



# House of Representatives

General Assembly

**File No. 748**

January Session, 2025

Substitute House Bill No. 7064

*House of Representatives, April 23, 2025*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REVISIONS TO THE VALIDATING ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-36aa of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2025*):

3 (a) Conveyancing defects. Any recorded deed, mortgage, lease,  
4 power of attorney, release, assignment or other instrument made for the  
5 purpose of conveying, leasing, mortgaging or affecting any interest in  
6 real property in this state, [recorded after January 1, 1997,] which  
7 instrument contains any one or more of the following defects or  
8 omissions is as valid as if it had been executed without the defect or  
9 omission unless an action challenging the validity of that instrument is  
10 commenced and a notice of lis pendens is recorded in the land records  
11 of the town or towns where the instrument is recorded within two years  
12 after the instrument is recorded:

13 (1) The instrument contains a defective acknowledgment or no  
14 acknowledgment;

15 (2) The instrument is attested by one witness only or by no witnesses;

16 (3) In the case of a conveyance by a corporation, limited liability  
17 company, partnership, limited partnership, or limited liability  
18 partnership, or by any other entity authorized to hold and convey title  
19 to real property within this state, the instrument designated such entity  
20 as the grantor but was signed or acknowledged by an individual in the  
21 individual capacity of such person;

22 (4) The instrument was made to any grantee not recognized by law  
23 to have the capacity to take or hold an interest in real property.  
24 Validation of an instrument under this subdivision confirms the  
25 conveyance to the grantee and any subsequent transfers of the interest  
26 by the grantee to any subsequent transferees, their heirs, successors and  
27 assigns.

28 (b) Insubstantial defects. Any recorded deed, mortgage, lease, power  
29 of attorney, release, assignment or other instrument made for the  
30 purpose of conveying, leasing, mortgaging or affecting any interest in  
31 real property in this state, [recorded after January 1, 1997,] which  
32 instrument contains any one or more of the following defects or  
33 omissions is as valid as if it had been executed without the defect or  
34 omission:

35 (1) The instrument contains an incorrect statement of the date of  
36 execution or omits the date of execution;

37 (2) The instrument contains an execution date or other date that is  
38 later than the date of recording;

39 (3) The instrument transfers an interest in land by reference to a filed  
40 map or subdivision plan and the map or plan does not comply as to  
41 preparation, form, certification, approval or filing with any requirement  
42 of any special or general law, municipal ordinance or regulation;

43 (4) The instrument conveys an interest in a lot or parcel of land in a  
44 subdivision that was not submitted for approval or that was submitted  
45 for approval but was not approved;

- 46 (5) The record does not disclose the date of recording;
- 47 (6) The instrument does not disclose any statutorily required  
48 signature of the town clerk;
- 49 (7) The instrument does not contain a statement of consideration;
- 50 (8) The instrument fails to state the town and state in which the real  
51 property described in the instrument is located;
- 52 (9) The instrument fails to state the current mailing address of the  
53 grantee;
- 54 (10) In the case of a conveyance by a corporation, limited liability  
55 company, partnership, limited partnership or limited liability  
56 partnership, or by any other entity authorized to hold and convey title  
57 to real property within this state, the instrument designates such entity  
58 as the grantor but fails to disclose the authority of the individual who  
59 executes and acknowledges the instrument;
- 60 (11) In the case of a committee deed, the judge's approval of the sale  
61 incorrectly states or fails to state the date of approval of the sale.
- 62 (c) Defect with respect to a power of attorney. (1) Any recorded deed,  
63 mortgage, lease, power of attorney, release, assignment or other  
64 instrument made for the purpose of conveying, leasing, mortgaging or  
65 affecting any interest in real property in this state, [recorded after  
66 January 1, 1997,] which instrument is executed pursuant to a recorded  
67 power of attorney and contains any one or more of the following defects,  
68 is as valid as if it had been executed without the defect unless an action  
69 challenging the validity of that instrument is commenced and a notice  
70 of lis pendens is recorded in the land records of the town or towns where  
71 the instrument is recorded within two years after the instrument is  
72 recorded:
- 73 (A) The instrument was executed by an attorney-in-fact but was  
74 signed or acknowledged by the attorney-in-fact without reference to his  
75 or her capacity;

76 (B) The instrument was executed by an attorney-in-fact but does not  
77 reference the power of attorney;

78 (C) The power of attorney was effective at the time the instrument  
79 was executed but is recorded after the instrument is recorded.

80 (2) Any recorded deed, mortgage, lease, release, assignment or other  
81 instrument made for the purpose of conveying, leasing, mortgaging or  
82 affecting any interest in real property in this state, [recorded after  
83 January 1, 1997,] which instrument is executed pursuant to a power of  
84 attorney, but which power of attorney is not recorded on the land  
85 records of the town or towns where the instrument is recorded, is as  
86 valid as if the power of attorney had been recorded, unless (A) an action  
87 is commenced to avoid and set aside such instrument and a notice of lis  
88 pendens is recorded in the land records of the town or towns where the  
89 instrument is recorded within fifteen years from the date of recording  
90 of such instrument, or (B) such instrument fails to [state] evidence the  
91 consideration reflecting fair market value. The provisions of this  
92 subdivision shall not apply to any conveyance where any deed,  
93 mortgage, lease, release, assignment or other instrument is executed by  
94 a fiduciary and the fiduciary is the grantee, mortgagee, leasee, releasee  
95 or assignee designated in such instrument.

96 (d) Defect where fiduciary conveyed to self. Any recorded deed,  
97 mortgage, lease, release, assignment or other instrument made for the  
98 purpose of conveying, leasing, mortgaging or affecting any interest in  
99 real property in this state, which instrument is executed by a fiduciary,  
100 but which instrument is voidable because the fiduciary is the grantee,  
101 mortgagee, leasee, releasee or assignee designated in such instrument,  
102 is as valid as if it had been executed without the defect unless an action  
103 is commenced to avoid and set aside such instrument and a notice of lis  
104 pendens is recorded in the land records of the town or towns where the  
105 instrument is recorded within ten years from the date of recording of  
106 such instrument.

107 (e) Defect with respect to conveyance by fiduciary. Any recorded  
108 deed, mortgage, lease, power of attorney, release, assignment or other

109 instrument made for the purpose of conveying, leasing, mortgaging or  
110 affecting any interest in real property in this state, [recorded after  
111 January 1, 1997,] which instrument was executed by an executor,  
112 administrator, guardian, trustee, conservator or other fiduciary  
113 pursuant to an order or authorization of the court of probate and which  
114 contains any one or more of the following defects, is as valid as if it had  
115 been executed without the defect:

116       (1) The fiduciary failed to post a bond required by the court for the  
117 faithful administration and distribution of the proceeds of the sale,  
118 provided either (A) the fiduciary has accounted for the proceeds of the  
119 sale in an administration account that has been approved and accepted  
120 by the court after notice and hearing, and from which order of approval  
121 and acceptance no appeal has been taken, or (B) no action challenging  
122 the validity of that instrument is commenced and no notice of lis  
123 pendens is recorded in the land records of the town or towns where the  
124 instrument is recorded within two years after the instrument is  
125 recorded;

126       (2) Required notice of the probate court hearing on the application for  
127 an order of sale was not given, provided either (A) the fiduciary has  
128 accounted for the proceeds of the sale in an administration account that  
129 has been approved and accepted by the court after notice and hearing,  
130 and from which order of approval and acceptance no appeal has been  
131 taken, or (B) no action challenging the validity of the instrument is  
132 commenced and no notice of lis pendens is recorded in the land records  
133 of the town or towns where the instrument is recorded within two years  
134 after the instrument is recorded;

135       (3) The fiduciary failed to recite in the instrument the basis of the  
136 authority by which the fiduciary acted, provided either (A) an affidavit  
137 that complies with section 47-12a, that references the volume, page, and  
138 date of the instrument, and that recites the authority pursuant to which  
139 the fiduciary executed that instrument is recorded in the land records of  
140 the town or towns in which the instrument is recorded, or (B) no action  
141 challenging the validity of the instrument is commenced and no notice

142 of lis pendens is recorded in the land records of the town or towns where  
143 the instrument is recorded within two years after the instrument is  
144 recorded.

145 (f) Release or assignment of mortgage by out-of-state fiduciary. A  
146 release or assignment of a mortgage interest held by a nonresident or  
147 deceased nonresident in real property in this state executed by an out-  
148 of-state fiduciary shall have the same effect as if executed by a fiduciary  
149 of this state notwithstanding that the certificate of appointment and  
150 qualification required by section 49-12 has not been filed unless an  
151 action contesting the release or assignment is commenced and a notice  
152 of lis pendens has been recorded in the land records of the town or  
153 towns where such release or assignment is recorded within two years  
154 after the instrument is recorded.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	July 1, 2025	47-36aa
-----------	--------------	---------

**JUD**      *Joint Favorable Subst.*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

---

**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which extends current law's validation of recorded real property documents with certain defects or omissions, is not anticipated to result in a fiscal impact to the state or municipalities as the documents largely concern private parties.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sHB 7064*****AN ACT CONCERNING REVISIONS TO THE VALIDATING ACT.***

This bill statutorily extends current law's validation of recorded real property documents with certain defects or omissions to documents recorded before January 2, 1997. (Prior to this date, the defects or omissions were validated by special acts, biennially adopted beginning in 1989.)

The validation generally applies to deeds, mortgages, leases, powers of attorney (POAs), releases, assignments, or other instruments to convey, lease, mortgage, or affect a real property interest with the following:

1. conveyancing defects, such as having a defective acknowledgement or being improperly attested;
2. insubstantial defects, such as having certain incorrect or omitted dates, missing a statement of consideration or grantee address, or referencing a noncompliant map or plan;
3. for a document executed under a POA, defects such as failing to reference a recorded POA or having no recorded POA; or
4. fiduciary conveyance defects, such as failing to post a required bond or give notice of a probate court hearing for an order of sale.

However, validation does not apply, under existing law and the bill, for (1) conveyancing and POA defects if there is an action challenging the document's validity and a *lis pendens* notice was recorded on the land records within two years (or 15 years for an unrecorded POA) after the document's recording and (2) fiduciary conveyance defects if the fiduciary has not accounted for the proceeds or there is pending action



challenging the document's validity and a *lis pendens* notice was recorded within two years after the document's recording. It similarly doesn't apply in situations involving an unrecorded POA and a document that fails to evidence, rather than state as under current law, the consideration reflecting fair market value.

EFFECTIVE DATE: July 1, 2025

## **BACKGROUND**

### ***Lis Pendens***

A *lis pendens* is a notice filed in the local land records which advises that a lawsuit is pending against the owner of the designated property and involves that property.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea    41    Nay   0    (04/04/2025)