

SENATE BILL NO. 479

INTRODUCED BY CRIPPEN, S. BROWN

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

IN THE SENATE

February 13, 1981	Introduced and referred to Committee on Judiciary.
February 18, 1981	Committee recommend bill do pass. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Judiciary.
March 28, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Second reading, concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, concurred in as amended. Ayes, 94; Noes, 2.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 10, 1981

Second reading, amendments concurred in.

April 11, 1981

Third reading, amendments concurred in. Ayes, 43; Noes, 5. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *479*
 2 INTRODUCED BY *Steve Berwin* *STEVE BERWIN*
 3 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO VALIDATE CERTAIN
 6 CONVEYANCES OF REAL PROPERTY CONTAINING TECHNICAL DEFECTS IN
 7 EXECUTION."
 8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Validation of conveyances recorded after
 11 defective execution -- notice imparted. (1) Any instrument
 12 affecting real property, provided no action is now pending
 13 to set such instrument aside, which was, previous to [the
 14 effective date of this act], copied into the proper book
 15 kept in the office of the county clerk and recorder shall be
 16 considered to impart after that date notice of its contents
 17 to subsequent purchasers and encumbrancers, notwithstanding
 18 any defect, omission, or informality in the execution of the
 19 instrument or in the certificate of acknowledgment thereof
 20 or the absence of any such certificate, and all such
 21 instruments acknowledged before [the effective date of this
 22 act] by the vice-president and assistant secretary of any
 23 corporation or by either of them or other person duly
 24 authorized by resolution by such corporation executing them
 25 on behalf of the corporation and recorded are valid and have

1 the same force and effect as though acknowledged by the
 2 president or secretary; but nothing in this section may be
 3 considered to affect the rights of purchasers or
 4 encumbrancers previous to that date.

5 (2) Duly certified copies of the record of any such
 6 instrument may be read in evidence with like effect as
 7 copies of an instrument duly acknowledged and recorded.

-End-

-2- INTRODUCED BILL
 SB 479

Approved by Committee
on Judiciary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Senate BILL NO. *479*
STEVE BROWN

INTRODUCED BY _____
BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO VALIDATE CERTAIN
CONVEYANCES OF REAL PROPERTY CONTAINING TECHNICAL DEFECTS IN
EXECUTION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Validation of conveyances recorded after
defective execution -- notice imparted. (1) Any instrument
affecting real property, provided no action is now pending
to set such instrument aside, which was, previous to [the
effective date of this act], copied into the proper book
kept in the office of the county clerk and recorder shall be
considered to impart after that date notice of its contents
to subsequent purchasers and encumbrancers, notwithstanding
any defect, omission, or informality in the execution of the
instrument or in the certificate of acknowledgment thereof
or the absence of any such certificate, and all such
instruments acknowledged before [the effective date of this
act] by the vice-president and assistant secretary of any
corporation or by either of them or other person duly
authorized by resolution by such corporation executing them
on behalf of the corporation and recorded are valid and have

1
2
3
4
5
6
7

the same force and effect as though acknowledged by the
president or secretary; but nothing in this section may be
considered to affect the rights of purchasers or
encumbrancers previous to that date.

(2) Duly certified copies of the record of any such
instrument may be read in evidence with like effect as
copies of an instrument duly acknowledged and recorded.

-End-

1 *Senate* BILL NO. *479*
 2 INTRODUCED BY *Steve Brown* STEVE BROWN
 3 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO VALIDATE CERTAIN
 6 CONVEYANCES OF REAL PROPERTY CONTAINING TECHNICAL DEFECTS IN
 7 EXECUTION."
 8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Validation of conveyances recorded after
 11 defective execution -- notice imparted. (1) Any instrument
 12 affecting real property, provided no action is now pending
 13 to set such instrument aside, which was, previous to [the
 14 effective date of this act], copied into the proper book
 15 kept in the office of the county clerk and recorder shall be
 16 considered to impart after that date notice of its contents
 17 to subsequent purchasers and encumbrancers, notwithstanding
 18 any defect, omission, or informality in the execution of the
 19 instrument or in the certificate of acknowledgment thereof
 20 or the absence of any such certificate, and all such
 21 instruments acknowledged before [the effective date of this
 22 act] by the vice-president and assistant secretary of any
 23 corporation or by either of them or other person duly
 24 authorized by resolution by such corporation executing them
 25 on behalf of the corporation and recorded are valid and have

1 the same force and effect as though acknowledged by the
 2 president or secretary; but nothing in this section may be
 3 considered to affect the rights of purchasers or
 4 encumbrancers previous to that date.

5 (2) Duly certified copies of the record of any such
 6 instrument may be read in evidence with like effect as
 7 copies of an instrument duly acknowledged and recorded.

-End-

SENATE BILL NO. 479

INTRODUCED BY CRIPPEN, S. BROWN

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO VALIDATE CERTAIN CONVEYANCES OF REAL PROPERTY CONTAINING TECHNICAL DEFECTS IN EXECUTION; AMENDING SECTION 70-21-309, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

Section 1. Section 70-21-309, MCA, is amended to read:

"70-21-309. Validation of conveyances recorded after defective execution -- notice imparted. (1) Any instrument affecting real property, provided no action is now pending as of [the effective date of this act] to set such instrument aside, which was, previous to January 1, ~~1973~~ 1981, ~~copied into the proper book kept recorded~~ in the office of the county clerk and recorder shall be deemed to impart after that date notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any technical defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgment thereof or the absence of any such certificate ~~and all such instruments acknowledged before July 1, 1973 by the~~

~~vice-president and assistant secretary of any corporation or by either of them or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation and recorded shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date January 1, 1981.~~

(2) Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded."

-End-

Respectfully report as follows: That.....SENATE..... Bill No. 479.....

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Following: "EXECUTION"

Insert: "; AMENDING SECTION 70-21-309, MCA,"

2. Page 1, line 10 through line 7, page 2.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 70-21-309, MCA, is amended to read:

"70-21-309. Validation of conveyances recorded after defective execution - notice imparted. (1) Any instrument affecting real property, provided no action is now pending as of [the effective date of this act] to set such instrument aside, which was, previous to January 1, 1973 1981, copied-into-the-proper-book-kept recorded in the office of the county clerk and recorder shall be deemed to impart after that date notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any technical defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgment thereof or the absence of any such certificate;~~-and-all-such-instruments-acknowledged-before-July-1, 1973,-by-the-vice-president-and-assistant-secretary-of-any corporation-or-by-either-of-them-or-other-person-duly-authorized by-resolution-by-such-corporation-executing-the-same-on-behalf of-the-corporation-and-recorded-shall-be-valid-and-shall-have the-same-force-and-effect-as-though-acknowledged-by-the-president or-secretary;~~ but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date January 1, 1981.

(2) Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded." "