

# MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

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Legislative Document

No. 499

H. P. 369

House of Representatives, February 6, 1957.

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Wade of Auburn.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

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AN ACT Relating to Acknowledgment and Validation of Certain Instruments.

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

**Sec. 1. R. S., c. 168, § 23, amended.** The first sentence of the second paragraph of section 23 of chapter 168 of the Revised Statutes is hereby amended to read as follows:

~~Provided, however, that when a state of war exists between the United States and any other nation, or when a state of emergency has been proclaimed by the President, any resident of the State~~ Any person who is in the armed forces of the United States, and who executes a general or special power of attorney, deed, lease, contract or any instrument that is required to be recorded, may acknowledge the same as his true act and deed before any lieutenant or officer of senior grade thereto in the Army, **U. S. Marine Corps or Air Force**, or before any ensign or officer of senior grade thereto in the Navy or **Coast Guard**, and the record of such acknowledgment by said officers shall be received and have the same force and effect as acknowledgments under the other provisions of this section, **and all such instruments heretofore executed are hereby validated.**

**Sec. 2. R. S., c. 168, § 40, amended.** Section 40 of chapter 168 of the Revised Statutes is hereby amended to read as follows:

**Sec. 40. Records of deeds with certain kinds of defective acknowledgments validated.** All records of all deeds and other instruments, including powers of attorney ~~heretofore~~ made **prior to January 1, 1957**, for the conveyance of real property in this State, or of any interest therein, and recorded or written out at length in the books of record in the registry of deeds of the county in which

said real property lies, the acknowledgment of which was not completed, or was erroneously taken, or was taken by a person not having authority to take such acknowledgment, or where the authority of the person taking such acknowledgment was not completely stated, or was erroneously stated, or where it does not appear whether the authority taking such acknowledgment acted as a notary public, a justice of the peace or other duly authorized authority for the taking of such acknowledgment, or where no acknowledgment of such deed or other instrument was taken, or where the authority taking such acknowledgment had not signed the same but had attached or had affixed or had stamped thereon his seal of authority, or where the acknowledgment was taken by the grantor or grantee, or by the husband or wife of the grantor or grantee, or the acknowledgment was taken by a magistrate who was a minor, or an interested party or whose term of office had expired at the time of such acknowledgment, or an acknowledgment of which was taken by a proper officer but outside of the territory in which he was authorized to act, or was taken before any person who, at the time of such acknowledgment had received an appointment, election or permission authorizing him to take such acknowledgment, but had not qualified, but who has since such time duly qualified, or where the grantor was acting as a duly authorized agent or in a fiduciary or representative capacity, or was acting as an officer of a corporation and acknowledged said instrument individually, or where the acknowledgment was taken without the State before any person authorized to take acknowledgments, and using the form of acknowledgment prescribed by the laws of the State or country in which such instrument was executed, or such person has failed to affix to such instrument a proper certificate, showing his authority to act as such magistrate; or where such acknowledgment was not signed by a magistrate of this State or any other state or territory of the United States, or any foreign country, authorized to take such acknowledgment, but such acknowledgment was signed by an Ambassador, Minister, Charge d'Affaires, Consul, Vice-consul, Deputy Consul, Consul-general, Vice-consul-general consular agent, vice-consular-agent, commercial agent or vice-commercial agent of the United States in any foreign country, who was not qualified to take such acknowledgment, but has since become qualified by law to do so, but which acknowledgment was complete in every other respect; or where the acknowledgment was signed by a proper magistrate but there has been omitted therefrom, his official seal, if he had one, or the names of the grantors, the date and place of acknowledgment, or the words, "personally appeared before me," or a statement that it was acknowledged as the grantor's "free act and deed"; or such certificate of acknowledgment is in the form of an oath, or states merely that the said instrument was subscribed in his presence, or is otherwise informal or incomplete, if signed by a proper magistrate; and all records in any such registry of instruments relating to the title to real property which fail to disclose the date when received for record or the record of which has not been signed by the register of deeds for said county or other duly authorized recording officer, such records are validated.'

**Sec. 3. R. S., c. 168, § 41, amended.** Section 41 of chapter 168 of the Revised Statutes is hereby amended to read as follows:

**'Sec. 41. Deeds lacking statements of consideration or seals validated; informal discharges, deeds of irregularly formed corporations, deeds executed by**

**attorney but no record of power of attorney, validated.** All deeds and other instruments, including powers of attorney, ~~heretofore~~ made **prior to January 1, 1957**, for the conveyance of real property in this State or any interest therein, and otherwise valid except that the same omitted to state any consideration therefor or that the same were not sealed by the grantors or any of them, are validated. Every duly recorded satisfaction piece or instrument ~~heretofore~~ executed **prior to January 1, 1957**, with intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage so intended to be canceled and discharged or assigned, but not drawn in formal accordance with statutory requirements, shall be held a valid discharge or assignment of such mortgage and a release or assignment of the mortgage interest in such real estate. All corporations organized or attempted to be organized under and by virtue of any of the statutes of this State more than 20 years prior to ~~April 15, 1927~~ **January 1, 1957**, and not ~~heretofore~~ **prior to January 1, 1957**, declared to be invalid, shall be held to all intents and purposes as if the same had in all respects been properly and rightfully organized and existing as lawful corporations, and the deeds or other instruments of such corporations organized or attempted to be organized, given in their corporate names, affecting real estate in this State or conveying the same, and, ~~heretofore~~ **prior to January 1, 1957**, recorded, or written out at length upon the books of record in the registry of deeds in the county in which such real estate lies, shall not be held invalid by reason of any lack of authority or informality for or in their execution or delivery, if taken bona fide from the acting officers of such corporation or attempted organization as such, which such taking shall be presumed, but such corporations, attempted organizations as such, with such deeds and their records made as aforesaid, are validated. Any deed or other instrument made for the purpose of conveying real property in this State or any interest therein, and ~~heretofore~~ recorded or spread at length in the books of record in the registry of deeds for the county in which said real property lies, **prior to January 1, 1957**, which said deed or other instrument or said records fail to disclose authority by such corporation for the conveyance of such real estate, or which deed or other instrument fails to bear the corporate seal, or is executed or acknowledged by the person executing such deed in his individual capacity, or which fails to disclose the official capacity of the person executing such deed, or which was not signed by the officer duly authorized to sign such deed, with its record made as aforesaid, is validated. All deeds and other instruments ~~heretofore~~ made **prior to January 1, 1957**, for the conveyance of real property in this State, or any interest therein and executed by a person or persons purporting to act as the agent or attorney of the grantors, their spouses, or any of them, which such deeds have been recorded or written at length in the books of record in the registry of deeds for the county in which said real property lies more than 40 years prior to ~~April 15, 1927~~ **January 1, 1957**, but no power of attorney authorizing and empowering such agent or attorney to make such conveyance or execute and deliver such deed, appears of record, but such real estate has in the meantime been occupied, claimed or treated by the grantees and those claiming by, through or under them as other property of like kind and similarly situated would be held or claimed by the owners thereof, shall be held to all intents and purposes as if executed and delivered under and by virtue of proper power of attorney duly recorded and given for the purpose, and the records thereof are validated. All instruments

written or recorded in the books of record in the registry of deeds in the county in which the real estate affected thereby lies, more than 40 years prior to ~~April 15, 1927~~ **January 1, 1957**, signed or executed by any person or persons purporting to act as the agent or attorney of the holder of any mortgage of real estate and purporting to operate as a discharge of such mortgage, shall be held as if executed and delivered under and by virtue of a proper power of attorney given for the purpose, although no power of attorney authorizing such agent or attorney thereto shall appear of record, and the records thereof are validated. In all cases in which an executor, administrator, guardian or conservator or trustee, master or receiver or similar officer has been authorized or ordered by a court of probate or other competent court to sell or exchange real estate and has sold or exchanged such real estate, or any interest therein in accordance with such authority, without first having filed a bond covering the faithful administration and distribution of the avails of such sale when such bond is required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing such sale, or exchange, and has given a deed thereof to the purchaser of the same or to the person with whom such exchange was authorized or ordered; or where such executor, administrator, guardian, conservator, trustee, master or receiver, or other similar officer, appointed as aforesaid, has acted in such capacity under a decree of any such court appointing him to such office, but which such decree of appointment erroneously or by inadvertence excused him from giving bond in such capacity when such bond is required by law and not in fact given, such deeds and acts heretofore done are validated.'