

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 424

H.P. 296

House of Representatives, February 14, 2013

An Act To Amend the Short Form Deeds Act

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CROCKETT of Bethel.
Cosponsored by Senator GOODALL of Sagadahoc and
Representatives: FREDETTE of Newport, HOBBS of Saco, WILLETTE of Mapleton,
Senators: KATZ of Kennebec, VALENTINO of York.

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

2 **Sec. 1. 33 MRSA §772, sub-§1**, as enacted by PL 1999, c. 69, §1, is amended to
3 read:

4 **1. Words of inheritance; habendum.** In a conveyance or reservation of real estate,
5 the terms "heirs," "successors," "assigns," "forever" or other technical words of
6 inheritance, or an habendum clause, are not necessary to convey or reserve an estate in
7 fee. A conveyance or reservation of real estate, whether made before or after the
8 effective date of this section, must be construed to convey or reserve an estate in fee
9 simple, unless a different intention is clearly appears expressed in the deed instrument by
10 a statement that the interest conveyed or reserved is an interest other than an estate in fee,
11 by a limiting of the duration of the interest to a period less than perpetual duration or by
12 an explicit restriction of the interest to the use and benefit only of the person or persons to
13 whom it is conveyed or reserved. The omission of technical words of inheritance may
14 not be construed to evidence an intention to convey or reserve an interest other than an
15 estate in fee simple, even if such words are used elsewhere in the same instrument.

16 **SUMMARY**

17 This bill amends the Short Form Deeds Act to provide that a conveyance or
18 reservation of real estate must be construed to convey or reserve an estate in fee simple,
19 unless a different intention is clearly expressed in the instrument by a statement that the
20 interest conveyed or received is an interest other than an estate in fee, by a limiting of the
21 duration of the interest to a period less than perpetual duration or by an explicit restriction
22 of the interest to the use and benefit only of the person or persons to whom it is conveyed
23 or reserved. This bill is submitted in response to the decision of the Supreme Judicial
24 Court in Tarason v. Wesson Realty, LLC, 2012 ME 47, 40 A.3d 1005.