

§772. Words of inheritance; habendum

1. Words of inheritance; habendum. In a conveyance or reservation of real estate, the terms "heirs," "successors," "assigns," "forever" or other technical words of inheritance, or an habendum clause, are not necessary to convey or reserve an estate in fee. A conveyance or reservation of real estate, whether made before or after the effective date of this section, must be construed to convey or reserve an estate in fee simple, unless a different intention is clearly expressed in the instrument by a statement that the interest conveyed or reserved is an interest other than an estate in fee, by a limiting of the duration of the interest to a period less than perpetual duration or by an explicit restriction of the interest to the use and benefit only of the person or persons to whom it is conveyed or reserved. The omission of technical words of inheritance may not be construed to evidence an intention to convey or reserve an interest other than an estate in fee simple, even if such words are used elsewhere in the same instrument.

[PL 2013, c. 90, §1 (AMD).]

2. Preservation of rights. A person claiming an interest in real estate by reason of the omission of technical words of inheritance or the lack of an habendum clause in a deed that conveyed or reserved a property interest before October 7, 1967 may preserve that claim by commencing a civil action for the recovery of that property in the Superior Court or the District Court in the county or division in which the property is located on or before December 31, 2002.

[PL 1999, c. 69, §1 (NEW).]

3. Limitation. After December 31, 2002, a person may not commence a civil action for the recovery of property or enter that property under a claim of right based on the absence of an habendum clause or technical words of inheritance in any deed.

[PL 1999, c. 69, §1 (NEW).]

4. Construction of laws. This section may not be construed to extend the period for bringing of an action or for the doing of any other required act under any statute of limitations.

[PL 1999, c. 69, §1 (NEW).]

5. Liberal construction. This section must be liberally construed to effect the legislative purpose of clarifying title to land currently encumbered by ancient deeds that lacked technical words of inheritance or an habendum clause.

[PL 1999, c. 69, §1 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1969, c. 344, §1 (AMD). PL 1999, c. 69, §1 (RPR). PL 2013, c. 90, §1 (AMD).

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