

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1025

S. P. 312

In Senate, February 9, 1965

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senator Jacques of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Relating to the Validation of Certain Instruments.

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

R. S., T. 33, § 353, amended. Section 353 of Title 33 of the Revised Statutes is amended to read as follows:

‘§ 353. Miscellaneous defects

All deeds and other instruments, including powers of attorney, heretofore made prior to January 1, 1961 for the conveyance of real property in this State or any interest therein, and otherwise valid except that the same omitted to state any consideration therefor or that the same were not sealed by the grantors or any of them, are validated. Every duly recorded satisfaction piece or instrument made prior to January 1, 1961 with intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage so intended to be canceled and discharged or assigned, but not drawn in formal accordance with statutory requirements, shall be held a valid discharge or assignment of such mortgage and a release or assignment of the mortgaged interest in such real estate. All corporations organized or attempted to be organized under and by virtue of any of the statutes of this State more than 20 years prior to January 1, 1961, and not heretofore, between April 15, 1927 and January 1, 1961 declared to be invalid, shall be held to all intents and purposes as if the same had in all respects been properly and rightfully organized and existing as lawful corporations, and the deeds or other instruments of such corporations organized or attempted to be organized, given in their corporate names, affecting real estate in this State or conveying the same, and heretofore between April 15, 1927 and January 1, 1961 recorded, or written out at length upon the books of record in the registry of deeds in the

county in which such real estate lies, shall not be held invalid by reason of any lack of authority or informality for or in their execution or delivery, if taken bona fide from the acting officers of such corporation or attempted organization as such, which such taking shall be presumed, but such corporations, attempted organizations as such, with such deeds and their records made as aforesaid, are validated. Any deed or other instrument made for the purpose of conveying real property in this State or any interest therein, and heretofore recorded or spread at length in the books of record in the registry of deeds for the county in which said real property lies, prior to January 1, 1961; which said deed or other instrument or said records fail to disclose authority by such corporation for the conveyance of such real estate, or which deed or other instrument fails to bear the corporate seal, or is executed or acknowledged by the person executing such deed in his individual capacity, or which fails to disclose the official capacity of the person executing such deed, or which was not signed by the officer duly authorized to sign such deed, with its record made as aforesaid, is validated. All deeds and other instruments made prior to January 1, 1961, for the conveyance of real property in this State, or any interest therein and executed by a person or persons purporting to act as the agent or attorney of the grantors, their spouses, or any of them, which such deeds have been recorded or written at length in the books of record in the registry of deeds for the county in which said real property lies more than 40 years prior to January 1, 1961, but no power of attorney authorizing and empowering such agent or attorney to make such conveyance or execute and deliver such deed, appears of record, but such real estate has in the meantime been occupied, claimed or treated by the grantees and those claiming by, through or under them as other property of like kind and similarly situated would be held or claimed by the owners thereof, shall be held to all intents and purposes as if executed and delivered under and by virtue of proper power of attorney duly recorded and given for the purpose, and the records thereof are validated. All instruments written or recorded in the books of record in the registry of deeds in the county in which the real estate affected thereby lies, more than 40 years prior to January 1, 1961, signed or executed by any person or persons purporting to act as the agent or attorney of the holder of any mortgage of real estate and purporting to operate as a discharge of such mortgage, shall be held as if executed and delivered under and by virtue of a proper power of attorney given for the purpose, although no power of attorney authorizing such agent or attorney thereto shall appear of record, and the records thereof are validated. In all cases in which an executor, administrator, guardian or conservator or trustee, master or receiver or similar officer has been authorized or ordered by a court of probate or other competent court to sell or exchange real estate and has sold or exchanged such real estate, or any interest therein in accordance with such authority, without first having filed a bond covering the faithful administration and distribution of the avails of such sale when such bond is required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing such sale or exchange, and has given a deed thereof to the purchaser of the same or to the person with whom such exchange was authorized or ordered; or where such executor, administrator, guardian, conservator, trustee, master or receiver, or other similar officer, appointed as aforesaid, has acted in such capacity under a decree of any such court appointing him to such office, but which such decree of appointment erroneously or by inadvertence excused him

from giving bond in such capacity when such bond is required by law and not in fact given, such deeds and acts heretofore done are validated.

This section shall apply to all foreclosures of mortgages legal or equitable.'