

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 485

H.P. 355

House of Representatives, February 8, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MARSANO of Belfast.

Cosponsored by Representative OTT of York, Representative HANLEY of Paris and Representative STEVENS of Bangor.

STATE OF MAINE

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

An Act Concerning Destruction of Certain Court Records in Real Estate Matters.

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

14 MRSA c. 405 is enacted to read:

CHAPTER 405
RECORDS

§2401. Recording requirements for proceedings involving real estate

1. Destruction prohibited. Court records affecting title to or rights in land may not be destroyed. Court records governed by this section include the docket; pleadings; correspondence; motions; rulings; transcripts, if any; and orders relating to any of these records.

2. Separate indexing. On and after January 1, 1992, judicial proceedings in any Maine court, including appeals from judicial proceedings, that affect title to real estate must be identified on the docket and indexed in the court records separately from other judicial proceedings. Judicial proceedings subject to this section include, but are not limited to, proceedings involving:

A. Divorce;

B. Partition actions;

C. Boundary and access disputes;

D. Insolvency;

E. Mortgage foreclosure;

F. Declaratory judgment actions;

G. Attachment and mechanic liens;

H. Dissolution; and

I. Actions to quiet title.

3. Abstract required. Upon the expiration of the applicable appeal period or the entry of a final order on appeal, an abstract of any judgment or final order of judicial proceedings subject to this section must be prepared and the court may direct the counsel of record to prepare the abstract. The abstract must be signed by the judge and contain the provisions of the final order.

2 4. Abstract; recording and contents. The abstract must be
4 recorded in the registry of deeds in the county or counties in
which the subject property is located and must include the
following:

6 A. The names and addresses of all parties to the action,
8 including the counsel of record;

10 B. The docket number;

12 C. A certification that all parties have received notice of
14 the proceedings, that the notice has been given in
16 accordance with the applicable provisions of the Maine Rules
18 of Civil Procedure and, if the notice has been served or
20 given pursuant to an order of a court, including service by
22 publication, that the notice has been served or given
24 pursuant to the order;

26 D. An adequate description of real estate involved;

28 E. A copy of any order, including the final order, that
30 affects the property, with the applicable dates of that
32 order; and

34 F. A certification that any applicable appeal period has
36 expired without action or, if appealed by any party, a
38 certification of the appeal.

40 5. Original abstract filing. Upon recording, the original
42 of the court abstract must be forwarded to the clerk of courts
44 for filing with the original court records.
46

48 STATEMENT OF FACT

50 Records relating to rights in real estate generally are
52 preserved by recording in the county registries of deeds. Many
titles to real estate are affected by court proceedings, such as
divorce, partition actions, boundary and access disputes,
insolvency proceedings, mortgage foreclosures, declaratory
judgment actions, attachment and mechanic lien proceedings,
dissolution proceedings and quiet title actions. Historically,
these court records have been available in the local court files
for review. In recent years, because of storage problems in
local courthouses, older case files have been shipped to storage
facilities and, over a period of time, will be destroyed to make
room for new records. In the case of land records, storage or
destruction of these files means a loss of significant
information for title examination purposes. This legislation
requires that complete, accurate details of a proceeding
involving real estate be recorded in the registry of deeds. This

2 recording should provide enough information so that if the
original court proceedings are lost or destroyed, there will be
4 adequate information in the registry of deeds for the benefit of
the public.