

1 H.476

2 Introduced by Representative Jewett of Ripton

3 Referred to Committee on

4 Date:

5 Subject: Real property; court procedure; powers of attorney; judgments

6 Statement of purpose: This bill proposes a number of changes related to the
7 laws governing real property. The bill proposes to:

8 (1) clarify that a power of attorney with respect to a real estate transaction
9 that is validly executed in another state is also valid in Vermont;

10 (2) add proper witnessing to the list of defects that is cured if an instrument
11 has been recorded for at least 15 years;

12 (3) codify the Vermont supreme court's decision in *Nelson v. Russo*, 956
13 A.2d 1117 (2008), that in order to renew a court judgment, a plaintiff must file
14 a new and independent action instead of seeking to reopen the original action;

15 (4) require that recording of a copy of the complaint in actions to foreclose
16 judgment liens be in order for the action to extend the duration of the lien; and

17 (5) establish a 15-year limitations period after which enforcement actions
18 or other proceedings may not be brought relating to the failure to obtain or
19 comply with the terms or conditions of required highway permits, including
20 so-called "curb cut permits."

1 An act relating to real property

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 27 V.S.A. § 305 is amended to read:

4 § 305. CONVEYANCES EFFECTED THROUGH POWER OF ATTORNEY

5 (a) A deed or other conveyance of lands or of an estate or interest therein,
6 made by virtue of a power of attorney, shall not be of any effect or admissible
7 in evidence, unless such power of attorney is signed, witnessed by one or more
8 witnesses, acknowledged, and recorded in the office where such deed is
9 required to be recorded.

10 (b) Nothing in this section limits the enforceability of a power of attorney
11 which is executed in another state or jurisdiction in compliance with the law of
12 that state or jurisdiction.

13 Sec. 2. 27 V.S.A. § 348(a) is amended to read:

14 (a) When an instrument of writing shall have been on record in the office of
15 the clerk in the proper town for a period of 15 years, and there is a defect in the
16 instrument because it omitted to state any consideration therefor or was not
17 sealed, witnessed, acknowledged, validly acknowledged, or because a license
18 to sell was not issued or is defective, the instrument shall, from and after the
19 expiration of 15 years from the filing thereof for record, be valid. Nothing
20 herein shall be construed to affect any rights acquired by grantees, assignees,
21 or encumbrancers under the instruments described in the preceding sentence,

1 nor shall this section apply to conveyances or other instruments of writing, the
2 validity of which is brought in question in any suit now pending in any courts
3 of the state.

4 Sec. 3. 12 V.S.A. § 506 is amended to read:

5 § 506. JUDGMENTS

6 Actions on judgments and actions for the renewal or revival of judgments
7 shall be brought by filing a new and independent action on the judgment within
8 eight years after the rendition of the judgment, and not after.

9 Sec. 4. 12 V.S.A. § 2903 is amended to read:

10 § 2903. DURATION AND EFFECTIVENESS

11 (a) A judgment lien shall be effective for eight years from the issuance of a
12 final judgment on which it is based except that ~~a petition for foreclosure filed~~
13 an action to foreclose the judgment lien during the eight-year period shall
14 extend the period until the termination of the foreclosure suit if a copy of the
15 complaint is filed in the land records on or before eight years from the issuance
16 of the final judgment.

17 (b) A judgment which is renewed or revived pursuant to section 506 of this
18 title shall constitute a lien on real property for eight years from the issuance of
19 the renewed or revived judgment if recorded in accordance with this chapter.

20 (c) Interest on a judgment lien shall accrue at the rate of 12 percent per
21 annum.

1 ~~(e)~~(d) If a judgment lien is not satisfied within 30 days of recording, it may
2 be foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless
3 the court finds that as of the date of foreclosure the amount of the outstanding
4 debt exceeds the value of the real property being foreclosed, section 4531 of
5 this title shall apply to foreclosure of a judgment lien.

6 Sec. 5. 24 V.S.A. § 4454(a) is amended to read:

7 (a) An action, injunction, or other enforcement proceeding relating to the
8 failure to obtain or comply with the terms and conditions of any required
9 municipal land use permit, or any permit issued pursuant to section 1111 of
10 Title 19, may be instituted under ~~sections~~ section 1974a, 4451, or 4452 of this
11 title against the alleged offender if the action, injunction, or other enforcement
12 proceeding is instituted within 15 years from the date the alleged violation first
13 occurred and not thereafter. The burden of proving the date the alleged
14 violation first occurred shall be on the person against whom the enforcement
15 action is instituted.

16 Sec. 6. 14A V.S.A. § 102 is amended to read:

17 § 102. SCOPE

18 This title applies to express trusts, charitable or noncharitable, and trusts
19 created pursuant to a statute, judgment, or decree that requires the trust to be
20 administered in the manner of an express trust. This title shall not apply to
21 trusts described in the following provisions of Vermont Statutes Annotated:

1 chapter 16 of Title 3, chapter 151 of Title 6, chapters 103, 204, and 222 of
2 Title 8, chapters 11A, 12, and 59 of Title 10, chapter 7 of Title 11A, chapter 11
3 of Title 15, chapters 55, 90, and 131 of Title 16, chapters 121, 177, and 225 of
4 Title 18, chapter 9 of Title 21, chapters 65, 119, 125, and 133 of Title 24,
5 ~~chapters 5 and~~ chapter 7 of Title 27, chapter 11 of Title 28, chapter 16 of Title
6 29, and chapters 84 and 91 of Title 30.

7 Sec. 7. EFFECTIVE DATE; APPLICABILITY

8 (a) This act shall take effect on July 1, 2010.

9 (b) Sec. 1 of this act shall apply retroactively, except that it shall not affect
10 a suit begun or pending as of July 1, 2010.