

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (After Deadline)

3 FIRST REGULAR SESSION  
4

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5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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7 Legislative Document

No. 1570

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9 H.P. 1176

House of Representatives, May 5, 1983

10 Approved for introduction by a majority of the Legislative Council  
11 pursuant to Joint Rule 27.

12 Speaker laid before the House and on Motion of Representative  
Gwadosky of Fairfield, referred to the Committee on State Government. Sent  
up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Gwadosky of Fairfield.

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14 STATE OF MAINE  
15

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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-THREE  
18

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19 AN ACT to Clarify the Types of Property  
20 Which Pass by Deed.  
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22 **Emergency preamble.** Whereas, Acts of the Legis-  
23 lature do not become effective until 90 days after  
24 adjournment unless enacted as emergencies; and

25 Whereas, Title 33, section 151, parts of which  
26 were enacted in the 19th century, unnecessarily and  
27 arbitrarily classify stoves and carpets as personal  
28 property even though under applicable common law some  
29 stoves and carpets may be classified as realty; and

30 Whereas, the statute as written could cause con-  
31 fusion among buyers and sellers of real estate,  
32 lenders, financial institutions and their attorneys;  
33 and

1           Whereas, due to certain requirements of federal  
2 law, the statute unnecessarily restricts various pro-  
3 grams of the Maine State Housing Authority; and

4           Whereas, the effective 90-day period may not  
5 terminate until after the Maine State Housing Author-  
6 ity has commenced its home improvement program,  
7 thereby unnecessarily limiting the program; and

8           Whereas, in the judgment of the Legislature,  
9 these facts create an emergency within the meaning of  
10 the Constitution of Maine and require the following  
11 legislation as immediately necessary for the preser-  
12 vation of the public peace, health and safety; now,  
13 therefore,

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

16           33 MRSA §151 is amended to read:

17           §151. Items covered by deed

18           A person owning real estate and having a right of  
19 entry into it, whether seized of it or not, may con-  
20 vey it or all his interest in it, by a deed to be ac-  
21 knowledged and recorded as provided in this chapter.  
22 Down trees lying on land at the time of conveyance  
23 are real estate and pass by the deed; but such down  
24 trees as are cut into wood, logs or other lumber and  
25 hemlock bark peeled are personal property, and the  
26 owner may remove them in a reasonable time there-  
27 after. Carpets and carpeting, stoves and funnels  
28 belonging thereto and other items of personality are  
29 not real estate and do not pass by a deed thereof  
30 unless the deed or another instrument provides that  
31 an item of personality is a fixture or passes by  
32 deed. Any fixture shall pass by deed, mortgage or  
33 other instrument conveying real estate.

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

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STATEMENT OF FACT

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This bill is intended to supplement to the common law of fixtures and bring this section of the statute into conformance with modern practices insofar as they relate to construction techniques.

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