

MAINE STATE LEGISLATURE

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R. G. R.

L.D. 658

DATE: 2/14/96

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 477, L.D. 658, Bill, "An Act Concerning Real Estate Trusts"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 33 MRSA §851-A is enacted to read:

§851-A. Conveyances to or from trusts without naming trustee

1. Conveyance to a trust. In any conveyance of real property or any interest in real property in this State, if the grantee or one or more of the grantees is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantee, then the conveyance is deemed to have been made to all of the trustees of the trust in their capacity as trustees of the trust, as though they had been named as grantees instead of the trust.

2. Conveyance from a trust. In any conveyance of real property or any interest in real property in this State, if the grantor or one or more of the grantors is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantor, then the conveyance is deemed to have been made by all of the trustees of the trust who signed the instrument of conveyance as trustees of the trust, as though they had been named as grantors instead of the trust.

COMMITTEE AMENDMENT

2 3. Preservation of claim. Any person who claims title to
3 any real property or any interest in real property in this State
4 by virtue of the failure of an instrument of conveyance delivered
5 before the effective date of this section to name as grantor or
6 as grantee any trustee of a trust may preserve that claim by
7 recording a notice, within 2 years from the effective date of
8 this section, in the registry of deeds where the instrument of
9 conveyance is recorded. In order for the notice to be effective,
10 it must contain the name and mailing address of the claimant, the
11 names of the parties to the instrument of conveyance that is
12 claimed to be defective, the book and page numbers where the
13 instrument of conveyance is recorded and a statement of the
14 purported defect on which the claim is based. The notice
15 described in this subsection may be presented for recording by
16 the claimant or by any other person acting on behalf of a
17 claimant who is under a disability or is unable to assert a claim
18 on the claimant's own behalf, but a disability or lack of
19 knowledge of any kind does not suspend or extend the period for
20 the recording of the notice.

21 4. Register's duties. The register of deeds shall enter
22 upon the margin of the recorded instrument, described in a notice
23 recorded as provided in subsection 3, the book and page numbers
24 where the notice is recorded.

25 5. Application. This section does not apply to any trust
26 that, as determined by the laws of its situs, is an entity
27 capable of holding and conveying title in its own name.
28

29 6. Construction. Nothing contained in this section may be
30 construed to recognize trusts created under the laws of this
31 State as entities capable of holding or conveying title to real
32 property in their own names. This section applies to conveyances
33 made before, on or after the effective date of this section, but
34 nothing contained in this section may be construed to suggest or
35 require that any instrument delivered before the effective date
36 of this section is invalid. Nothing contained in this section
37 may be construed to extend the period for the commencement of an
38 action or for the performance of any other required act under any
39 statute of limitations.
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STATEMENT OF FACT

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This amendment replaces the bill and provides that deeds to or from a trust will not be invalidated for failure to name a trustee as grantor or grantee, but does not change the status of

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COMMITTEE AMENDMENT "A" to H.P. 477, L.D. 658

2 a trust into an entity capable of holding or conveying title in
its own name; nor does it apply to trusts which already are such
4 entities. The amendment also provides for the preservation of
claims of any person claiming the invalidity of such a deed
delivered before the bill's effective date.

COMMITTEE AMENDMENT