

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 529 - L.D. 776

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

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

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

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

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

§353-A. Miscellaneous defects

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

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

3. Corporations organized or attempted to be organized; 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, ~~2000~~ 2013 and not declared to be invalid prior to January 1, ~~2000~~ 2013 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, ~~2000~~ 2013 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, ~~2000~~ 2013 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, ~~2000~~ 2013 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, ~~2000~~ 2013 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, ~~2000~~ 2013 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.