

1 H.290
2 Introduced by Representatives McCullough of Williston and Macaig of
3 Williston
4 Referred to Committee on
5 Date:
6 Subject: Real estate; titles; conveyances
7 Statement of purpose of bill as introduced: This bill proposes to clarify
8 ambiguities relating to real estate titles and conveyances.

9 An act relating to clarifying ambiguities relating to real estate titles and
10 conveyances

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

12 Sec. 1. 27 V.S.A. § 464a is amended to read:

13 § 464a. DISCHARGE BY LICENSED ATTORNEY

14 * * *

15 (d) The affiant shall attach to the affidavit the following, certifying that
16 each copy is a true copy of the original document:

17 (1) photocopies of the documentary evidence that payment has been
18 received by the purported mortgagee, including the purported mortgagee's
19 endorsement of the payoff check, provided that the payor's account number
20 may be redacted from the copy of the payoff check; and

1 (A) if paid by check, a photocopy of the mortgagee's endorsement of
2 the payoff check; or

3 (B) if paid by wire, written confirmation that the monies wired left
4 the sender's account; and

5 (2) a photocopy of the payoff statement received from the ~~purported~~
6 mortgagee or servicer.

7 * * *

8 Sec. 2. 29 V.S.A. § 563 is amended to read:

9 § 563. ABANDONMENT OF OIL AND GAS INTERESTS;

10 PRESERVATION

11 * * *

12 (b) An interest in oil and gas is deemed abandoned at any time that:

13 (1) it has ~~not~~ been unused for a continuous period of 10 years after
14 July 1, 1973; and

15 (2) no statement of interest under subsection (e) of this section has been
16 filed at any time within the preceding five years.

17 * * *

18 Sec. 3. 27 V.S.A. § 341(c) is amended to read:

19 (c) A lease of real property that has a term of more than one year from the
20 making of the lease need not be recorded at length if a notice or memorandum
21 of lease, which is executed, ~~witnessed~~, and acknowledged as provided in

1 subsection (a) of this section, is recorded in the land records of the town in
2 which the leased property is situated. The notice of lease shall contain at least
3 the following information:

- 4 (1) the names of the parties to the lease as set forth in the lease;
- 5 (2) a statement of the rights of a party to extend or renew the lease;
- 6 (3) any addresses set forth in the lease as those of the parties;
- 7 (4) the date of the execution of the lease;
- 8 (5) the term of the lease, the date of commencement, and the date of
9 termination;
- 10 (6) a description of the real property as set forth in the lease;
- 11 (7) a statement of the rights of a party to purchase the real property or
12 exercise a right of first refusal with respect thereto;
- 13 (8) a statement of any restrictions on assignment of the lease; and
- 14 (9) the location of an original lease.

15 Sec. 4. 27 V.S.A. § 1313 is amended to read:

16 § 1313. COPY OF THE FLOOR PLANS TO BE FILED

17 (a) Simultaneously with the recording of the declaration there shall be filed
18 in the office of the recording officer a lot plan and, in the case of an apartment
19 building, a set of the floor plans of the building showing the layout, location,
20 apartment or site numbers, and dimensions of the apartments or sites, stating
21 the name of the building or that it has no name. In the case of a mobile home
22 park, there shall be filed in the office of the recording officer a site plan

1 showing the layout, location, site numbers, and dimensions of the sites, and the
2 layout, location, and materials of all utilities, including underground utilities.
3 Each set of building or site plans shall bear the verified statement of a licensed
4 architect, licensed professional engineer, or licensed land surveyor certifying
5 that it is an accurate copy of portions of the plans of the building or site as
6 filed with and approved by the municipal or other governmental subdivision
7 having jurisdiction over the issuance of permits for the construction of
8 buildings or mobile home parks. If the plans do not include a verified
9 statement by the licensed architect, licensed professional engineer, or licensed
10 land surveyor that they fully and accurately depict the layout, location,
11 apartment or site numbers, and dimensions of the apartments or sites as built,
12 there shall be recorded before the first conveyance of any apartment or site an
13 amendment to the declaration, to which shall be attached a verified statement
14 of a licensed architect, licensed professional engineer, or licensed land
15 surveyor certifying that the plans previously filed, or being filed
16 simultaneously with the amendment, fully and accurately depict the layout,
17 location, apartment or site numbers, and dimensions of the apartments or sites
18 as built. Plans shall be kept by the recording officer in a separate file for each
19 building or park, indexed in the same manner as conveyance entitled to record,
20 numbered serially in the order of receipt, each designated “apartment
21 ownership,” or “site ownership,” with the name of the building or park, if any,

1 each containing a reference to the book, page, and date of recording of the
2 declaration. Correspondingly, the record of the declaration shall contain a
3 reference to the file number of the floor plans of the building or of the site
4 plans of the parks affected ~~thereby~~.

5 (b) If the declaration has been of record for 15 or more years, no effect on
6 marketability of title shall be created by failure to file or record floor plans.

7 Sec. 5. 14 V.S.A. § 3184 is added to read:

8 § 3184. CONVEYANCE BY GUARDIAN APPOINTED BY FOREIGN
9 JURISDICTION

10 (a) A conveyance of an interest in Vermont real property by a guardian
11 appointed by a foreign court for a person 18 years of age or older is valid,
12 provided that:

13 (1) the conveyance is authorized by a foreign court order; and

14 (2) the foreign order is registered in Vermont pursuant to this

15 subchapter.

(b) For conveyances made prior to the effective date of this section, no
effect on marketability of title shall be created by ~~the failure to register the~~
~~foreign order~~ either the failure to register the foreign order or the registration
of the foreign order.

16 Sec. 6. 14 V.S.A. § 3502 is amended to read:

17 § 3502. CREATION OF A POWER OF ATTORNEY

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(d) Subsection 3503(e) of this title that requires that an agent accept appointment, and the ~~provision in~~ subsection 3503(a) of this title that requires the witness and the notary to be different persons, shall not be applicable to:

(1) a power of attorney for the sale, transfer, or mortgage of real estate executed in conformance with 27 V.S.A. § 305, provided the real estate is specifically identified in the power of attorney and the duration of the power of attorney is no more than 90 days; or

(2) a power of attorney for a commercial transaction, provided the transaction is specifically described in the power of attorney and the duration of the power of attorney is no more than 90 days.

* * *

Sec. 7. EFFECTIVE DATE

~~(a) This section and Secs. 1, 4 and 6 shall take effect on passage.~~

~~(b) Notwithstanding 1 V.S.A. § 214, Sec. 5 shall apply retroactively to January 1, 1993.~~

This act shall take effect on passage.