED IN**
21 **THIS SECTION, "TRUST INSTRUMENT" MEANS THAT TERM AS DEFINED IN**
22 **SECTION 7103 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA**
23 **386, MCL 700.7103.**

24 Sec. 5. A purchaser or other party relying ~~upon~~**ON** the
25 information ~~contained~~**INCLUDED** in a recorded certificate of trust
26 ~~existence and authority shall be afforded~~**UNDER SECTION 7913 OF THE**
27 **ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.7913,**

1 **HAS** the same protection as is provided to a subsequent purchaser in
2 good faith under section 29 of ~~chapter 65 of the Revised Statutes~~
3 ~~of 1846, being section 565.29 of the Michigan Compiled Laws, and~~
4 ~~shall~~ **1846 RS 65, MCL 565.29. A PURCHASER OR OTHER PARTY DESCRIBED**
5 **IN THIS SECTION IS** not ~~be~~ required to further examine the trust
6 agreement, **INSTRUMENT**, unless an instrument amending or revoking
7 the trust agreement **INSTRUMENT** or certificate of trust existence
8 and authority **UNDER SECTION 7913 OF THE ESTATES AND PROTECTED**
9 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.7913**, is recorded in the
10 same office in which the trust agreement **INSTRUMENT** or certificate
11 of trust existence and authority **UNDER SECTION 7913 OF THE ESTATES**
12 **AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.7913**, was
13 **PREVIOUSLY** recorded. **AS USED IN THIS SECTION, "TRUST INSTRUMENT"**
14 **MEANS THAT TERM AS DEFINED IN SECTION 7103 OF THE ESTATES AND**
15 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.7103.**

16 Enacting section 1. Sections 2, 3, and 6 of 1991 PA 133, MCL
17 565.432, 565.433, and 565.436, are repealed.