

2014 -- S 2234

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LC003913
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO PROPERTY - RECORDING OF INSTRUMENTS

Introduced By: Senators Nesselbush, Miller, DaPonte, Bates, and P Fogarty

Date Introduced: January 30, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-13-1 of the General Laws in Chapter 34-13 entitled "Recording
2 Of Instruments" is hereby amended to read as follows:

3 **34-13-1. Instruments eligible for recording.** -- Any of the following instruments shall
4 be recorded or filed by the town clerk or recorder of deeds, in the manner prescribed by law, on
5 request of any person and on payment of the lawful fees therefor:

6 (1) Letters of attorney.

7 (2) All contracts for sale of land.

8 (3) Bonds for title or covenants or powers concerning lands, tenements and
9 hereditaments.

10 (4) All notices to be filed under the provisions of section 9-4-9.

11 (5) All notices and process to be filed under other statutory provisions, and all decrees in
12 equity and judgments at law affecting the title to land.

13 (6) All instruments evidencing or relating to a security interest in personal property or
14 fixtures that may be filed pursuant to chapter 9 of title 6A.

15 (7) All instruments required by statute to be recorded, including deeds, mortgages and
16 transfers and discharges thereof, leases or memoranda thereof, and transfers and cancellations
17 thereof, and the covenants, conditions, agreements and powers therein contained.

18 (8) Instruments of defeasance.

19 (9) Instruments (excepting wills) creating trusts.

1 (10) All instruments and notices, affecting, or purporting to affect, the title to land or any
2 interest therein or giving or terminating the right to sever any building or part thereof or fixture,
3 when signed and acknowledged as required for deeds.

4 (11) All affidavits as to family facts, including dates of birth, marriage, and death, which
5 relate or purport to relate to title to land.

6 (12) All affidavits as to bounds and monuments of land.

7 (13) All certificates of the secretary of state as to change of corporate name.

8 (14) All original linen and/or original mylar maps, plats, surveys, and drawings, whether
9 or not attached to, or a part of, another recordable instrument, Provided, however, That those
10 requiring the approval of any council; commission, officer, or other body by law shall not be
11 recorded without such approval.

12 All survey plans received for recording shall be drawn on archival mylar or linen, those
13 of which shall not exceed a size of 24" x 36" and shall be recorded as originally drafted. Said
14 plans shall contain as a minimum all items set forth in the "Procedural and Technical Standards
15 for the practice of Land Surveying in the State of Rhode Island and Providence Plantations" as
16 adopted by the Rhode Island Board of Registration of Professional Land Surveyors effective
17 April 1, 1994 and any amendments or modifications thereof. Further, all plans must be able to be
18 reproduced so that the contents of said plans are legible.

19 Indexes of survey plans shall be maintained indicating (a) the title of the plan; and (b)
20 the street(s) or road(s) on which the subject property abuts. Such plans shall include a separate
21 listing, in or attached to the legend on the plan, of all streets and roads on which the subject
22 property abuts.

23 (15) All declarations of restrictions and covenants in connection with a plat of record or
24 to be recorded or with a tract or parcel of land which is to be subdivided.

25 (16) Statements of covenants, conditions, and powers of sale which are intended to be
26 incorporated in mortgages by reference.

27 [\(17\) Affidavits of facts relating to title or interest in real estate.](#)

28 SECTION 2. Chapter 34-13 of the General Laws entitled "Recording Of Instruments" is
29 hereby amended by adding thereto the following section:

30 **34-13-13. Affidavit of facts relating to title or in interest in real estate. – (a) An**
31 **affidavit, which states facts relating to the matters named in subsection (b) and which may affect**
32 **the title to or any interest in real estate in this state, and which is made by any person having**
33 **knowledge of the facts or competent to testify concerning them in open court, may be recorded in**
34 **the land evidence records of the city or town in which the real estate is situated. If so recorded,**

1 and if the affiant is dead or otherwise not available to testify in court, then the affidavit, or a
2 certified copy of it, is admissible as prima facie evidence of the facts stated in it, so far as those
3 facts affect title to real estate in any action involving the title to that real estate or any interest in
4 it.

5 (b) The matters to which an affidavit provided for in this section may relate to include,
6 but are not limited to, age, sex, birth, death, capacity, relationship, family history, heirship,
7 names, identity of parties, marital status, possession, adverse use, residence, service in the armed
8 forces, conflicts and ambiguities in description of land in recorded instruments, the happening of
9 any condition or event which may terminate an estate or interest and the correlation of assessor's
10 plat and lot numbers to deed descriptions.

11 (c) Every affidavit provided for in this section should include a description of the land,
12 title to which may be affected by facts stated in the affidavit, and should state the name of the
13 person appearing by record to be the owner of the land at the time of the recording of the
14 affidavit. The recorder of deeds shall index the affidavit in the name of the record owner.

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would add an affidavit of facts relating to title or interest in real estate to the list
- 2 of those instruments eligible for recording.
- 3 This act would take effect upon passage.

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