

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 718

H.P. 534

House of Representatives, February 25, 1993

**An Act to Amend the Recording Requirements for Proceedings
Involving Real Estate.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Hallowell.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 14 MRSA §2401, sub-§2, as amended by PL 1991, c. 726, §1, is further amended to read:

2. **Identification on docket.** On and after January 1, 1992, judicial proceedings in any Maine court including appeals from judicial proceedings that affect title to real estate must be identified on the docket. Judicial proceedings subject to this section include but are not limited to proceedings involving:

- A. Partition actions;
- B. Boundary and access disputes;
- C. Insolvency;
- D. Mortgage foreclosure;
- E. Declaratory judgment actions;
- F. Attachment and ~~mechanic~~, mechanics liens and other statutory liens;
- G. Dissolution; and
- H. Actions to quiet title.

This section does not apply to the descent of real estate in divorce governed by Title 19, section 725, or small claims actions in District Court.

Sec. 2. 14 MRSA §2401, sub-§3, as amended by PL 1991, c. 824, Pt. D, §1 and affected by §2, is further amended to read:

3. **Judgment required; recording and contents.** The judgment in the proceeding must be signed by the judge and contain the following provisions:

- A. The names and addresses, if known, of all parties to the action, including the counsel of record;
- B. The docket number;
- C. A finding that all parties have received notice of the proceedings in accordance with the applicable provisions of the Maine Rules of Civil Procedure and, if the notice was served or given pursuant to an order of a court, including service by publication, that the notice was served or given pursuant to the order;

2 D. An adequate description of real estate involved; and

4 F. A certification to be signed by the clerk after the
6 appeal period has expired, certifying that either: the
applicable period has expired without action or the final
8 judgment has been entered after remand following appeal.

10 (1) ~~--Any applicable appeal period has expired without~~
~~action; or~~

12 (2) ~~--An appeal has been filed and naming the appellant.~~

14 Unless a proposed judgment with the provisions required in this
16 subsection is presented to the court at the time of the court's
18 decision, the court shall name the party responsible for
20 preparing a judgment with the required provisions. ~~If an appeal~~
~~is not filed, an~~ An attested copy of the judgment with the signed
22 clerk's certification ~~that an appeal has not been taken~~ must be
24 recorded in the county or counties where the subject property is
26 located within one year of the entry of the final judgment unless
otherwise ordered by the court. For the purposes of this
section, a judgment is not final until all applicable appeal
periods have expired and any appellate proceedings and subsequent
actions on remand, if any, have been concluded. The court shall
28 also name the party responsible for recording the attested copy
30 of the judgment and for paying the appropriate recording fees.
The judgment has no effect as to any person not a party to the
proceeding unless an attested copy of the judgment is recorded in
accordance with this section. Failure to comply with this
32 section does not affect the validity of the underlying judgment.

34 **Sec. 3. 14 MRSA §2401, sub-§§6 and 7 are enacted to read:**

36 **6. Nonjudicial proceedings.** This section does not apply to
mechanics liens, attachments or other statutory lien proceedings
affecting title to real estate until the liens are enforced
38 pursuant to judicial proceedings.

40 **7. Transition.** Abstracts of judgments and attested copies
of judgments dated before November 1, 1993 that are signed by the
42 clerk but not by the judge and that otherwise comply with
subsection 3, paragraphs A to F are deemed to comply with the
44 recording requirements of this section.

46 **Sec. 4. Effective date.** This Act takes effect November 1, 1993.

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STATEMENT OF FACT

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This bill makes corrections to existing law concerning the recording of judgments in judicial proceedings involving real estate. It clarifies that recording is not required until the proceeding is completed, including any appeals. It clarifies that certain actions are not affected by this law and that failure to comply with every technical provision of the law will not invalidate the proceeding, create a challenge to the validity of the underlying judgment or affect marketability of title. It also clarifies that abstracts of judgments and attested copies of judgments dated before November 1, 1993, the effective date of this Act, are deemed to comply with the recording requirements if the other requirements are satisfied.