

MAINE STATE LEGISLATURE

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ms.

L.D. 709

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JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 120TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 554, L.D. 709, Bill, "An Act Regarding Ancient Execution Liens"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'PART A'

Further amend the bill in section 2 by striking out all of subsection 8 and inserting in its place the following:

'8. Duration of lien; renewal. A lien created pursuant to this section after the effective date of this subsection continues for a period of 20 years from the date of the filing of the writ of execution or of the recording of the writ of execution in the registry of deeds, unless the judgment is paid, discharged or released. A lien may be renewed once for a period of 20 years from the filing or recording of a renewal, pluries or alias writ of execution in the same manner as the original writ of execution was filed or recorded, with the same notice as required by subsection 5.

A. If the renewal writ is filed or recorded before the expiration of the 20-year period of the original writ of execution, the renewal writ relates back to the date that the original writ of execution was filed or recorded and prevents the expiration of the lien.

B. A lien created pursuant to this section when the date of the recording of the writ of execution in the registry of

2 deeds is more than 18 years prior to the effective date of
 3 this subsection may be renewed as provided in this
 4 subsection if the renewal writ is recorded within 2 years of
 5 the effective date of this subsection.'

6 Further amend the bill by inserting after section 2 the
 7 following:

8
 9 'Sec. 3. 14 MRSA §4653 is amended to read:

10 **§4653. Renewal in 10 years**

11
 12 An alias or pluries execution may be issued within 10 years
 13 after the day of the ~~return~~ issuance of the preceding execution
 14 and not afterwards.

15
 16
 17 **PART B**

18
 19 **Sec. B-1. 33 MRSA §352, first ¶,** as repealed and replaced by PL
 20 1995, c. 304, §1, is amended to read:

21
 22 A record of a deed or other instrument, including a power of
 23 attorney, made prior to January 1, 1990 2000 for the conveyance
 24 of real property, or of any interest in the property, and
 25 recorded in the registry of deeds of the county in which the real
 26 property is located is valid and enforceable even if:

27
 28 **Sec. B-2. 33 MRSA §353-A,** as amended by PL 1997, c. 62, §1,
 29 is further amended to read:

30
 31 **§353-A. Miscellaneous defects**

32
 33 **1. Omission of consideration; failure to seal.** A deed or
 34 other instrument, including a power of attorney, made prior to
 35 January 1, 1990 2000 for the conveyance of real property, or any
 36 interest in real property, in this State and otherwise valid,
 37 except that the deed or instrument does not state any
 38 consideration for the real property or was not sealed by the
 39 grantors, is valid.

40
 41 **2. Discharge or assignment of mortgage.** A duly recorded
 42 satisfaction piece or instrument made prior to January 1, 1990
 43 2000 with the intent to cancel and discharge or assign a mortgage
 44 of real estate, fully identifying the mortgage intended to be
 45 canceled and discharged or assigned, but not drawn in accordance
 46 with statutory requirements is considered valid.

47
 48 **3. Corporations organized or attempted to be organized;**
 49 **validation of deeds and other instruments.** A corporation

organized or attempted to be organized under the laws of this State more than 20 years prior to January 1, 1990 2000 and not declared to be invalid prior to January 1, 1990 2000 is for all intents and purposes a lawful corporation. The deeds or other instruments of the corporation, given in its corporate name, that affect or convey real estate or any interest in the real estate and that prior to January 1, 1990 2000 were recorded in the registry of deeds in the county where the real estate is located may not be held invalid by reason of:

A. The lack of authority for or informality in their execution or delivery if executed or delivered in good faith by the acting officers of the corporation;

B. The failure to disclose the corporation's authority for the conveyance of real estate;

C. The failure to bear the corporate seal;

D. A person executing or acknowledging a deed or instrument in that person's individual capacity;

E. The failure to disclose the official capacity of the person executing the deed or instrument; or

F. The failure of the duly authorized corporate officer to sign the deed or instrument.

4. Omission of authorization for conveyance of real estate. A deed or other instrument for the conveyance of real property, or any interest in the real property executed by a person or persons purporting to act as the agent or attorney of the grantors or their spouses, that has been recorded in the registry of deeds for the county in which the real property is located more than 40 years prior to January 1, 1990 2000 is valid even if no power of attorney authorizing and empowering an agent or attorney to make the conveyance or execute and deliver the deed or instrument appears of record, but the real property has in the meantime been occupied, claimed or treated by the grantees or their heirs as their own property.

5. Discharge of mortgage. An instrument written or recorded in the registry of deeds more than 40 years prior to January 1, 1990 2000 that is signed or executed by a person or persons purporting to act as the agent or attorney of a mortgagee of real estate and purporting to discharge the mortgage is valid even if no power of attorney authorizing an agent or attorney appears of record.

6. **Failure to secure bond or comply with licensing.** In all cases in which an executor, administrator, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to sell or exchange real estate and has sold or exchanged the real estate, or any interest in the real estate, in accordance with the authority, without first having filed a bond covering the faithful administration and distribution of the sale when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the sale or exchange and has given a deed to the purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, guardian, conservator, trustee, master, receiver or other officer appointed has acted in that capacity under a decree of any court appointing that person to the office, but the decree of appointment erroneously or inadvertently excused the person from giving bond in that capacity when a bond was required by law and was not in fact given, the deeds and acts previously done are valid.

7. **Foreclosure by publication.** In all cases of foreclosure of real estate mortgages by publication, a certificate of the publication of foreclosure made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, or made by an officer or employee of the newspaper that published the notice recorded on or before January 1, 1990 2000 is prima facie evidence of the publication of foreclosure to the same extent as if the certificate had in fact been made by the register of deeds and recorded; certificates made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, or made by an officer or employee of the newspaper that published the notice recorded on or before January 1, 1990 2000 have the same force and effect as if made by the register of deeds and are valid.

8. **Foreclosure by civil action.** All foreclosures commenced on or after October 1, 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of redemption allowed was not less than one year and that would be valid but for the date of execution of the mortgage are valid and effective according to their terms.

9. **Abstracts of divorce decrees.** An abstract of a divorce decree recorded in any registry of deeds prior to March 24, 1987 and otherwise valid that failed to state the residence of any party to the divorce action is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract.'

COMMITTEE AMENDMENT "A" to H.P. 554, L.D. 709

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment provides that an execution lien continues for a period of 20 years from the date of the filing or recording of the writ of execution, as such writs may not only be recorded at the registry of deeds but may also be filed with the Secretary of State. Language is added to clarify that the renewal writ of execution may also be designated an alias or pluries writ of execution. A change is made to the Maine Revised Statutes, Title 14, section 4653 to clarify that such renewal writs may properly be issued within 10 years after the day of issuance of the preceding writ of execution.

Part B of this amendment updates the laws that validate real estate titles despite the presence of certain technical defects in acknowledgement or content of documents.