

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 776

H.P. 529

House of Representatives, March 10, 2015

**An Act To Update the Validation of Miscellaneous Defects and
Defective Acknowledgments in the Conveyance of Real Estate**

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative HOBBS of Saco.

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

2 **Sec. 1. 33 MRSA §352, first ¶**, as amended by PL 2001, c. 275, Pt. B, §1, is
3 further amended to read:

4 A record of a deed or other instrument, including a power of attorney, made prior to
5 January 1, ~~2000~~ 2013 for the conveyance of real property, or of any interest in the
6 property, and recorded in the registry of deeds of the county in which the real property is
7 located is valid and enforceable even if:

8 **Sec. 2. 33 MRSA §353-A**, as amended by PL 2001, c. 275, Pt. B, §2, is further
9 amended to read:

10 **§353-A. Miscellaneous defects**

11 **1. Omission of consideration; failure to seal.** A deed or other instrument,
12 including a power of attorney, made prior to January 1, ~~2000~~ 2013 for the conveyance of
13 real property, or any interest in real property, in this State and otherwise valid, except that
14 the deed or instrument does not state any consideration for the real property or was not
15 sealed by the grantors, is valid.

16 **2. Discharge or assignment of mortgage.** A duly recorded satisfaction piece or
17 instrument made prior to January 1, ~~2000~~ 2013 with the intent to cancel and discharge or
18 assign a mortgage of real estate, fully identifying the mortgage intended to be canceled
19 and discharged or assigned, but not drawn in accordance with statutory requirements is
20 considered valid.

21 **3. Corporations organized or attempted to be organized; validation of deeds**
22 **and other instruments.** A corporation organized or attempted to be organized under the
23 laws of this State more than 20 years prior to January 1, ~~2000~~ 2013 and not declared to be
24 invalid prior to January 1, ~~2000~~ 2013 is for all intents and purposes a lawful corporation.
25 The deeds or other instruments of the corporation, given in its corporate name, that affect
26 or convey real estate or any interest in the real estate and that prior to January 1, ~~2000~~
27 2013 were recorded in the registry of deeds in the county where the real estate is located
28 may not be held invalid by reason of:

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

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

33 C. The failure to bear the corporate seal;

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

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

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

1 **4. Omission of authorization for conveyance of real estate.** A deed or other
2 instrument for the conveyance of real property, or any interest in the real property
3 executed by a person or persons purporting to act as the agent or attorney of the grantors
4 or their spouses, that has been recorded in the registry of deeds for the county in which
5 the real property is located more than 40 years prior to January 1, ~~2000~~ 2013 is valid even
6 if no power of attorney authorizing and empowering an agent or attorney to make the
7 conveyance or execute and deliver the deed or instrument appears of record, but the real
8 property has in the meantime been occupied, claimed or treated by the grantees or their
9 heirs as their own property.

10 **5. Discharge of mortgage.** An instrument written or recorded in the registry of
11 deeds more than 40 years prior to January 1, ~~2000~~ 2013 that is signed or executed by a
12 person or persons purporting to act as the agent or attorney of a mortgagee of real estate
13 and purporting to discharge the mortgage is valid even if no power of attorney
14 authorizing an agent or attorney appears of record.

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

29 **7. Foreclosure by publication.** In all cases of foreclosure of real estate mortgages
30 by publication, a certificate of the publication of foreclosure made by the mortgagee or by
31 an officer of the mortgagee, if the mortgagee is a corporation, or made by an officer or
32 employee of the newspaper that published the notice recorded on or before January 1,
33 ~~2000~~ 2013 is prima facie evidence of the publication of foreclosure to the same extent as
34 if the certificate had in fact been made by the register of deeds and recorded; certificates
35 made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a
36 corporation, or made by an officer or employee of the newspaper that published the
37 notice recorded on or before January 1, ~~2000~~ 2013 have the same force and effect as if
38 made by the register of deeds and are valid.

39 **8. Foreclosure by civil action.** All foreclosures commenced on or after October 1,
40 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method
41 of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of
42 redemption allowed was not less than one year and that would be valid but for the date of
43 execution of the mortgage are valid and effective according to their terms.

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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.

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SUMMARY

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This bill updates the laws that validate real estate titles despite the presence of certain technical defects in related documents to cure defects occurring between January 1, 2000 and December 31, 2012.