

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1050

H. P. 876

House of Representatives, March 13, 1975

On Motion of Mr. Gauthier of Sanford referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Perkins of Blue Hill.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT To Clarify Title to Land Where Marital Release is Omitted
from Conveyance.

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

33 MRSA c. 7, sub-c VIII is enacted to read:

SUBCHAPTER VIII

OMITTED MARITAL RELEASE

§ 470. Failure of spouse to join in release of right and interest by descent

If the spouse of a grantor in a conveyance of land fails to join in the conveyance in release of the spouse's right and interest by descent, such spouse shall be forever barred from claiming such right and interest by descent by real or mixed action for the recovery of lands by entry or otherwise, unless such spouse is in possession of the land when the claim is made, or has filed the notice provided in section 472 or has made some other claim of record within the time limited in section 471.

§ 471. Preservation of claims by filing of notice

The spouse of a grantor who 40 years or more before the effective date of this Act has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed, and which spouse intends to claim such right and interest, or any person claiming by, through or under the spouse after such right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, within 2 years of the effective date of this Act.

The spouse of a grantor who, less than 40 years before or at any time after the effective date of this Act, has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed, and which spouse intends to claim such right and interest, or any person claiming by, through or under the spouse after said right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, before the recording of the conveyance or within the later of 40 years of the date of recording of the conveyance or 2 years of the effective date of this Act.

A spouse may also preserve a claim to right and interest by descent by filing the notice provided in section 472 at any time prior to a conveyance in which the spouse does not intend to join in the release of such right and interest.

§ 472. Filing of notice; recording fee; indexing

In order for the notice specified in section 471 to be effective, it shall contain an intelligible description of the land in which the right and interest by descent is claimed; the name of the person on whose behalf such right and interest is claimed; the name of the current record owner of the land; a specific reference by date of recording and by volume and page numbers to the recorded conveyance, if any, that omitted the release of such right and interest; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county in which the land is located shall accept all such notices presented that describe land located in said county and shall enter and record them in the same manner that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice, and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the prior conveyance, if any, referred to in said notice the volume and page in which the record of said notice may be found.

§ 473. Persons under disability; 2-year period not suspended

The notice provided in section 472 may be filed for record by the claimant or any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the periods provided for such filing.

§ 474. Statutes of limitations not extended; bar or release not affected

Nothing contained in this subchapter shall be construed to extend the period limited for the bringing of an action or for the doing of any other required act or to otherwise extend any statute of limitations; nor shall it be construed to affect the nature of the right and interest by descent, the time

at which it becomes vested or any provision of law regarding its bar, release or other disposition.

§ 475. Liberal construction

This subchapter shall be liberally construed to affect the legislative purpose of enhancing the marketability of the title to land by eliminating the possibility of ancient marital interests that are outstanding on the record but are unclaimed.

STATEMENT OF FACT

The purpose of this bill is to make the title to land marketable where a conveyance in the chain of title to the land made 40 or more years ago lacks release of marital rights by the spouse of the grantor but where the omitted spouse is not in possession of and makes no claim to the property.

The bill creates a bar to the claim of marital right where the spouse who claims the right is not in possession of the property and has made no other claim of record to the property, unless the spouse files the notice provided in the registry of deeds within the time limited.

The bill provides the means of preserving claims on behalf of spouses, or those claiming under them, who do wish to claim their marital right, by the filing of a notice in the registry of deeds within 2 years of the effective date of the Act, in the case of conveyances made 40 years or more before the Act, and before or within 40 years after the date of recording of conveyances made less than 40 years before or any time after the Act. There is also provision for a spouse to file the notice to preserve such a claim prior to a conveyance, which protects the spouse where, for example, the spouse has reason to believe such a conveyance will occur but does not know when to expect it.