

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(EMERGENCY)
New Draft of: S. P. 84, L. D. 181
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1595

S. P. 599

In Senate, May 11, 1981

Reported by Senator Conley of Cumberland from the Committee on
Judiciary and Printed under Joint Rules No. 2

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Short Form Deeds Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there is a need for a clarification of the ambiguities existing currently in the Short Form Deeds Act; and

Whereas, title attorneys have stated that the certainty of titles has been affected by the current state of the law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 18-A MRSA § 1-110 is enacted to read:

§ 1-110. **Transfer for value**

Any recorded instrument described in this Code on which the register of deeds shall note by an appropriate stamp "Maine Real Estate Transfer Tax Paid" shall be prima facie evidence that such transfer was made for value.

Sec. 2. 33 MRSA § 772-A is enacted to read:

§ 772-A. Effect of release

A recital of release of all rights by a spouse in a conveyance or transfer of real estate has the effect of a joinder in an assent and consent to the conveyance and a release and waiver of all rights in the premises being conveyed.

Sec. 3. 33 MRSA § 775, sub-§§ 3-A, 3-B, 3-C and 3-D are enacted to read:

3-A Deed of Distribution by Personal Representative (Intestate)

3-B Deed of Distribution by Personal Representative (Testate)

3-C Deed of Sale by Personal Representative (Intestate)

3-D Deed of Sale by Personal Representative (Testate)

Sec. 4. 33 MRSA § 775, Form 1, 3rd ¶, as enacted by PL 1967, c. 377, is amended to read:

E.F., wife spouse of said the grantor, joins as grantor and releases all rights by descent and all other rights in the premises being conveyed.

Sec. 5. 33 MRSA § 775, Form 2, 3rd ¶, as enacted by PL 1967, c. 377, is amended to read:

E.F., wife spouse of said the grantor, joins as grantor, and releases all rights by descent and all other rights in the premises being conveyed.

Sec. 6. 33 MRSA § 775, Form 3, as amended by PL 1969, c. 344, § 3, is repealed and the following enacted in its place:

3 Deed of Personal Representative, Trustee, Conservator, Receiver, Commissioner, Executor, Administrator, Guardian or Other Specified Authorized Representative.

A.B., personal representative of the estate of C.D., (“trustee of”, “conservator of”, “receiver of the estate of”, “commissioner”, “executor of the will of”, “administrator of the estate of”, “guardian of”, or “other specified authorized representative of”) by the power conferred by law, and every other power, for dollars paid, grant to E.F. of County,, the land in County,

(description)

(with appropriate release of spouse)

Witness hand and seal this day of (here add acknowledgment)

Sec. 7. 33 MRSA § 775, Forms 3-A, 3-B, 3-C and 3-D are enacted to read:

3-A. Deed of Distribution by Personal Representative (Intestate)

A.B., of County,, duly appointed and acting personal representative of the estate of C.D., deceased, as shown by the probate records of County, Maine, by the powers conferred by law, and every other power, (in distribution of the estate) grants to E.F. of, County,, whose mailing address is, being the person(s) entitled to distribution, the real property in County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)

3-B Deed of Distribution by Personal Representative (Testate)

A.B., of County,, duly appointed and acting personal representative of the estate of C.D., deceased, whose will was duly admitted to probate in the Probate Court for County, Maine, by the power conferred by law, and every other power, (in distribution of the estate) grants to E.F. of County,, whose mailing address is, being the person(s) entitled to distribution, the real property in County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)

3-C Deed of Sale by Personal Representative (Intestate)

A.B., of County,, duly appointed and acting personal representative of the estate of C.D., deceased (intestate), as shown by the probate records of County, Maine, and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)

3-D Deed of Sale by Personal Representative (Testate)

A.B., of County,, duly appointed and acting personal representative of the estate of C.D., deceased (testate), as shown by the probate records of County, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale) (and not having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the

sale, such notice not being required under the terms of the decedent's will), by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment)

Sec. 8. 33 MRSA § 775, Form 4, 3rd ¶, as enacted by PL 1967, c. 377, is amended to read:

E.F., wife spouse of said the grantor, ~~joins as grantor, and~~ releases all rights by descent and all other rights in the premises being conveyed.

Sec. 9. 33 MRSA § 775, Form 5, 4th ¶, as enacted by PL 1967, c. 377, is amended to read:

E.F., wife spouse of said the grantor, ~~joins as grantor, and~~ releases all rights by descent and all other rights in the premises being conveyed.

Sec. 10. 33 MRSA § 775, Form 9, 3rd ¶, as enacted by PL 1967, c. 377, is amended to read:

E.F., wife spouse of said the grantor, ~~joins as grantor and~~ releases all rights by descent and all other rights in the premises being conveyed.

Sec. 11. 33 MRSA § 775, Form 10, 3rd ¶, as repealed and replaced by PL 1975, c. 104, § 2, is amended to read:

A.B. and C. D., husband and wife, (and E.F., and M.N., wife spouse of E.F.) (both) ~~join as grantors and (both)~~ release all rights by descent and all other rights in the premises being conveyed (or I.J., wife spouse of A.B., and K.L., wife spouse of C.D., ~~both join as grantors and both~~ release all rights by descent and all other rights in the premises being conveyed).

Sec. 12. **Validation.** Any deed which was recorded after January 1, 1981, and which, on its face, purports to be a deed of distribution and which includes a reasonable reference that its purpose and effect is to be a deed of distribution shall be construed to be a deed of distribution for purposes of the Revised Statutes, Title 18-A.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This new draft makes the bill emergency legislation. It also adds a new section 1 to provide a method of creating a record proof that a transfer was made for value.

The new draft also clarifies the wording of certain phrases contained in the short form deeds. The new draft retains the use of the terms "executor," "administrator" and "guardian" in the short form for deeds of those representatives because there may be foreign fiduciaries needing to execute deeds to convey land in Maine. The new draft adds new sections to set forth short form deeds of distribution and sale by personal representatives of estates. Because, prior to the actual effective date of the Probate Code, attorneys were recording deeds of distribution based on the Probate Code, the new draft also validates those deeds.