

# MAINE STATE LEGISLATURE

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1 (New Title)  
2 (New Draft of S.P.654, L.D.1845)

3 SECOND REGULAR SESSION  
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5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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7 Legislative Document

No. 2313

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9 S.P. 855

In Senate, March 19, 1984

10 Reported by Senator Violette of Aroostook from the Committee on  
11 Judiciary and printed under Joint Rule 2.

12 Original bill presented by Senator Trafton of Androscoggin. Cosponsored  
by Senator Collins of Knox.

JOY J. O'BRIEN, Secretary of the Senate

13  
14 STATE OF MAINE  
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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-FOUR  
18

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19 AN ACT Requiring Nonowner Spouses to  
20 Record Claims to Marital Property under Divorce  
21 Laws, and Clarifying the Need for the Nonowner  
22 Spouse to Sign Conveyances in General.  
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24 Be it enacted by the People of the State of Maine as  
25 follows:

26 Sec. 1. 19 MRSA §725, as amended by PL 1979, c.  
27 663, §128, is repealed and the following enacted in  
28 its place:

29 §725. Descent of real estate in divorce

30 1. Nonowner spouse claims. Notwithstanding the  
31 actual notice provisions of Title 14, section 4455 or  
32 any other laws, any claim of a nonowner spouse to  
33 real estate as "marital property," as defined by Ti-  
34 tle 19, section 722-A, shall not affect title to the

1 real estate of the owner spouse until the nonowner  
2 spouse records in the appropriate registry of deeds  
3 either:

4 A. Copy of complaint. A copy of the divorce  
5 complaint as filed in court; or

6 B. Clerk's certificate. A clerk's certificate  
7 of the divorce complaint, as described in Title  
8 14, section 4455, subsection 2; or

9 C. Decree or abstract. A decree or abstract  
10 thereof as described in this section.

11 This recording requirement shall apply to all divorce  
12 proceedings in Maine or in any other jurisdiction  
13 commenced before or after the effective date of this  
14 subsection.

15 2. Decree or abstract as deed. Any rights ac-  
16 quired under sections 721 and 723 on or before Decem-  
17 ber 31, 1971 and all rights under section 722-A by a  
18 party in the real estate of a party are effectual  
19 against any person when the decree of divorce, or an  
20 abstract thereof, setting forth the names and resi-  
21 dence of the parties, the date of the decree and the  
22 court where granted, is filed in the registry of  
23 deeds for the county or registry district where the  
24 real estate is situated. The failure of a party to  
25 record the decree or an abstract within any time pe-  
26 riod formerly prescribed by this section shall not  
27 affect the rights of that party as against the other  
28 party, his heirs and devisees. The recording of such  
29 a decree or abstract, in the manner provided in this  
30 section, shall have the force and effect of a quit-  
31 claim deed releasing all interest in the real estate  
32 described in the decree or abstract, whether the in-  
33 terest is in fee or by statute.

34 3. Abstracts. Each party or his attorney shall  
35 include, with any final decree submitted to the  
36 court, the abstracts that are necessary to implement  
37 that decree. The recording fee for the decree of di-  
38 vorce or abstracts thereof shall be paid to the clerk  
39 prior to the entry of the final decree. The clerk of  
40 the court in which the divorce is granted shall, at  
41 the expiration of any appeal period from that decree,

1 send the decree of divorce or abstract thereof for  
2 recording, by certified mail, or deliver the decree  
3 of divorce or abstract thereof to such registry or  
4 registries as required.

5 4. Out-of-state divorce decrees. When a divorce  
6 has been granted out of the State, the plaintiff, or  
7 his attorney, shall cause a duly authenticated copy  
8 of such order to be recorded with the register of  
9 deeds in each of the counties where the real estate  
10 or any part thereof is situated. The appropriate re-  
11 recording fee shall be paid prior to the recording.

12 Sec. 2. 33 MRSA c. 7, sub-c. IX is enacted to  
13 read:

14 SUBCHAPTER IX

15 SIGNATURE OF A NONOWNER SPOUSE

16 §480. Signature of nonowner

17 An owner of real estate may convey that real es-  
18 tate, or any interest in it free from any claim to  
19 the real estate by his nonowner spouse, by deed,  
20 mortgage or any other instrument, without signature  
21 of his nonowner spouse, unless:

22 1. Nonbona fide purchaser. The transfer re-  
23 quires signature pursuant to the Title 18-A, section  
24 2-202, subsections (1) and (3); or

25 2. Divorce action. The nonowner spouse has  
26 filed a claim in the registry of deeds pursuant to  
27 Title 19, section 725, and either the divorce action  
28 is still pending or the nonowner spouse has been  
29 granted an interest in the real estate by the court.

30 After that conveyance, any claim of the nonowner  
31 spouse under probate, divorce or any other laws,  
32 shall be against the proceeds of that conveyance and  
33 not against the real estate. Notwithstanding any  
34 provision of the Maine Probate Code, a mortgage deed  
35 does not need to be signed by a nonowner spouse, pro-  
36 vided that the mortgage deed secures actual consider-  
37 ation in money or money's worth given in good faith  
38 by the mortgagee to the owner. Notwithstanding any

1 provision of the Maine Probate Code or divorce laws,  
2 a correcting deed does not need to be signed by a  
3 nonowner spouse.

4 STATEMENT OF FACT

5 The new draft continues to seek, as did the orig-  
6 inal bill, to provide a simple and precise standard  
7 for all title attorneys and parties to real estate  
8 transactions to follow in the future concerning the  
9 question of the necessity of obtaining the signature  
10 of a nonowner spouse on a deed of conveyance.

11 The new draft adds the requirement that nonowner  
12 spouses making claims to real property under divorce  
13 laws must record some notice of their claim in the  
14 registry of deeds before affecting title to the prop-  
15 erty of the owner spouse. This new draft has the  
16 support of the Real Estate Section and Family Law  
17 Section of the Maine State Bar Association.

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