



OFFICE OF COUNCILMEMBER ANITA BONDS
CHAIR, COMMITTEE ON EXECUTIVE ADMINISTRATION AND LABOR
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

December 04, 2023

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, along with Councilmember Vincent Gray, I am introducing the **“Defective Deed Recordation Clarification Amendment Act of 2023.”** Please find enclosed a signed copy of the legislation.

The Property Conveyancing Revision Act of 1994 included a standard curative provision, which provided for instruments (land title deeds) recorded in the Office of the Recorder of Deeds with a failure in the formal requisites (such as an acknowledgement, notary seal, etc.) to remain effective. Curative provisions are important for ensuring the reliability of the public record in cases where a deed is recorded with a technical error, which could be as minor as a smudged notary seal.

The 1994 Act’s curative provision had two sections: one curing defective instruments recorded **before** the act took effect on April 27, 1994, and one curing defective instruments recorded **after** the act took effect. However, when the Council passed the Revised Uniform Law on Notarial Acts Amendment Act of 2022 last year, the Council mistakenly revised the latter section by replacing the effective date of that provision with the effective date of the new act, without making any change to the former section. Because the former section applies only to deeds recorded before April 27, 1994, and the latter section now applies only to deeds recorded after September 21, 2022, this change inadvertently created a 30-year gap where recorded deeds are not subject to any curative provision.

The DC Land Title Association brought this issue to the Council’s attention, and explained the challenges created by a 30-year gap in the law. In addition to harming the reliability of the public record, the absence of a curative provision can create challenges for District residents looking to insure their land title. Without a curative provision in effect, homeowners whose deeds were recorded with a technical error during the past 30 years would have to correct the deed by getting in touch with the previous title-holder; in cases where the previous homeowner has moved away or is deceased, this process can be difficult and costly.

This bill permanently addresses the issue by replacing the two curative provisions with one section effective for all deeds recorded both before and after the passage of this legislation. The bill maintains the same substantive language for curing a defective instrument, provides for the

opportunity to challenge a defective instrument within 6 months of recordation (a provision which was present in the original 1994 act, but which was removed by the 2022 act), and provides for the opportunity to challenge instruments recorded prior to this act within 6 months of its effective date (which is a part of the standard curative provision from the original 1994 act).

Should you have any questions about this legislation, please contact Tosha Skolnik at nskolnik@dccouncil.gov or 202-724-8025.

Thank you,

A handwritten signature in black ink, appearing to read 'Anita Bonds', written in a cursive style.

Anita Bonds
At-Large Councilmember
Chair, Committee on Executive Administration and Labor

1 Vincent C. Gray
2 Councilmember Vincent C. Gray

ANITA BONDS
Councilmember Anita Bonds

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7 A BILL
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 To amend An Act To establish a code of law for the District of Columbia to validate certain
17 defective grants.

18 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
19 act may be cited as the “Defective Deed Recordation Clarification Amendment Act of 2023”.

20 Sec. 2. An Act To establish a code of law for the District of Columbia, approved March
21 3, 1901 (31 Stat. 1189, Chapter 854; D.C. Official Code § 42-401 *et seq.*)), is amended as
22 follows:

23 (a) Section 499a (D.C. Official Code § 42-402) is amended to read as follows:

24 “(a) An instrument recorded in the Office of the Recorder of Deeds shall be effective
25 notwithstanding the existence of 1 or more of the failures in the formal requisites listed in
26 Section 499c, unless the failure is challenged in a judicial proceeding commenced within 6
27 months after the instrument is recorded; provided, that an instrument recorded before the
28 effective date of this act may be challenged in a judicial proceeding commenced within 6 months
29 from the effective date of this act.

30 “(b) Nothing in this section shall affect the validity of instruments recorded before the
31 effective date of this act, which have been validated by prior law.”.

32 (b) Section 499b (D.C. Official Code § 42-403) is repealed.

33 Sec. 3. Fiscal impact statement.

34 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
35 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
36 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

37 Sec. 4. Effective date.

38 This act shall take effect following approval by the Mayor (or in the event of veto by the
39 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
40 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
41 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
42 Columbia Register.