



# Senate

General Assembly

**File No. 835**

January Session, 2019

Substitute Senate Bill No. 833

*Senate, April 29, 2019*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING VALIDATION OF CONVEYANCE DEFECTS ASSOCIATED WITH AN INSTRUMENT THAT WAS EXECUTED PURSUANT TO A POWER OF ATTORNEY.**

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

1 Section 1. Subsection (c) of section 47-36aa of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2019*):

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

15 [(1)] (A) The instrument was executed by an attorney-in-fact but

16 was signed or acknowledged by the attorney-in-fact without reference  
17 to his or her capacity;

18 [(2)] (B) The instrument was executed by an attorney-in-fact but  
19 does not reference the power of attorney;

20 [(3)] (C) The power of attorney was effective at the time the  
21 instrument was executed but is recorded after the instrument is  
22 recorded.

23 (2) Any deed, mortgage, lease, release, assignment or other  
24 instrument made for the purpose of conveying, leasing, mortgaging or  
25 affecting any interest in real property in this state recorded after  
26 January 1, 1997, which instrument is executed pursuant to a power of  
27 attorney, but which power of attorney is not recorded on the land  
28 records of the town or towns where the instrument is recorded, is as  
29 valid as if the power of attorney had been recorded, unless (A) an  
30 action is commenced to avoid and set aside such instrument and a  
31 notice of lis pendens is recorded in the land records of the town or  
32 towns where the instrument is recorded within fifteen years from the  
33 date of recording of such instrument, or (B) such instrument fails to  
34 state the consideration reflecting fair market value. The provisions of  
35 this subdivision shall not apply to any conveyance where any deed,  
36 mortgage, lease, release, assignment or other instrument is executed by  
37 a fiduciary and the fiduciary is the grantee, mortgagee, leasee, releasee  
38 or assignee designated in such instrument.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	47-36aa(c)

**Statement of Legislative Commissioners:**

In Section 1(c)(2), provisions of the first sentence were redrafted for clarity and accuracy.

**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.*

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

The bill impacts private land transfers and does not result in a fiscal impact to the state or municipalities.

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

**OLR Bill Analysis****sSB 833****AN ACT CONCERNING VALIDATION OF CONVEYANCE DEFECTS ASSOCIATED WITH AN INSTRUMENT THAT WAS EXECUTED PURSUANT TO A POWER OF ATTORNEY.****SUMMARY**

This bill generally validates documents that convey, lease, mortgage, or affect a real estate interest recorded after January 1, 1997 if they are executed pursuant to a recorded power of attorney but the power of attorney is not recorded on the land records of the town where the instrument is recorded. These documents include deeds, mortgages, leases, powers of attorney, releases, assignments, and other instruments.

The bill does not validate documents with this defect if:

1. a legal proceeding to avoid and set aside the document has begun and a notice of *lis pendens* (i.e., pending legal action) has been recorded on the town's land records within 15 years after the challenged document is recorded or
2. the document fails to state consideration reflecting fair market value.

The bill's provisions do not apply to any conveyance where the document is executed by a fiduciary who is the grantee, mortgagee, leasee, releasee, or assignee designated in the document.

EFFECTIVE DATE: October 1, 2019

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/08/2019)