

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 568

H.P. 426

House of Representatives, January 19, 1999

**An Act to Amend the Laws Pertaining to Conveyance and Reservation of
Real Estate.**

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.
Cosponsored by Senator: GOLDTHWAIT of Hancock.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 33 MRSA §772**, as amended by PL 1969, c. 344, §1 is
5 repealed and the following enacted in its place:

6 **§772. Words of inheritance; habendum**

7 **1. Words of inheritance; habendum.** In a conveyance or
8 reservation of real estate, the terms "heirs," "successors,"
9 "assigns," "forever" or other technical words of inheritance, or
10 an habendum clause, are not necessary to convey or reserve an
11 estate in fee. A conveyance or reservation of real estate,
12 whether made before or after the effective date of this section,
13 must be construed to convey or reserve an estate in fee simple,
14 unless a different intention clearly appears in the conveyance.

15
16 **2. Notice of intent to preserve rights.** A person claiming
17 an interest in real estate by reason of the omission of technical
18 words of inheritance or the lack of an habendum clause in a deed
19 that conveyed or reserved a property interest prior to October 1,
20 1969, may preserve that claim by filing a notice of intent to
21 preserve in the registry of deeds in the county where the real
22 estate is located within 2 years after the effective date of this
23 section.

24
25 **3. Contents of notice.** The notice required under
26 subsection 2 must contain:

27
28 **A. The name and address of the person on whose behalf the**
29 **interest in real estate is being claimed;**

30
31 **B. An intelligible description of the real estate and**
32 **interest that is being claimed;**

33
34 **C. A statement of the source of title to the interest in**
35 **real estate, including its derivation from the deed which**
36 **lacked such technical words of inheritance or habendum; and**

37
38 **D. A duly verified oath taken by the person claiming the**
39 **interest in real estate before a person authorized to**
40 **administer oaths.**

41
42
43 **4. Register's duties.** The register of deeds shall enter
44 upon the margin of the recorded deed that lacked technical words
45 of inheritance or an habendum clause the volume and page numbers
46 where the notice of intent to preserve is recorded. The register
47 of deeds may charge the same fee for recording the notice that is
48 charged for recording deeds.

49
50 **5. Who may present notice for recording.** The notice
required under subsection 2 and described in subsection 3 may be

2 presented for recording by the person claiming title or an
3 authorized person acting on that person's behalf. Disability or
4 lack of knowledge by the person claiming title does not extend
5 the time limitations related to the recording of the notice.

6 6. Construction of laws. This section may not be construed
7 to extend the period for bringing of an action or for the doing
8 of any other required act under any statute of limitations.

10 7. Liberal construction. This section must be liberally
11 construed to effect the legislative purpose of clarifying title
12 to land currently encumbered by ancient deeds that lacked
13 technical words of inheritance or an habendum clause.

16 SUMMARY

18 This bill provides an opportunity for persons claiming an
19 interest in real estate based on the omission of technical
20 wording in a deed to preserve that claim by filing notice in the
21 registry of deeds within 2 years of the effective date of this
22 Act.