

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)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 342

S.P. 185

In Senate, February 22, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HOBBS of York.
Cosponsored by Representative PARADIS of Augusta.

STATE OF MAINE

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

An Act to Amend the Uniform Partnership Act with Regard to Partnership
Title in Real Estate.



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

3 Sec. 1. 31 MRSA §288, as enacted by PL 1973, c. 377, §1, is
repealed and the following enacted to read:

5 §288. Partnership property

7
9 1. Real property acquired before October 3, 1973. Any
11 estate in real property acquired by a partnership in the
13 partnership name before October 3, 1973, is vested in that
15 partnership without any further action or conveyance by the
17 partnership or any of its members. Any such property shall not
19 be deemed to have been held by the partners as tenants in common
21 but shall be deemed to have been held in the partnership name.

23 A. Any partner in a partnership that held real property in
25 the partnership name before October 3, 1973, may reserve any
27 rights and claims relating to the property and specifically
29 derived from the partnership relationship by filing a notice
31 in the registry of deeds of the county in which the property
33 is located within 2 years after the effective date of this
35 subsection. The notice must contain:

- 37 (1) A description of the property;
- 39 (2) The name of the partnership and the names of the
41 partners; and
- 43 (3) A specific reference by volume and page to the
45 recorded conveyance in which the partner seeks to
47 preserve the partner's rights and claims.

49 The register of deeds shall charge the customary filing fee
for a filing. Within a reasonable time after the notice is
recorded, the register of deeds shall enter, upon the margin
of the record of the prior conveyance referred to in the
notice, the volume and page in which the copy of the notice
may be found.

41 A notice may be filed under this paragraph by the claimant
43 or by any other person acting on behalf of any claimant who
45 is under a disability or unable to assert a claim on the
47 claimant's own behalf, but no disability or lack of
49 knowledge of any kind may suspend or extend the 2-year
period provided for filing.

41 B. Nothing in this subsection may be construed to extend
43 the period for bringing an action or doing any other
45 required act under any statute of limitations.

1 2. Partnership property acquired or conveyed after October
2 3, 1973. Partnership property acquired or conveyed after October
3 3, 1973, shall be subject to the following.

5 A. All property originally brought into the partnership
6 stock or subsequently acquired by purchase or otherwise, on
7 account of the partnership, is partnership property.

9 B. Unless the contrary intention appears, property acquired
10 with partnership funds is partnership property.

11 C. Any estate in real property may be acquired in the
12 partnership name. Title so acquired can be conveyed only in
13 the partnership name.

14 D. A conveyance to a partnership in the partnership name,
15 though without words of inheritance, passes the entire
16 estate of the grantor unless a contrary intent appears.

17 Sec. 2. 31 MRSA §290, as enacted by PL 1973, c. 377, §1, is
18 repealed and the following enacted in its place:

19 §290. Conveyance of real property of the partnership

20 1. Real property acquired before October 3, 1973. Any
21 conveyance of real property by any partnership made before
22 October 3, 1973, is valid without further act by the partnership
23 or any of its members.

24 A. Any partner in a partnership that held real property in
25 the partnership name before October 3, 1973, may reserve any
26 rights and claims relating to the property and which have
27 been specifically derived from the partnership relationship
28 by filing a notice in the registry of deeds of the county in
29 which the property is located within 2 years after the
30 effective date of this subsection. The notice must contain:

31 (1) A description of the property;

32 (2) The name of the partnership and the names of the
33 partners; and

34 (3) A specific reference by volume and page to the
35 recorded conveyance in which the partner seeks to
36 preserve the partner's rights and claims.

37 The register of deeds shall charge the customary filing fee
38 for such a filing. Within a reasonable time after the
39 notice is recorded, the register of deeds shall enter upon
40 the margin of the record of the prior conveyance referred to
41 in the notice the volume and page in which the copy of the
42 notice may be found.

1
3 A notice may be filed under this paragraph by the claimant
5 or by any other person acting on behalf of any claimant who
7 is under a disability or unable to assert a claim on the
claimant's own behalf, but no disability or lack of
knowledge of any kind may suspend or extend the 2-year
period provided for filing.

9 B. Nothing in this subsection may be construed to extend
11 the period for bringing an action or doing any other
required act under any statute of limitations.

13 2. Conveyance of real property after October 3, 1973. Real
15 property of the partnership conveyed after October 3, 1973, shall
be subject to the following.

17 A. Where title to real property is in the partnership name,
19 any partner may convey title to that property by a
21 conveyance executed in the partnership name; but the
23 partnership may recover that property unless the partner's
25 act binds the partnership under the first paragraph of
section 289, or unless such property has been conveyed by
the grantee or a person claiming through the grantee to a
holder for value without knowledge that the partner, in
making the conveyance, has exceeded the partner's authority.

27 B. Where title to real property is in the name of the
29 partnership, a conveyance executed by a partner, in the
31 partner's own name, passes the equitable interest of the
partnership, provided the act is one within the authority of
the partner under the first paragraph of section 289.

33 C. Where title to real property is in the name of one or
35 more but not all the partners, and the record does not
37 disclose the right of the partnership, the partners in whose
39 name the title stands may convey title to that property, but
41 the partnership may recover that property if the partners'
act does not bind the partnership under the first paragraph
of section 289, unless the purchaser or the purchaser's
assignee is a holder for value, without knowledge.

43 D. Where the title to real property is in the name of one
45 or more or all the partners, or in a 3rd person in trust for
47 the partnership, a conveyance executed by a partner in the
49 partnership name, or in the partner's own name, passes the
equitable interest of the partnership, provided the act is
one within the authority of the partner under the first
paragraph of section 289.

51 E. Where the title to real property is in the names of all
the partners a conveyance executed by all the partners
passes all their rights in that property.

1

3

STATEMENT OF FACT

5

7

9

11

13

15

17

This bill attempts to eliminate uncertainty surrounding the conveyance of real property belonging to pre-Uniform Partnership Act partnerships. Prior to enactment of the Uniform Partnership Act, partners held title to real estate owned by the partnership as tenants in common. Under the Uniform Partnership Act, title is vested in the partnership itself. The bill vests legal title to real estate in the partnership when the property was acquired in the partnership name, even if that property had been acquired before the effective date of the Uniform Partnership Act. The bill also includes a mechanism for individual partners to preserve any separate interests that they may hold in the real estate by filing a notice to that effect in the local registry of deeds.