

MAINE STATE LEGISLATURE

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MS
R. OFS.

L.D. 482

Date: 5/5/11

(Filing No. H-192)

JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 125TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 375, L.D. 482, Bill, "An Act To Amend the Laws Dealing with Limitation of Actions"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 14 MRSA §817 is enacted to read:

§817. Limitation of actions for breach of covenants; vested interest in 6-year limitations period

1. Twenty years. An action on a breach of covenants in any deed or other instrument for the conveyance of real property in this State or any interest therein must be commenced within 20 years after the cause of action accrues. This subsection applies to all deeds and other instruments for the conveyance of real property executed on or after October 7, 1967.

2. Vested interest in 6-year statute of limitations; notice, right of action; trial. A person who is a party to an instrument conveying real property that was not executed under seal and for which the 6-year statute of limitations on causes of action for breach of covenants expired before the effective date of this section and who claims the benefit of the 6-year statute of limitations may record within 12 months of the effective date of this section in the registry of deeds where the instrument is recorded or the property is located a conformed copy of the notice set forth in this subsection.

A. The notice must include the names of the current record owner of the real property that was the subject of the instrument and the mortgagees of record. Within 20 days of recording the notice, the person shall give a copy of the notice to the current record owners and the mortgagees by mailing by the United States Postal Service, postage prepaid. The notice must be substantially as follows.

"NOTICE

By virtue of the Maine Revised Statutes, Title 14, section 817, subsection 2, the following instrument that was not executed under seal is deemed to

1 be subject to a 20-year limitations period for breach of covenants if no
2 claim of a vested right to assert the 6-year statute of limitations for
3 breach of covenants is timely made:

4 (list here the instrument by grantor name, grantee name, date of
5 execution and recording information, if any)

6 This instrument affects real estate located at (identify here street location,
7 municipality and county where the real estate is located).

8 Pursuant to the Maine Revised Statutes, Title 14, section 817, the
9 undersigned hereby claims a vested right to assert the defense of statute
10 of limitations for any cause of action asserting a breach of covenants in
11 the above described instrument that is not commenced within 6 years of
12 the date the cause of action accrued."

13 B. A person receiving a notice under paragraph A is barred from maintaining an
14 action for breach of covenants under the identified instrument by the 6-year
15 limitations period unless within one year from the date of the recording of the notice
16 the person files in the registry of deeds where the notice was recorded a statement
17 under oath claiming application of the 20-year statute of limitations. The claim to
18 applicability of the 20-year statute of limitations is barred unless, within 180 days of
19 the recording of the statement, the claimant or a person on behalf of the claimant
20 commences a declaratory judgment action under Title 14, chapter 707.

21 C. Upon trial of an action initiated under paragraph B, the court shall declare the
22 20-year limitations period applicable if the court finds that:

23 (1) The grantee of the instrument did not, at the time of delivery of the
24 instrument, intend for the 6-year statute of limitations to apply; or

25 (2) The grantor executed the instrument fraudulently or in bad faith.'

26 SUMMARY

27 This amendment replaces the bill. It establishes a period of 20 years as the statute of
28 limitations for an action on a breach of covenants in any instrument conveying real estate.

29 This amendment satisfies the due process requirements of the Constitution of Maine
30 by providing an opportunity for persons with a vested interest in an expired 6-year
31 limitations period, generally, the grantors of unsealed deeds executed between 1991 and
32 2005, to retain the benefit of that period by providing notice to current owners and
33 requiring a prompt declaratory judgment action if the limitations period is disputed.