

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1818

6
7 H.P. 1395

House of Representatives, January 4, 1984

8 Reference to the Committee on Judiciary.

9 Ordered printed and sent up for concurrence.

10 Approved for introduction by the Legislative Council pursuant to Joint Rule 26.

EDWIN H. PERT, Clerk

11 Presented by Representative Hobbins of Saco.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Clarify That Notaries Public
18 who do not Maintain a Seal of Office
19 may Take Acknowledgements.
20

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

23 33 MRSa §203, first ¶, as amended by PL 1981, c.
24 456, Pt. A, §114, is further amended to read:

25 Deeds and all other written instruments before
26 recording in the registries of deeds, except those
27 issued by a court of competent jurisdiction and duly
28 attested by the proper officer thereof, and excepting
29 plans and notices of foreclosure of mortgages and
30 certain financing statements as provided in Title 11,
31 section 9-401, and excepting notices of liens for in-
32 ternal revenue taxes and certificates discharging
33 such liens as provided in section 664, shall be ac-
34 knowledged by the grantors, or by the persons execut-
35 ing any such written instruments, or by one of them,

1 or by their attorney executing the same, or by the
2 lessor in a lease or one of the lessors or his attor-
3 ney executing the same, before a notary public ~~having~~
4 a seal, in the State, or before an attorney-at-law
5 duly admitted and eligible to practice in the courts
6 of the State, if within the State; or before any
7 clerk of a court of record having a seal, notary pub-
8 lic or commissioner appointed by the Governor of this
9 State for the purpose, or a commissioner authorized
10 in the State where the acknowledgment is taken, with-
11 in the United States; or before a minister,
12 vice-consul or consul of the United States or notary
13 public in any foreign country. The seal of such
14 court or the official seal of such notary public or
15 commissioner, if he has one, shall be affixed to the
16 certificate of acknowledgment, but if such acknowl-
17 edgment is taken outside the State before a justice
18 of the peace, notary public not having a seal or com-
19 missioner, a certificate under seal from the secre-
20 tary of state, or clerk of a court of record in the
21 county where the officer resides or took the acknowl-
22 edgment, authenticating the authority of the officer
23 taking such acknowledgment and the genuineness of his
24 signature, must be annexed thereto.

25

STATEMENT OF FACT

26 The Revised Statutes, Title 33, section 203, in-
27 dicates that deeds and all other written instruments
28 before recording in the registries of deeds shall be
29 acknowledged by the grantor before, among others, a
30 notary public having a seal in the State. A recent
31 amendment to the Revised Statutes, Title 4, section
32 951, provides that a notary public need not keep a
33 seal of office. Because both sections are in full
34 force and effect, an ambiguity is created as to
35 whether a notary public who does not have a seal can
36 take an acknowledgment in the State.

37 The purpose of this bill is to make clear that a
38 notary public, with or without a seal, may take ac-
39 knowledgments in this State. Title examiners who
40 discover instruments recorded in a registry of deeds

1 by a notary public not having a seal may be of the
2 opinion that there has not been compliance with the
3 apparent requirement of Title 33, section 203.

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