

**§353-A. Miscellaneous defects**

**1. Omission of consideration; failure to seal.** A deed or other instrument, including a power of attorney, whenever made 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.

[PL 2017, c. 196, §2 (AMD).]

**2. Discharge or assignment of mortgage.** A duly recorded satisfaction piece or instrument made and recorded for at least 2 years in the registry of deeds of the county or district in which the real property is located 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.

[PL 2017, c. 196, §2 (AMD).]

**3. Corporations and other entities organized or attempted to be organized; validation of deeds and other instruments.** A corporation or other legal entity organized or attempted to be organized under the laws of this State for more than 20 years and not yet declared to be invalid is for all intents and purposes a lawful corporation or other legal entity as applicable. The deeds or other instruments of the corporation or other legal entity, given in its corporate or other legal entity name, that affect or convey real estate or any interest in real estate and that have been recorded for at least 2 years 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 or other authorized officials or members of the corporation or other legal entity as applicable; [PL 2017, c. 196, §2 (AMD).]

B. The failure to disclose the corporation's or other legal entity's authority for the conveyance of real estate; [PL 2017, c. 196, §2 (AMD).]

C. The failure to bear the seal of the corporation or other legal entity; [PL 2017, c. 196, §2 (AMD).]

D. A person executing or acknowledging a deed or instrument in that person's individual capacity; [PL 1995, c. 304, §2 (NEW).]

E. The failure to disclose the official capacity of the person executing the deed or instrument; or [PL 1995, c. 304, §2 (NEW).]

F. The failure of the duly authorized officer to sign the deed or instrument. [PL 2017, c. 196, §2 (AMD).]

[PL 2017, c. 196, §2 (AMD).]

**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 for at least 20 years in the registry of deeds of the county or district in which the real property is located 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, successors or assigns as their own property.

[PL 2017, c. 196, §2 (AMD).]

**5. Discharge of mortgage.** An instrument that has been recorded or written on the record in the registry of deeds of the county or district in which the real property is located for at least 20 years 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.

[PL 2017, c. 196, §2 (AMD).]

**6. Failure to secure bond or comply with licensing.** In all cases in which an executor, administrator, personal representative, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to distribute, sell or exchange real estate and has distributed, 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 estate when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the distribution, sale or exchange and has given a deed to the distributee or purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, personal representative, 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.

[PL 2017, c. 196, §2 (AMD).]

**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, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located 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, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located have the same force and effect as if made by the register of deeds and are valid.

[PL 2017, c. 196, §2 (AMD).]

**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.

[PL 1995, c. 304, §2 (NEW).]

**9. Abstracts of divorce decrees.** An abstract of a divorce decree recorded in any registry of deeds on or after August 20, 1955 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.

[PL 2017, c. 196, §2 (AMD).]

#### SECTION HISTORY

PL 1981, c. 181, §3 (NEW). PL 1981, c. 698, §165 (AMD). PL 1987, c. 15, §2 (AMD). PL 1995, c. 304, §2 (RPR). PL 1997, c. 62, §1 (AMD). PL 2001, c. 275, §B2 (AMD). PL 2015, c. 157, §2 (AMD). PL 2017, c. 196, §2 (AMD).

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