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Client Bulletin



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Curative Provision for when the Grantor or Grantee Named in a Deed is a Trust (Rather than the Trustee)

Ohio Rev. Code § 5301.071, which sets forth types of technical defects in a deed or other instrument conveying an interest in real property that are not considered to affect the validity of the conveyance, has been expanded to “cure” the situation where a deed or other instrument conveying an interest in real property names a trust, rather than the trustee, as the grantor or grantee. New division (E) of Ohio Rev. Code § 5301.071 became effective March 22, 2012 and provides that a deed or other instrument of conveyance that conveys to or from a trust (rather than to or from the trustee of the trust) is not defective and invalid if:

- (a) the named trust was duly created under the laws of the state of its existence at the time of the conveyance; and
- (b) a memorandum of trust that complies with the requirements of Ohio Rev. Code § 5301.255 and contains a description of the property conveyed is recorded in the county recorder’s office in which the deed to or from the trust is recorded.

Ohio Rev. Code § 5301.255, which prescribes what a memorandum of trust must contain, was enacted to give notice of a trustee’s powers to deal with real property when there was recorded, or to be recorded, a deed or other instrument of conveyance to or from a (named) trustee. Ohio Rev. Code § 5301.255 does not require that a description of real property be part of a memorandum of trust. Therefore, to obtain the curative benefits of new Ohio Rev. Code § 5301.071(E), when there is a deed or other instrument of conveyance to or from a trust (rather than to or from a trustee), the memorandum of trust must comply with the requirements of Ohio Rev. Code § 5301.255 AND ALSO must have a legal description of the real property.

Estate Planning, Probate, Guardianship Practice Area

Jason Seabury, who joined the firm last July as of counsel, will now be directing the firm’s Estate Planning, Probate and Guardianship practice area, and Elizabeth Miceli, who has been with the law firm since August 2008, will be devoting more of her time to the practice area.

Jason has 14 years of experience as an attorney (the first 9 years in large law firms), and has focused almost entirely on estate planning, business succession planning, guardianships, and the administration of probate and non-probate estates and trusts. Before becoming an attorney in 1998, Jason was a probate law clerk for three years.

Beth, a 2004 *magna cum laude* graduate of the University of Notre Dame Law School, has worked in the real estate, business transactions, and tax exemption/non-profit areas, as well as the estate planning area, since joining the firm in 2008, but will now be devoting more time to estate planning and probate.

Continued . . .

Summary of Changes to Ohio Corporation Law

In legislation effective May 3, 2012, the General Assembly made a number of significant changes to Ohio's corporation statute, Ohio Rev. Code Chapter 1701. The most significant of these changes are:

- There can now be a single director even when there is more than one shareholder.
- Directors are now required to be at least 18 years of age.
- A director serving on a committee of directors is deemed to be acting as a director (which includes for purposes of director liability, but also for indemnification of the director).
- Fundamental changes to the dissenting shareholder rights statute, most notably in the area of requiring a corporation to give notice in advance of a meeting of the shareholders at which a proposal, if approved, would give rise to dissenter rights (i.e., merger or sale of the corporation) and the "fair cash value" that a dissenting shareholder is to be paid for such dissenting shareholder's stock (no longer can there be discounts for lack of marketability or lack of control).
- Major changes in the requirements of notification upon the dissolution of a corporation, most notably adding a requirement of very detailed notices to each of the creditors of, and the potential claimants against, the corporation.
- Consistent with the new requirements for notice to creditors of, or potential claimants against, a dissolving corporation, a claims processing rejection and payment procedure.
- When a corporation is voluntarily dissolved, established a five year limit on the time the corporation can take to wind up its affairs and limited the time for filing lawsuits or other proceedings against a dissolved and winding up corporation to five years after the filing of the certificate of dissolution.
- Changes to a director's fiduciary duties.
- Limitations on the monetary liability, to a creditor or claimant against a dissolved corporation, of shareholders who received distributions from the assets of the dissolving corporation before the creditor's or claimant's claim was presented or determined to be valid.

Congratulations to 3 Pillar Homes

Congratulations to 3 Pillar Homes for being ranked #2 on Columbus Business First's 2011 custom homebuilders (by gross sales) list, which was recently published in Business First.

Congratulations to Patty Coolidge, A.O. Wing Agency, Inc.

Congratulations are also in order to Patty Coolidge of A.O. Wing Agency, Inc. for being named Citizen of the Year by the Powell Chamber of Commerce. A.O. Wing Agency, Inc., an insurance agency, has offices in Powell and Canal Winchester.

Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates who you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

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